SENATE—*Thursday, January 21, 1993*

(Legislative day of Tuesday, January 5, 1993)

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 Senate will be led in prayer to the Creator of life, and life eternal, by the Reverend Richard C. Halverson, Jr., of Falls Church, VA.

Mr. Halverson, please.

PRAYER

The guest chaplain, the Reverend Richard C. Halverson, Jr., offered the following prayer:

Let us pray:

Father in heaven, it is written:

Except the Lord build the house, they labor in vain that build it: except the Lord keep the city, the watchman waketh but in vain.—Psalm 127:1.

The Sun has risen on a new administration, and a day of hard work awaits those who serve in this Senate. In Your divine providence You have allowed to be assembled here a household of remarkably gifted public servants and staff members. You have granted them the resources and opportunity to accomplish great things. Yet, lest their striving be in vain, it is our prayer, Lord, that Your strong arm undergird the efforts of those who labor here and that Your vigilant eye keep watch over all their pursuits.

We are mindful, also, of the new elected officials and administrative staff who have joined this body and ask—just as You have caused the rain to fall upon all people, regardless of their understanding of You—that You bring a shower of blessing upon them and their families as they make the many adjustments required of this new calling. Bless also those who have moved on from here in search of new challenges.

We make this prayer in the name of Christ. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

The majority leader is recognized.

THE AGENDA OF THE 103D CONGRESS

Mr. MITCHELL. Mr. President, and Members of the Senate, yesterday President Clinton and Vice President GORE took the oath of office. Every American has a stake in the success of the new administration, because when an American President succeeds, America succeeds.

President Clinton's goal for our future is to make America first by putting Americans first; to focus on economic expansion, job growth, and income growth. The 103d Congress agrees with that focus: We want working Americans to prosper, their families to face a brighter future. We want our children equipped for the challenges and opportunities that only America can provide.

The needs are many. We need more job creation, so everyone who wants to work can find a job: so we can end welfare dependency and restore individual pride and self-respect to every American parent and worker. We need to invest in our Nation to build the basis for economic expansion and new jobs; we must invest in our infrastructure, our cities, our technology, and our people.

We need job training to equip working people for a dynamic, expanding economy. We need education reform to equip our children to be their best, and to give every student with the will to study a chance to earn a college education.

We must restore security to family budgets by removing the single greatest uncertainty facing today's families: The fear of bankruptcy from uninsured health costs.

Our health insurance system is breaking down. When companies can unilaterally reduce coverage as soon as a worker contracts a serious illness, and when insurers can refuse to cover a preexisting condition, the premise of shared risk—the heart of any insurance system—is being abandoned. Healthy people should not be the only ones who can afford health insurance.

The underinsurance and lack of coverage is fueling a growth in public health care costs that threatens to erode our economic future. If health care costs climb at the rate they have in recent years, we will never get the deficit under control.

The investments we need in public safety, education, job creation, the investments in long-term growth to put our Nation back on the road to healthy economic expansion, depend on our success in controlling the health costs that are driving our deficit higher.

Economic recovery, job growth, health care reform and deficit reduction are different parts of a single problem. We will not correct one without correcting the others. We cannot win just one of these battles: We have to win them all.

That is the task that lies before President Clinton and the Congress. It is a tough challenge. It is going to demand serious change from most of us. It is going to ask Americans in and out of Government to look to the common good and the common future.

Soon we will receive the President's program for economic growth, job creation and investment for our future. The agenda of the 103d Congress will be focused on those goals.

Today the Senate begins legislative business with the introduction of bills for the 103d Congress. We will complete work on the agenda of reform in our electoral system, in health care research, and in the workplace.

In that category fall four of the first five bills to be introduced today: S. 1, the reauthorization for the National Institutes of Health; S. 2, the National Voter Registration Act, S. 3, the campaign finance reform legislation; and S. 5, the Family and Medical Leave Act.

The fourth bill will be a competitiveness package that builds on the work of last year. It is a package of initiatives designed to accelerate the spread of improved technologies and to strengthen capital investment for modernization and growth in midsized and smaller manufacturing firms.

S. 1, the NIH reauthorization, honors a commitment I made last year when it became clear that a good piece of legislation, backed by a bipartisan majority, would fail because of the insistence of a small minority of Senators on a symbolic victory over the issue of abortion.

The claim that permitting the use of fetal tissue in potentially life-saving medical research would induce women to have abortions which they otherwise would not have is a baseless claim. It is insulting to women. The NIH bill is an important commitment to focus research on women's health issues, a long-overdue realignment of our Nation's research priorities.

S. 3, the campaign finance reform bill, is crucial to the reform of our electoral system. Last year's election proved that Americans have not lost faith in their system of government. But they do not trust a system based on enormous campaign contributions. They demand reform and we owe it to them.

American elections cost too much and last too long. They are too long on symbols and too short on substance. Americans last year proved that they are interested in real debate on serious issues. We need an electoral system

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

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that is free of the insatiable funding demands, a system to discourage sound bites and to restore intelligent debate about public policy choices.

That is also the reason we need to pass S. 2, the so-called motor voter bill. Today's working families and young people deserve a chance to register to vote conveniently. Working people commute long hours. They have to deal with child care arrangements and many other chores in their free time. The Nation that invented around-the-clock supermarket shopping can cope with the innovation of letting people register when they pick up a driver's license.

The experience of many States has shown repeatedly that easier and more convenient voter registration does not increase voter fraud. It does increase voter turnout.

I might add for my colleagues that I am very proud of the fact that in the recent election, the State which had the highest level of participation by the people in the electoral process was my own State of Maine. And one of the reasons for that, an important reason for that, is Maine adopted improved voter registration a few years ago. When it was proposed in our State, we heard the same arguments that have been heard here in the Senate by our colleagues, alleging that if we permit improved voter registration procedures, there will be a massive increase in fraud. Yet, in every State in which there has been improved voter procedures, voter turnout has gone up and there has been little or no fraud. In my own State, there has not been a single case of voter fraud—not one. And yet, on the positive side, our citizens' participation has increased and is now highest in the country. That is a goal to which every American ought to aspire and to which every Senator should contribute.

S. 5, the Family and Medical Leave Act, is unfinished business whose purpose is well known. It will give men and women who work full time outside the home leave time to care for ailing parents and sick children, time to cope with childbirth or adoption.

It is a very basic recognition that working people are not just cogs in a corporate wheel; they are also parents, they are children, they are spouses, and they have family responsibilities that are very important.

The competitiveness package, S. 4, is designed to support capital investment for modernization of our manufacturing base. Despite the claims of supply-side economists, capital investment in plant and equipment has been disappointing in the past decade. In 1991, it fell to a 14-year low, just half the rate of the Japanese economy.

The efforts of our private sector to commercialize and bring to market the fruits of research and technology have not had the support they deserve. Too often, traditional lenders are unwilling to embark on what they perceive as speculative production. Too often, industry-led research produces technology that our own private sector does not exploit.

That is why the technologies for transistor radios, VCR's, and colored television were American, but the products of those technologies are not.

S. 4 is designed to change that. It will provide matching funds for industry-led efforts to develop new technologies in fields such as electronics, advanced manufacturing, materials, and bioprocessing.

The bill enlarges programs that help State governments bring advanced manufacturing technology to the companies in their States. In the same way that an earlier agricultural America learned modern farming from a network of agricultural extension services, these programs will deploy information and assistance about modern equipment and techniques to our manufacturers.

The bill will create a new technology loan program to help finance the transition from laboratory model to production. If we can shorten the product development cycle to meet new demands and anticipate emerging technologies, our economy will regain dynamic growth.

These are steps that build on the work we began last year. They are part of economic revitalization, along with the defense conversion effort now underway. This broad economic effort will also include additional manufacturing and technology initiatives, such as dual use and advanced materials, job training, and trade initiatives. With new leadership in the White House committed to the regeneration of our economy, the Senate is ready to do its part.

It is also evidence of our confidence that the economic problems we face today are a temporary roadblock, not a permanent obstacle to achieving the kind of economic growth that all Americans want.

For too long, we have tinkered with the ideas of the past. For too long Government has focused on realigning the slices of the pie, trying to make certain that everyone got an equal slice of the pie. But the future does not lie in slicing the pie into fairer segments ever smaller. The future lies in making the economic pie grow. The future lies in more pies. American industry and enterprise can create them. American Government can help. Working Americans want to be a part of the picture.

We are a nation anxious to get back to productive work. Our people want good jobs. They know they are the best workers in the world, and they know they can be even better. The competitiveness package in groundwork in that effort. The Clinton economic program will build a sound structure on it. The Nation will prosper as a result.

The first five bills introduced are often taken as symbolic, as they are to some extent. But they should not overshadow the other important work the Senate will take up.

The renewed confrontation with Iraq in the last week of the Bush administration is a sharp reminder that unfinished business abroad will not wait on our convenience.

The START II Treaty has been signed. START II will ban the weapons that have done the most to destabilize world peace for many decades—MIRV'd warheads and intercontinental ballistic missiles. It is an achievement for which President George Bush will receive and deserve the praise and thanks of future generations. I commend President Bush again publicly. I do not think we can say it too often. The negotiation of the two START Treaties is one of the great achievements of this or any other administration in the nuclear age. I intend to bring the START II Treaty to the floor for ratification as soon as possible.

It paves the way, as well, to a test ban treaty, a subject in which there is bipartisan interest and which, despite the demise of the cold war, demands action. I hope to work with Senators on both sides of the aisle on that goal this year.

The former Soviets are facing tough economic times. Tough economic times can call forth dangerous political responses. We have provided some aid. We have to face the possibility that more may be needed. There will be other calls from the international community on the generous spirit of Americans. We will not be able to heed them all, for we must tend first to our needs at home. But we should debate them with awareness of where our interests most clearly lie.

American troops in Somalia today are testing the question of whether disinterested efforts for humanity can overcome the entrenched enmities and local hatreds to which much of the human race is still held hostage.

Bosnia poses the same question in a different environment. The two are not the same. Action that may be useful in Somalia is not guaranteed to work elsewhere. That is not a reason to ignore the elsewheres.

It is an argument for more skilled diplomacy where diplomacy can help. It is an argument for more measured responses where they can help. We do not face a one-size-fits-all world. One policy will not work everywhere. World events will always demand our response. Our response must reflect our interest. The American interest must dominate our considerations in a world where the values of democracy are strengthened, because all people want freedom; a world where trade and economic growth improve the lives of all the world's people.

At home, we face a familiar and busy agenda.

Americans want reform in our public education system. The Senate will take up the Elementary and Secondary Education Act bill this year. Middle-class families cannot pay college tuition and the burden of loans imposes an unmanageable debt on many graduates.

Americans expect Government to restore public safety on our cities' streets and neighborhoods. No mother should be afraid to allow a child to play outdoors. No senior citizen should fear the walk to the neighborhood grocery store. The plague of violence must end.

Is there anything more tragic than the recent images we have all seen on television of young American children who cannot leave their home for fear that they will be shot by a stray bullet.

I will sign a letter to President Clinton urging prompt State Department Action on the U.N. Convention on Women's Rights, an international codification of the rights of one-half the human race. Senator BIDEN will introduce the Violence Against Women Act, designed to protect women against the most common hazards they face. I will reintroduce S. 25, the Freedom of Choice Act, to ratify Roe versus Wade and the guarantees it provided that women, not Government, have the right to make their own reproductive choices.

We will focus on the needs of the 29 percent of American families headed by a single parent. They are raising 20 percent of our children. Most of those single parents are mothers, not fathers. Only about a quarter of them receive child support payments. Half get no help at all.

The Commission on Interstate Child Support has reported its findings; I appointed a democratic task force to turn them into legislation. I hope that in the coming months, we will see some bipartisan interest in creating a uniform and enforceable code of law for child support. A family value that every one of us can support is the responsibility of both parents for the well-being of their children.

There is one family value that everyone of us can support and that value is that it is the responsibility of both parents for the well-being of their children.

We have a full agenda of essential environmental legislation as well. The Endangered Species Act must be reauthorized. The Clean Water Act must be strengthened to give our communities the help they need to keep America's water clean. Progress on making good the promises of the Clean Air Act must be renewed.

The single most difficult, controversial, and potentially divisive issue this Congress will face is health care reform. Reform is essential, because we have a system that delivers less care for a higher price than any in the world.

Reform demands change in the behavior of health professionals, insurers, and patients. Change is often difficult. For that reason, it is often resisted.

But without serious, substantial change in our system, we cannot come to grips with the economic health of the country, because health care costs are what is driving the deficit today. If we want to reduce the Federal budget deficit, we have to restrain health costs.

If we do not restrain health costs, all the calls for restraint and reductions in the rest of the Federal budget will produce no more deficit reduction in the future than they have produced in the last dozen years.

Health care can not be permitted to devour most of our resources. Nothing is more important than the economic health on which all our futures rest. I do not expect health care reform to be easy, or swift or painless. But I do expect it to be accomplished.

Above all, we have to work for economic expansion, job creation, and health care reform for the sake of deficit control These goals are inseparable. They depend upon one another.

Unless we reform health care, we will not be able to control the deficit. And unless we control the deficit, we won't see more jobs and higher incomes. Unless we produce a growing economy that creates more jobs, we will not produce a better life for American working families.

In his election campaign, President Clinton spoke of the people who do their duty, bring up their children, pay their taxes, and live by the rules. Those Americans are the heart and soul of the country, its backbone.

It is my intention, my goal, that those Americans will once again become the primary focus of their Government. If we succeed in placing their well-being at the center of our agenda, we will succeed and all Americans will succeed.

Throughout history men and women have struggled to define the proper purpose of government. In my view no one did it better or more consistently than one of the great and, I believe, one of the underrated men in American history. James Madison was a cofounder of the Democratic Party and the principal author of the American Constitution. Madison said that the purpose of government is the well-being of the people. In six words with conciseness and directness he summed up our purpose and our agenda. We, in this Congress, must join with the new President and the new administration to enhance the well-being of the people.

If we do that we will all have succeeded.

RECESS FROM 12:30 P.M. TO 2:15 P.M.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate stand in recess today from 12:30 p.m. to 2:15 p.m. in order to accommodate a party conference luncheon.

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

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

ORDER OF PROCEDURE

The PRESIDENT pro tempore. The Senate presently is conducting morning business under the previous order. And under the previous order Senators are permitted to speak during the transaction of morning business. This first hour is under the control of the majority leader or his designee. The second hour will be under the control of the Republican leader or his designee according to the order entered yesterday.

Mr. MITCHELL. Mr. President, I yield 10 minutes to the Senator from Connecticut.

The PRESIDENT pro tempore. The senior Senator from Connecticut [Mr. DODD] is recognized for 10 minutes.

Mr. DODD. Mr. President, I appreciate that.

COMMENDATION OF MAJORITY LEADER

Mr. DODD. Mr. President, let me commend the majority leader for a very concise and thoughtful statement this morning outlining not only the five principal pieces of legislation that will be introduced either today or very shortly, but also the other items on the agenda that this new Congress with this new administration will undertake to grapple with and hopefully enact in order to pass on to the President for his signature.

(The remarks of Mr. DODD pertaining to the introduction of S. 5 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDENT pro tempore. Without objection, the time consumed by the quorum call will not be charged against either side.

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

The legislative clerk proceeded to call the roll.

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

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

The Senator from Oklahoma [Mr. BOREN].

Mr. BOREN. Mr. President, I ask unanimous consent that I be yielded 5 minutes out of the leadership time to make a statement.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for 5 minutes.

Mr. BOREN. I thank the Chair.

(The remarks of Mr. BOREN pertaining to the introduction of S. 3 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDENT pro tempore. The absence of a quorum has been suggested. Without objection, the time consumed by the call will not be charged to either side.

Mr. BURNS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS].

Mr. BURNS. Mr. President, is a quorum in progress?

The PRESIDENT pro tempore. Not yet.

Mr. BURNS. I ask unanimous consent I may have maybe 2 minutes as if in morning business.

The PRESIDENT pro tempore. The Senate is transacting morning business.

Mr. BURNS. Thank you, Mr. President.

THE PASSING OF RUSSELL BURNS AND ERWIN KUHLMANN

Mr. BURNS. Mr. President, as we open this Congress on a very positive note, I know it is the wishes and the prayers of all who are Members of this body and are assembled here, it will remain that way till the same gavel that opened this session, closes it. We have witnessed the transfer of power from one President to another as envisioned by our forefathers and expressed in our Constitution. It was done with great dignity and ceremony and now our prayers of good will are for our new national leader and President, William Jefferson Clinton. May his judgment be keen, may his day-to-day decisions be based on his strong inner-self, that we pray, knows the difference between good and evil, right from wrong.

Mr. President, while it is time to go to work, I could not help but look up in the gallery as we were swearing in our new colleagues a couple of weeks ago and my memory wandered back to 4 years ago and my father setting up there so proudly when I took my oath. It was a very proud day in my life. But, as only time can do, at the age of 86 years, on December 11, 1992, cancer claimed my father.

Russell Burns was a farmer and a stockman, a native son of Gallatin, MO. Tough but tender, and not burdened with a great amount of formal education, he understood, with great wisdom, the true meaning of the relationship of soil and life, how sacred individual rights are, and property rights as the cornerstone of a free society. He knew and understood the difference between self-rule and government rule. He also knew and understood that the very rights granted to every American by the Constitution cannot be claimed for oneself without personal responsibility. We tend to forget that and it seems to get lost in our day-to-day living. He was my teacher and my friend. He was my link to the most dynamic period of American history and maybe in the history of mankind. As he noted, it was we, man, that went from horse back to the Moon just in his lifetime. He often reminded me that he did not fear growing old, he did fear growing too old. He did not grow too old.

Mr. President, 1992 also claimed another son of the soil. On October 21, 1992, Erwin Kuhlmann, 77 years old and a native son of North Plate, NE, passed from this life. He was, as was my father, a farmer and stockman and my wife's father. There just seems to be something special about men and women who are born of the land. They spend their whole life taking from the soil but had a way to give it all back for the next generation. Such wisdom and insight they had and I, for one, am very fortunate and greatful to have known such men.

These men slip into the past but their place in history is secure as they were a big part in building the strongest, the most secure, country and society that offers more freedoms and opportunities in the history of man. Mr. President, in a time when we see some who would destroy the values and the institutions that built this country, we can remember these builders and what they taught us. It has been said any jackass can kick down a barn but only a carpenter can build one. Russell Burns and Erwin Kuhlmann were builders.

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, and without objection the time consumed by the call will not be charged to either side.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DOLE. Mr. President, as I understand it, under the order 1 hour is under the control of Senator MITCHELL or his designee; and 1 hour is under the control of the Republican leader, or his designee.

The PRESIDENT pro tempore. The Senator is correct.

Mr. DOLE. All time has not been used on that side. If we could proceed, we would be happy to yield when anyone appears on the other side just to save time.

The PRESIDENT pro tempore. Fifteen minutes fifty seconds remain under the majority leader's control. How much time would the Republican leader like to yield at this point?

Mr. DOLE. I think probably 20 minutes.

The PRESIDENT pro tempore. The Republican leader yields to himself 20 minutes, without objection, at this point.

TRIBUTE TO PRESIDENT BUSH

Mr. DOLE. Mr. President, 51 years ago last month, the attack on Pearl Harbor brought the United States into World War II.

Within a few months, a young 17-year-old named George Bush was on his way to battle, knowing what so many of his generation knew—that there was only one place for him to be—defending freedom.

And from the missions he flew as America's youngest naval aviator, to the mission he completed yesterday, George Bush has defended and promoted freedom as few have ever done before.

As a successful businessman, he advanced the strengths of our free enterprise system, by bringing jobs and paychecks to many Texas families.

As a Congressman, he courageously fought for civil rights for all Americans.

As Ambassador to the United Nations, he fought to extend freedom, democracy, and human rights across the globe. It was a fight he would continue as our envoy to China and as Director of Central Intelligence.

And as Vice President of the United States, he helped Ronald Reagan in restarting the American economy, regaining our military strength, and in reclaiming our role as leader of the free world.

But George Bush's greatest contributions to this country and to the world were made during his term as President of the United States.

In his inaugural address 4 years ago, President Bush said he saw history "as a book with many pages, and each day we fill a page with acts of hopefulness and meaning."

I would venture to say that no one in this Chamber—and no one in this country—could have predicted just how many pages of history George Bush would help to write these past 4 years.

Under George Bush, the tide of democracy that was running high 4 years ago, became a tidal wave, as courageous men and women seized the freedoms that had been denied them for decade after decade: Poland, Bulgaria, Romania, Hungary, Czechoslovakia, Nicaragua, the rollcall of nations that turned to freedom and democracy during the Bush administration goes on and on.

History will always reflect the fact that it was President George Bush who brought the cold war to a close, without a single shot being fired.

And when the cold war was won, it was the experienced hand of President

Bush that guided the United States-Soviet relationship from an era of mistrust and suspicion to one of unprecedented cooperation.

It was the leadership and vision of President Bush that brought about the START treaties—treaties which substantially diminish the threat of nuclear war.

It was President Bush who worked tirelessly to achieve the first face to face talks ever held between Israel and all of its Arab neighbors.

It was President Bush who launched and supported the efforts that led to the freeing of America's hostages in Lebanon.

It was President Bush who sponsored the first-ever drug summit with leaders of Colombia, Bolivia, and Peru.

It was President Bush who negotiated the North American Free-Trade Agreement with Mexico and Canada, creating the world's largest market.

It was President Bush who helped resolve regional conflicts in Angola, Afghanistan, Cambodia, and El Salvador—helping to put these countries on the road to peace.

It was President Bush who made the tough call and brought hope to the starving people of Somalia.

And, of course, it was President Bush who forged a historic international coalition in the Persian Gulf, a coalition that would drive the dictator Saddam Hussein out of Kuwait.

There are those who have said that the Bush administration spent too must time dealing with foreign policy.

I am willing to let history be the judge of that, but let me just say this: If someone had come to George Bush 4 years ago and given him a choice between serving for one term as President and having the cold war won, the Berlin Wall come down, the threat of nuclear holocaust ended, and the world unite against a dictator. Or, serving two terms as President and having the Iron Curtain survive, a tyrant in control of the Mideast, and the nuclear clock a little closer to midnight, then there is no doubt what his decision would have been.

But—even though the media chose to ignore it—the fact is that along with changing the world for the better, President George Bush also changed America for the better.

Under his leadership:

We have held our own during a global recession, and as the economic figures have shown over the past few weeks, the Bush economic recovery is well underway.

And the fact is that America's standard of living is the highest in the world, and our workers are the most productive in the world.

Forty-three million men and women with disabilities will have the same rights as other Americans.

The country rallied behind the national education goals and reinventing American education became a national priority.

Working families now have tax credits to help offset the cost of child care.

A civil rights bill which opens doors to all Americans is now the law of the land.

More disadvantaged children than ever before are helped by the Head Start Program.

The air we breathe is cleaner.

Housing is more affordable than in the past 15 years.

America is once again the world's top exporter.

Farm exports are the highest level since 1981.

Drug use among young Americans has been drastically reduced.

And because of President Bush and our remarkable First Lady, a new spirit of volunteerism and neighbor helping neighbor is alive and sweeping across America.

It was no surprise, by the way, to see Barbara Bush once again on top of this year's list of the most admired women in the world. She and the entire Bush family have survived 4 years of media intrusion with good humor and good grace.

In March 1991 President Bush stood in the House Chamber to tell the Nation that the war in the gulf was over. And at the conclusion of his remarks he said that "we're coming home now—proud, confident, heads high."

And because he changed America and the world for the better—because our children are safer—George Bush had every reason to leave the White House in the same way: proud, confident, and his head held high.

On behalf of all my colleagues on this side of the aisle—and I think on the other side of the aisle, certainly—and on behalf of American people, and the men and women around the world who now live in freedom, I say, "thank you, Mr. President."

CHANGE FOR THE BETTER PREVIEW OF 103D CONGRESS

Mr. DOLE. Mr. President, it will be my privilege to serve as Republican leader in the 103d Congress. I thank the voters of Kansas for again placing their trust in me this past November; and I thank my Republican colleagues for allowing me to continue to serve as their leader.

I also want to congratulate the distinguished majority leader, as he begins his fifth year in that position. Throughout our service as leaders, we have developed a relationship based on mutual trust and respect. This body could not operate in the absence of such a relationship.

For the first time, Senator MITCHELL will serve as majority leader with a President of the United States who shares his party affiliation. I know he is looking forward to this responsibility, and I look forward to working with him in these exciting and challenging times.

I listened to the majority leader's statement outlining his goals for the 103d session, and I commend him for his eloquence. His is an ambitious agenda, but the people are expecting no less. And I believe that in many of the areas he touched upon, we can find common ground.

As I said yesterday, my Republican colleagues and I stand today with the American people in wishing the best of luck to our new President as he deals with the complex challenges facing America and the world.

I believe these challenges can be met only if Democrats and Republicans work together. I have long been a great believer in the strengths of our two-party system—and those strengths can most clearly be seen when we work together to do what is right.

I know that working with Republicans is a new area for the President. As Governor of Arkansas, he dealt with a legislature which consisted almost entirely of Democrats. And though there are only 43 Republicans in the Senate, our rules provide those 43 Senators—indeed they provide every single Senator—with a great deal of power.

It is not my intention to use that power to constantly block President Clinton's proposals, or the will of the Senate. Indeed, as you have seen in the Cabinet confirmation process, we have cooperated with the majority in scheduling of confirmation hearings. And yesterday—within hours of President Clinton taking the oath of office—we confirmed the first three members of his Cabinet.

We will probably confirm an additional 10 members today without a rollcall vote. Some will indicate in the RECORD that they might object to a particular nominee. I believe, as everybody believes, that we have had the hearings, the scrutiny, and we think we have done a good job. And I commend my colleague now on the floor, the Senator from Mississippi [Mr. LOTT] for coordinating all of the different areas. We believe President Clinton is entitled to have his people in place at the earliest possible time.

But let me be clear in saying that I expect there will be times where my colleagues and I will disagree with the direction in which President Clinton is steering the ship of state.

As Republicans, we are committed to less taxes, less spending, less government, less regulation, and a strong and secure America. And when President Clinton's proposals stray from those principles, we will not be afraid to speak out—just as Senator MITCHELL and the Democrats spoke out when they disagreed with Presidents Bush and Reagan. The American people expect no less.

Earlier today, I paid tribute to the remarkable career of President Bush,

but it is worth mentioning again that the Nation President Clinton inherits is much for the better because of 12 years of Republican leadership in the White House.

Some may disagree, but when the Reagan-Bush era began in January 1981, America was in danger and decline. Our economy was in shambles. Interest rates and inflation went through the roof. Abroad, Americans were held hostage, and the Soviet Empire was bristling with nuclear arms and hostile intentions.

What a difference 12 years have made. Thanks to Ronald Reagan and George Bush, America made a remarkable comeback. Presidents Reagan and Bush presided over the biggest, and longest, economic expansion in U.S. history. During that time, interest rates have been cut in half and then some, and inflation is practically nonexistent.

The economy hit some rough spots during the past years, but recent figures prove that President Bush was right. Anyone who squeezed their way through the stores this Christmas, knows that the recession is over, and the Bush recovery is well underway.

Most importantly, the cold war was finally brought to an end, as communism collapsed under the weight of its own incompetence and the steely resolve of Ronald Reagan, George Bush, and the American people.

Our allies agree that America is the only remaining undisputed military and moral superpower on the face of the Earth. And our adversaries have no doubt that America will stand up for freedom across the globe. And thanks to President Bush's vision, historic treaties have been signed which have permanently moved back the hands on the nuclear doomsday clock.

These are facts, and will be remembered in history—no matter how hard bitter partisans try to rewrite it.

It's an outstanding record, but we can do even more. Far too many Americans are jobless, and have not yet felt the effects of the economic recovery. A staggering deficit threatens the economic health of this generation, and that of our children and grandchildren. Countless Americans cannot afford even basic health care for their families. And despite the end of the cold war, the world is still a very dangerous place, full of dictators and tyrants who prey on their own citizens, as well as other nations.

President Clinton addressed these and other issues during the Presidential campaign—a campaign in which he made some very specific promises to the American people—promises such as cutting the deficit in half in 4 years, a middle-class tax cut, a total reform of the welfare system, and reform of our health care system.

As candidate Clinton became President-elect Clinton, some of these unequivocal promises were downgraded to goals and I suspect that President Clinton may now reevaluate some other campaign promises.

But the one promise which President Clinton most assuredly will not reevaluate is one that he made at every campaign stop—and one that he repeated yesterday in his inaugural address—the promise that he would be an agent of change.

Yes, the American people want change. But what remains to be seen is what type of change will be proposed. The American people don't need change for change's sake. And they most assuredly don't need, and can't afford change back to the failed big spending and big taxing policies of the past. What America needs, and what Senate Republicans support, is change for the better.

And from our perspective there are a number of areas of concern that are in dire need of change for the better, and that should be tackled during the coming session.

Topping the list of the President's agenda, Senator MITCHELL's agenda, our agenda, and the American people's agenda is the economy. We all agree that the economy is not as strong as it could be, nor is it creating as many jobs as we would like.

President Clinton has often stated that he will focus like a laser beam on the economy. It is my belief that the best prescription for America's long-term economic health, is to have President Clinton and Congress focus the laser beam of change on the deficit.

Everyone in this Chamber knows that Congress has been spending more than we can afford. For far too long, we have treated the Federal Treasury as if it were a giant shopping mall, offering an unlimited supply of merchandise on a no-money-down, no-credit-limit basis. The result is a $4½ trillion debt which we will pass on to our children's credit cards.

Secretary BENTSEN, and OMB Director-designate PANETTA talked in their confirmation hearing about sacrifice, as did the President in his inaugural address yesterday.

"Sacrifice" is a word that strikes fear in the hearts of many in Washington. It does not, however, strike fear in the hearts of Senate Republicans and many colleagues on the other side. In 1985, we put together the toughest deficit and budget cutting legislation in history—a package which froze Government outlays, deferred COLA's on entitlement programs, and cut 14 Federal programs that had outlived their usefulness. It passed by only one vote, and I might add that only one of my colleagues on the other side, one Democrat crossed party lines to vote for tough but fair medicine.

If President Clinton agrees that tough action is needed, then Republicans stand ready to help, assuming that our colleagues on the other side of the aisle are also willing to join us in telling the public what they need to know, and not just what they want to hear.

Republicans will also be proposing a series of budget reforms which we have proposed before, and which have long held the overwhelming support of the American people—a balanced budget amendment to the Constitution, and line-item veto authority for the President. These are essential budget trimming tools that have been blocked by the majority party year after year.

As Governor of Arkansas, President Clinton operated under both a requirement to balance the budget and the authority to veto line items in spending bills. During the Presidential campaign, he endorsed giving the President line-item veto authority.

We hope the Senate Democrats will join us in making him feel at home by bringing these ideas to the Federal Government.

Republicans are also introducing today enhanced rescission legislation. This legislation will allow the President to slice out unnecessary spending, and send it back to Congress for a second look.

With enhanced rescission, Congress will be forced to vote up or down on any proposed rescission of spending. Today, Congress can simply ignore any rescissions, forcing the spending to take place, in spite of the President's objections.

One sure way to stifle economic growth, and recovery, is to strangle it in regulations, bureaucracy, and mandates.

I must say just in this recess period I have had an opportunity to visit a lot of businessmen and businesswomen, small business people, middle-sized, big businessmen, big businesswomen, whatever. One thing they are unanimous about, and that is that regulation has a choke hold on their business. They cannot build plants. They cannot expand. They cannot do it because of some regulation, EPA regulation, or some other Federal agency, and it does not take just months; it takes month after month after month and in some cases years. So in many cases the decision is made to move the plant somewhere else, built it in some other country, create jobs somewhere else.

So I think one thing we have to come to grips with is the stranglehold that regulations have on the American economy, the bureaucracy, and the mandates. It seems to me that we have a big opportunity but we have a big responsibility, too, to somehow preserve the environment, do all those good things we want to do but at the same time not destroy jobs and destroy the economy in the process.

Throughout the past decade, Senate Republicans have served as guardians of America's small business men and

women, opposing an avalanche of mandates and redtape.

Indeed, instead of holding small business down, Government should extend a helping hand. And today, I will be joined by other Senate Republicans in introducing the Small Business Investment Act of 1993. This legislation contains a number of items which simplify—that is right, I said "simplify"—small business reporting regulations, and which ease access to capital.

Another bill we will introduce today is our version of family leave legislation. There are those who would have you believe that Republicans do not care about working families. That is simply not the case.

I listened earlier to my friend from Connecticut, Senator DODD. He introduced, I think, bill No. 5, which is the mandated family leave the Democrats propose. It does not cover very many employees.

Not only do we care about working families, but we also care enough not to saddle employers with costly mandates.

Again, as I said about regulation, this is another mandate. It is another tax on business. If we are going to mandate family leave, one size fits all. No matter what size the business, what kind of employee you may be—whether young, middle aged, whether with or without children, whatever it is—one size fits all. That is the approach my colleagues on the other side have taken and one I assume will pass the Congress and this time will not be vetoed, because President Clinton said he will sign it.

Instead, our legislation provides for refundable tax credits for businesses with fewer than 500 employees that provide for up to 12 weeks of family leave. Rather than mandating a one-size-fits-all Government mandate, we should trust employers and employees to work out the type of parental leave plan which best fits their circumstances. Some indicate different employers have different circumstances.

And, yes, we are honest enough to pay for the expense of this legislation, that we will be introducing later today, through an increase in corporate estimated tax payments.

President Clinton has said that he wants to "put people first." One way he can do this is to ensure that Government mandates and Government bureaucrats do not run over individual citizens and individual rights.

Therefore, I will be reintroducing legislation—passed by the Senate last year—which simply requires Federal agencies to determine whether any new regulation being published would result in the taking of any private property.

This is a legislative area pursued vigorously by our departed colleague, Senator Symms from Idaho, who did an outstanding job.

So, if it does result in taking of private property, then legitimate health and safety reasons must be documented, which I think our citizens have enough, whether on the farm or small business or cities or small towns or suburbs, of some Federal bureaucracy walking in and in fact taking away your property. We hope this bill will have bipartisan support.

President Clinton has strongly committed himself to reforming America's health care system. He will suffer no shortage of advice in this mission. Last year, there were more than 30 health care reform proposals in Congress, none of which had the support necessary to pass.

Even the harshest critics of the American health care system acknowledge that the 85 percent of Americans who have insurance enjoy the highest standards of medical care in the world. Keep in mind that is 85 percent.

The United States continues to have the best doctors, the most advanced technology, and the strongest commitments to research and development in the world.

Still, the system is troubled. Health care costs are rising at dizzying rates, an estimated 35 million people are without basic health coverage, and still others are in jeopardy of losing their coverage. It is clear that our response to the health care crisis cannot be, "Take two aspirin and call us in 4 years."

My colleagues and I on the Republican side of the aisle have worked on this issue for many years, and we have proposals and suggestions which we believe will improve the system. But we do not have all the answers.

So again, I hope this is an area in which we are going to have bipartisan cooperation. It seems to me in this area, particularly, we are going to need bipartisan cooperation working with the executive branch.

If the debate disintegrates into a political contest, then everyone loses. Therefore, as Republican leader, I am not introducing a major reform proposal today because I am hopeful we can ultimately work together and avoid the polarization that has plagued us in the past.

We simply must work together—the White House, Congress, Democrats, Republicans, providers, insurance companies, consumers, and the Government. I am convinced that reform can take place. And that it can be done without creating another Government bureaucracy, or another Government program, or relying on the old standbys of giant tax increases and Big Government mandates.

There is one health care bill which I will be introducing today—one that focuses on an issue of great concern to me—and to the President—and that is the preservation of rural health care in America.

This bill reauthorizes some provisions which have been critical to enabling rural Americans to receive health care. If they are not reauthorized—and reauthorized quickly—many of these provisions would expire. In fact, in some cases, they have already done so. If we do not act soon, then some rural hospitals will have to cancel vital outreach services, and some will be forced to close their doors forever.

One of the factors behind the high cost of health care is the crisis in our civil justice system. And a priority of Senate Republicans in this Congress—as it has been many times before—is to change our civil justice system for the better through commonsense reform of our products liability and malpractice systems.

Along with our civil justice system, it has long been apparent to Senate Republicans that our criminal justice system is also in need of change for the better.

Surveys reflect the fact that Americans believe that while the economy is the most important problem facing the country, crime is the most important problem facing their neighborhood. And no doubt about it, from one end of the country to the other, in rural as well as urban areas, Americans live in fear.

Today, as in past sessions, Senate Republicans, led by Senator HATCH, will be introducing tough, no-nonsense crime legislation. The proposals contained in this legislation—cracking down on legal loopholes for criminals, and giving law officials the clout they need to make convictions stick—have been debated over and over again by this body. Now it is time to pass them. There is no reason why a tough crime bill can not be sent to the President within a matter of months.

President Clinton has expressed support for a National Police Corps—an idea I have long advocated. I know that Senator HATCH looks forward to working with Senator BIDEN in making this idea a reality, within our budgetary constraints.

Included in our crime bill are provisions regarding violence against women. I am also introducing these provisions as a separate piece of legislation as I have done in the past 2 years.

It is estimated that a staggering 2.5 million violent crimes are committed against women each year. I believe this number is a national disagrace—a disgrace we must have the courage to recognize and the commitment to reform. The Sexual Assault Prevention Act of 1993, which will also be introduced in the House by Congresswoman SUSAN MOLINARI, is a comprehensive response to violence against women, both on the streets, and in the home.

This January, the House and Senate welcomed record numbers of new Members. And most of these Members came

to Washington with a pledge to change for the better the way Congress does business.

Within a few weeks, Senate Republicans will introduce a meaningful congressional reform package. This package will include proposals to reduce the staff and spending of Congress, as well as housekeeping measures such as eliminating proxy voting and strengthening the prohibition on attaching unauthorized appropriations to appropriations bills.

Just as Congress needs reforming, so, too, does the way in which you are elected to Congress. And today, as we have done before, Senate Republicans will be introducing legislation to reform our campaign finance system. Our legislation promotes competition and our two-party system. It does not, as the Senate Democrats have continued to insist over the years, require taxpayers to pay for our campaigns.

Again, this is an area in which I think we are going to need bipartisan effort if we are going to have a meaningful campaign finance reform bill.

I listened to my distinguished colleague from Oklahoma, Senator BOREN, earlier today. I certainly know of his good intentions. But again, there are areas of disagreement, and we believe unless we do it on a bipartisan basis, the American public is going to say: Well, you are not serious about it. You want to continue to raise millions and spend millions of dollars, and get money from special interests; whatever.

So I hope that we can maybe impose some deadline—30, 60 days—for Democrats and Republicans to work out a bipartisan package. And I will be talking to the majority leader about that later.

We introduce our campaign finance reform legislation with the knowledge that, while it is an improvement over our current system, we do not have the votes to pass it.

If ever there was an issue that cried out for bipartisan cooperation, it is campaign finance. Senator BOREN of Oklahoma and Senator MCCONNELL of Kentucky are this Chamber's acknowledged campaign finance reform experts. Perhaps if Senator MITCHELL and I gave them 30 days to get together and hammer out a comprehensive reform proposal, they would succeed. I ask the distinguished majority leader to join me in doing just that.

As President Clinton said yesterday, the avalanche of freedom which swept the globe under Presidents Reagan and Bush have led to some instability. I suspect that foreign policy, which received short shrift during the Presidential campaign, will soon come to dominate many of President Clinton's days.

There are several trouble spots which will demand the President's immediate and constant attention.

Saddam Hussein evidently got the message sent by the Bush administration and is talking in softer tones, but if there is any constant in Iraqi policy, it's that Saddam cannot be trusted for 1 minute.

If there is anyone in the world who can match Saddam Hussein for deceit and brutality, it is Serbia's Slobodan Milosevic. The new State Department report on human rights practices finds that Serbian forces in Bosnia have committed atrocities against civilians on a scale unrivaled since the Nazi era.

This Senator believes that the U.S. objective should not be to slow the slaughter in Bosnia-Hercegovina, but to stop it, and to prevent its spread to Kosova, where 2 million Albanians now live in constant fear and oppression. And the goal of the Geneva negotiations should be to reach a settlement that will restore the territorial integrity and sovereignty of Bosnia-Hercegovina, instead of ratifying its de facto dismemberment, thereby rewarding those who have brought suffering and slaughter to the Bosnian people.

In Somalia, some United States forces are coming home, but we need to get on with a master plan for restoring stability there, and turning control over to the United Nations.

Assistance to the Republics of the former Soviet Union, future relations with Vietnam, and fostering the admirable progress of democratic and economic reform in Latin America are other matters now on President Clinton's plate.

It is also my hope that the Clinton administration will place a high priority on halting the proliferation of weapons of mass destruction. Concern for nonproliferation was one of the primary motivating factors behind the Nunn-Lugar Act, which initiated some truly innovative approaches to the problem of potential proliferation in the Soviet Union.

Before I conclude, Mr. President, let me add that this institution has taken a lot of hits from the media and from some politicians these past few years—some of the criticism is deserved, some of it is not.

But no one can deny that the enduring strengths of the Senate are great—and perhaps they were best stated by the late Claude Pepper, who said:

> Like democracy itself, the Senate is inefficient, unwieldy, inconsistent * * * but like democracy also, it is strong, it is sound at the core, it has survived many changes, it has saved the country many catastrophes, (and) it is a safeguard against any form of tyranny * * *

We are all privileged, indeed, Mr. President to serve in this safeguard. In closing, let me again express my desire, and the desire of Senate Republicans, to work with our new President, with the distinguished majority leader, and with the American people, to bring change for the better to America and the world.

The PRESIDENT pro tempore. Is it the desire of the Republican leader that Members of the minority continue to be recognized under the time over which he has control, until such time as the Democratic leader or his designee appears to claim the remainder of their time?

Mr. DOLE. That is our desire, if there is no objection.

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

Mr. LOTT addressed the Chair.

The PRESIDENT pro tempore. The Senator from Mississippi [Mr. LOTT].

Mr. LOTT. If I may inquire of the Chair, do I need to get time yielded from the leader, or would I be recognized on my own time?

The PRESIDENT pro tempore. There is time under the control of the Republican leader or his designee.

Under the order previously entered, the time under the control of the Republican leader was to begin at the conclusion of the time under the control of the Democratic leader. The Democratic leader has 15 minutes and 50 seconds remaining. Senator SIMPSON may ask that he be recognized for whatever amount of time he wishes.

The Republican leader has already asked consent that the sequence be broken until such time as the majority leader claims his time.

Mr. LOTT. Mr. President, I ask that I be allowed to proceed for at least 15 minutes.

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

The Senator is recognized for not to exceed 15 minutes.

THIS NEW SESSION OF CONGRESS

Mr. LOTT. Mr. President, I would like to begin my remarks in this new session of Congress by saying that I am optimistic, and, indeed, hopeful—we have heard that word mentioned so much in the last few days—about what we can do in this new session of Congress with a new President and a lot of new Members of Congress, House and Senate. In the luncheon that we attended after the President's swearing-in yesterday I thought he said the right things. He talked about a partnership between the President and the Congress. And that is the way it should work. Surely the Congress as a whole will sometimes disagree with the President. And sometimes those of us within the Congress will disagree as to how we should proceed in working with the President. But that is the way we should all begin. We should begin with the attitude we are going to try to work together.

There certainly is a responsibility on all of us to be prepared to stand up and resist recommendations which we think are not proper and right and to the benefit of our constituents, both in our States and in our country. But I

am going to start off with the attitude of trying to find ways and places that I can work with the President for the overall good of our country.

I think it is appropriate that our leaders, both the Democratic leader and the Republican leader, today stand up and begin to enumerate the first bills that we will bring up for consideration in this new session; identify our top priorities. I want to commend our distinguished leader from Kansas, Senator DOLE, for the first five bills that he has introduced. I understand his first bill will be one to prevent violence against women. Certainly, that indicates a concern on his part, and that of all Americans. Like so many crimes it is one that is just so difficult to understand. This bill would lead to a process to find out what the statistics are, what the real numbers are in this particular area of crime—violence against women. What makes it happen and how can we deal with it? How can we help women that are so abused and how can we find ways to prevent this kind of abuse? So, typically of our leader, I think it appropriate that he put a high emphasis on this area of concern of all Americans.

Republicans and Democrats wish to find a way to reform elections, to have campaign finance reform. I think most Americans agree with that. I do not think they necessarily would put that number 1 or 2 or 3 on their list of concerns, but they feel that things are not quite right.

We, perhaps, disagree between the parties as to how to do it. I certainly would prefer the McConnell bill, the one that has been introduced second among the Republican list of bills. It would put everything on the table. It would ban soft money. It would eliminate PAC's. It would improve the positions of the two political parties. It restricts gerrymandering. It includes a lot of good ideas.

On the other hand, S. 3, the bill that Senator MITCHELL referred to earlier today, would take a different approach. It would have, as I understand it, public financing of campaigns from the General Treasury. I find that objectionable. And there are other ideas that should be considered. I think we are indicating, by both parties introducing a bill high on our lists of priorities today, we are going to try to deal with it. Whether we will do it and do it properly or not remains to be seen.

Also on Senator DOLE'S list is a crime bill. The Congress labored mightily over the past 2 years to produce a crime bill. We labored to produce a mountain and we did not even produce a mouse, I fear. The bill that we were considering had too much emphasis, in my opinion, on protecting criminals' rights and on the things like gun control. There are other ways we should be going. We should try to streamline the law enforcement process. We should give some consideration to good faith efforts by our law enforcement people. We should stop criminals from going back out on the streets because of technicalities, for heaven's sake. While we may want to look at how we deal with guns, to think that is going to reduce or stop crimes is just not a practical position. So I am glad that our Republican leader has a crime bill high on his list, and a real crime bill, not a "protect the criminals" bill.

We do need to have a process whereby Congress can be reviewed when it is spending—or tries to spend—money that really should not be spent. We can argue over how best to do this. President Clinton has argued for a line-item veto. He has also indicated support for enhanced rescission. We should find a way to give the President increased ability to say, things have changed, or this is too much, or I have reconsidered. Enactment of enhanced rescission or the line-item veto would be one way to do that.

I know there will be a lot of debate, and I do not want to diminish the involvement of the Congress—House and Senate—in our primary responsibility in appropriations, how they begin and how they are spent. But I do think Presidents need more ability to be involved in that process and perhaps stop unnecessary spending.

The distinguished Senator from Idaho has a family leave proposal. The Democratic list also has a family leave bill. I certainly much prefer the one that is being proposed by the Senator from Idaho, which I think he will probably speak on later. It is more voluntary. It provides an incentive for employers to provide leave through offering them a refundable tax credit. Certainly that is the way to go, rather than mandating that employers provide paid leave to employees.

But let me make this point about both lists. If you ask the American people to list the top three items they are most concerned about, I believe they would say the economy; they would say education; and they would say health care. They may not rank them in that order, but I think probably those could be the top three.

Yet if you look down this list of both parties' leaders there is not anything on any one of these three concerns, or only marginally. We have one competitiveness bill on the Democratic list, and a line-item veto enhanced rescission on the other list. There is a reason for it. Those bills addressing the economy, education, and health care are going to be big and complex bills. You cannot always present the solution right at the beginning of a session. But I, frankly, worry a little bit that we are not putting the proper emphasis on the first day on the economy, how we strengthen the economy, how we help people have jobs by creating jobs. I wish we had some sort of economic growth package proposed by both parties so we could begin the dialog. We will do that soon enough, but education and health care should also be high up on this list. I presume both parties will have proposals that will be presented very soon.

Mr. President, let me shift just one moment now to another area of concern. There have been those in the media and those in the Congress who have been critical of our new President Clinton because he has been, as they might say, breaking his promises. He said one thing in the campaign and now he seems to be saying a different thing.

Let me give my colleagues a different twist on that. When you are campaigning, when you have not been in the Congress, when you have not been in the White House, sometimes things look a little different out there on the campaign than they do when you start confronting realities. I think President Clinton, when he was campaigning, made mistakes.

When he said back in May of 1992 that he would give Haitian refugees asylum and bashed President Bush's policy in that area, he was wrong. Now as he has looked at what might happen with this influx of illegal Haitian boat people coming in to Florida. Perhaps he has realized, wait a minute now, that is not the right way to go. He has changed his position. I say he has moved in the right direction. Give him credit for realizing, perhaps, that was a mistake. He has moved in the right direction.

In the campaign he said repeatedly we were going to have a middle-class tax cut. I love that. I represent middle-income and low-income people in Mississippi. They need help. They need a break. But the realities are, when you are campaigning it is easy to say, but when you get elected you have to deal with realities. The realities are that we cannot afford it. It will add to the deficit. It will compound our problems. It will hurt the economy. So, again, he was wrong in the campaign. Now he is moving in the right direction.

He talked during the campaign, about how we should have a 25-percent reduction in the staffs of Congress and the White House. Maybe we can save some money. We should certainly try to. But a 25-percent reduction was not realistic then; it is not realistic now. It is not realistic for the Congress. It is not realistic for the White House. He was wrong then. He is right now. So at least I give him credit for moving in the right direction.

During the campaign he also promised a 50-percent reduction in the budget deficit over the next 4 years. They all say it. We all say it. Going back over the 24 years that I have been in this city, every 4 years, candidates for President, Republican and Democrat,

say we are going to eliminate the deficit, we are going to cut it in half, we are going to attack this monster. And they run smack dab into reality. It was not doable under his plan back in the summer when he was talking about it. You cannot say it was based on economic assumptions that have changed or were wrong. Actually the economic numbers that were available in the fall were very close to where we are. I do commend him for focusing on it, though. He is now saying the deficit, and what it does to the economy, is one of his priorities—maybe his number 1 issue. He is right on that. If he wants to deal with it, if he wants to confront it by cutting spending and reordering priorities, he can sign me up. I will try to help.

If he starts talking about doing it by raising taxes, including gasoline taxes that would be regressive and hurt the middle-income and low-income working Americans—worst of all to raise that gas tax and but it into the black hole of the deficit—no deal. If he wants to do something in that area to help highways and collapsing bridges, airports, railroad beds—we will talk about that. But I think he goes toward attacking the deficit by saying let us just raise taxes, it will not work. It did not work in 1990. I stood on this floor and said in 1990 the budget deal was a no good deal. It was going to raise taxes; it was going to allow spending to go up; it was going to hurt the economy. And it did all of the above. Raising taxes is not the way to go. We have to have the courage to cut spending. If he is ready to do that we ought to be prepared to work with him in a bipartisan way.

Also, the President promised to introduce bills on the first day after he was sworn in, today, to address the economy and jobs. Now he is saying it may be February or March.

I do not think that is unreasonable, frankly. I think he needs a little more time to think about it. But he should not have said he would have it on the first day. I do not think he realized what would go into taking over the Office of President. But, that aside, the economy and job creation is where we all should focus quickly. The clock is running. Every day that passes and we do not address the improvement of the economy and the creation of jobs in this country is a day lost that we cannot afford.

I will sum it up by saying, yes, maybe he is due for some criticism but, in my opinion, he is now moving in the right direction. I hope he will continue to do that and he will present bills that will really accomplish what we would all like to see for our country. Thank you, Mr. President.

Mr. GRASSLEY addressed the Chair.

The PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY]. How much time does the Senator wish to yield himself?

Mr. GRASSLEY. Four minutes.

The PRESIDENT pro tempore. Without objection, the Senator is recognized for 4 minutes.

LINE-ITEM VETO

Mr. GRASSLEY. Mr. President, one of those things we can start working on right now is something President Clinton has spoken in favor of because in his State of Arkansas, he has had the tool to use as the Governor, and that is the issue of the line-item veto. I know that my friend in the Chair, the distinguished President pro tempore, has strong feelings on the other side of this issue, but I support the line-item veto. Republicans in this Chamber have led the fight to grant the President explicit line-item veto authority so that the President will have one of the strongest possible tools to establish some discipline in the Federal budget process. Unfortunately, every time we bring up the line-item veto for a vote, our proposal is defeated pretty much on a party-line vote. The refusal to grant the President the power to veto specific appropriations is a betrayal of Congress' public trust since, as any Senator who keeps in touch with his constituents knows, the overwhelming majority of the people in this country support the line-item veto.

In the past, there has seemed little hope for the passage of a statutory line-item veto so long as the majority party held steadfast in opposing it. Now, perhaps, with a new President of the Democratic Party, the picture is different. The new President, like his Republican predecessors, supports a line-item veto and has talked about making it one of his legislative priorities, and I hope he sticks to that promise.

On page 25 of his campaign book entitled "Putting People First," the President says:

> To eliminate pork barrel projects and to cut Government waste, give the President the line-item veto.

Just as it took President Nixon to go to China, maybe President Clinton can get the Democrat leadership in Congress to give him and future Presidents a line-item veto. Hopefully, they will push it through as quickly as possible and support his intentions to do that. If he backs down on his pledge to secure a line-item veto, the American people I think will remember.

Line item veto power is needed along with other reforms because the Federal budget process remains in disarray despite the best efforts of policymakers in the past several years.

Although last year was an exception in that we passed appropriations bills separately, too often it is a typical practice for this Congress to bunch together all the appropriation bills into what we call continuing resolutions or omnibus spending bills. Since this trillion dollar catchall measure is amended and passed in the 11th hour of the legislative session, individual Members are less able to scrutinize each and every detail of the spending bill. This very undisciplined practice also increases the power and the opportunity for a committee or subcommittee chair to include an item that may not otherwise have passed the Congress on its own merits. Under this framework, the President is forced to accept or reject the whole bill that is passed by Congress, including a lot of irresponsible spending proposals.

I am going to put in the RECORD just a small list of those: $25,000 to study the location for a new gym for Members of the House of Representatives; $92,000 to study houses of ill repute in Peru; $12,000 on mooring docks in Pago Pago; $5 million for a parliament building in the Solomon Islands; $8 million spent on the Washington, DC, lottery and charitable games enterprise fund; $400,000 on Arctic goose management; $700,000 for the construction of a Lawrence Welk Museum in North Dakota; $225,000 to build an onion storage facility at the University of Georgia; and $1 million to refurbish a sports stadium in New Orleans.

I will say of that list that I could go on and on and on, but I will not. You can bet that your average taxpayer would say no to their hard-earned money being spent on most of these projects, and that is why a vast majority of Americans support granting the President the line-item veto.

According to the General Accounting Office, a line-item veto would save taxpayers more than $70 billion over 5 years. Let me repeat, it would save $70 billion over 5 years. But the Democrat Congress continues to say "no" to these savings while saying "yes" to increased deficits. It is time for Democrats to get behind their President and support the Republican line-item veto legislation. We must bring our budget under control.

Several Senators addressed the Chair.

Mr. CRAIG. I defer to the Senator from Washington.

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON]. How much time does he yield himself?

Mr. GORTON. Five minutes.

The PRESIDENT pro tempore. Without objection, the Senator is recognized for not to exceed 5 minutes.

NOMINATION OF BRUCE BABBITT TO BE SECRETARY OF THE INTERIOR

Mr. GORTON. Mr. President, during the years in which this Senator was privileged to serve as attorney general of the State of Washington, he served with a large number of highly outstanding and thoughtful individuals,

including his close friend, the recent Senator from New Hampshire, Warren Rudman, the junior Senator from New Mexico, Mr. BINGAMAN, the junior Senator from Nevada, Mr. BRYAN, and, of course, our outstanding and eloquent colleague, the senior Senator from Missouri, Mr. DANFORTH. Even in that august company, however, Mr. President, this Senator never met or served with a person whom he admired more than he did and does the President's nominee for Secretary of the Interior, Bruce Babbitt of Arizona.

Mr. Babbitt and this Senator became close personal friends, and associates as attorneys general of our respective States. Mr. Babbitt went on to become perhaps the outstanding Governor of the State of Arizona during the course of its entire history. And so, speaking for this Senator, he can express joy and happiness at the nomination by the President of the United States of Mr. Babbitt to be Secretary of Interior of the United States.

To a certain extent, Mr. President, there is a price in making this statement. Mr. Babbitt and I disagreed occasionally during the time that we were attorneys general. We have found ourselves on the opposite sides of issues more frequently since I have been a Member of the U.S. Senate. I know that many of my constituents are concerned about his views on a number of natural resources issues which are of vital importance to them. In fact, it was less than a year ago, Mr. President, that this Senator, perhaps foolishly, agreed to engage in a debate with Mr. Babbitt on the Endangered Species Act on his own home turf in Washington, DC, at the office of the League of Conservation Voters. But even during the course of that debate, my respect for Mr. Babbitt's intellect and ability and thoughtfulness and honesty and character did nothing but grow.

So I express the deep hope and the expectation, based on his time as Governor of Arizona, that Mr. Babbitt will deal thoughtfully and objectively with the natural resources issues which are his as Secretary of the Interior. Though we may differ, we will almost certainly differ in the future on a number of those issues. I commend him to my colleagues in the Senate as perhaps the single individual here who knows him best from a personal standpoint as an outstanding individual and as one whom I believe will listen with great care to the views of others which may not be his own. He is a wonderful nominee, and he should be confirmed.

Mr. CRAIG addressed the Chair.

The PRESIDENT pro tempore. The Senator from Idaho [Mr. CRAIG].

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

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for not to exceed 10 minutes.

Mr. CRAIG. I thank the Chair.

(The remarks of Mr. CRAIG and Mr. DOLE pertaining to the introduction of S. 10 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NOMINATION OF ZOE BAIRD

Mr. CRAIG. Mr. President, the other issue I wish to discuss this morning is an important one at this time.

The Senate is deliberating on those nominees the new President has selected to serve him and, therefore, serve the people of this country.

In selecting those men and women now before us in hearing, this new President has established the highest ethics standard in the history of this country. He has said without question that those he selects to serve us, the administration and our citizens, will be without question, beyond question because their records will be exemplary.

I will have to tell you this morning I do not believe that is the case at this moment. A person who has been nominated to serve as the Attorney General of this country has had very serious question brought as to the conduct of herself and her husband. This morning I sent a letter to the Judiciary Committee members, and I also sent a letter to our President because I think it is important that he start on the right foot, that he uphold the ethics standards that he prescribed for the people who will be working under him.

Let me suggest, Mr. President, we are talking about top cop, cop No. 1, in this country, that individual who is going to be the enforcer of the laws of this country and she has now before the Judiciary Committee of this Senate admitted that she violated the law. She knowingly violated the law, at least on one and probably several other occasions, and the argument coming up from down at the other end of Pennsylvania Avenue is to let us get beyond this; "let us put this aside."

No, here is a Senator who cannot do that. There is a principle here, but it goes well beyond that. There is a firm commitment by this President that there is an ethic that we cannot go beyond.

Now, the reason it is important to me is multifold. We have had hundreds of phone calls from the citizens of our State, but we have gone through a very high profile case in our State, Mr. President. A young man who was accused of similar acts has now just had his case brought to a close. He is now a felon in the eyes of the law. He has lost his rights to own a gun. He has lost his rights to vote. Up until the time the INS said you violated the law, he had not had one speeding ticket. That young man happens to be the son of a U.S. Senator. But I will tell you that it is not just the son of a U.S. Senator. It is that there are hundreds of men and women across this country today, small business people, who hire aliens and have to credentialize them within the law, have to determine whether they are legal employees. That is the responsibility of the employer.

This young man did not knowingly violate the law, made a mistake, and, when he did, he went on to pay the taxes because he thought he had done the right thing. But it cost him and his family over a quarter of a million dollars to defend his rights as an American citizen, and in the end they lost. The INS and the Justice Department, the very agency that Zoe Baird is being asked to be the top cop for, spent a half million dollars of taxpayers' money creating the computer program to ferret out the alleged illegal activities of this young man.

Now, I will tell you that is the excessive hand of government, and this young man is a felon today.

Zoe Baird said I violated the law and I know I did, and I did it intentionally.

Are we going to reward her to become the Attorney General of the United States, top cop No. 1, the person who must stand before all Americans as an example of what this country is and what it means and what it ought to be and what this new President has said it will be.

Now, I have asked our President in a letter this morning—and I will not read the text of it; it is a letter to the President from me—Mr. President, if you proceed and if you choose to argue that this individual continue as your nominee for Attorney General and she so becomes, then I am obligated to come forth and ask you to pardon young Dan Symms. And I am going to ask the President to pardon all other citizens in this country who made the mistake and got caught in the web and the tentacles of Federal regulation and paid thousands of dollars to defend their person and lost, because they made a mistake, an honest mistake, no conniving, no manipulation of the law, and not knowingly violating the law.

That is a very important issue for us, Mr. President. I hope that the Judiciary Committee and our President in the coming hours would withdraw the name of Zoe Baird and select another qualified person to serve in the capacity of the Attorney General of the United States. We must take seriously the enforcement of our laws. We must have people who serve as the kind of examples not just for the adults, not just for the young people, but for all Americans who must abide by the law of the land.

I yield back the remainder of my time.

The PRESIDENT pro tempore. The Senator's time has expired, The time under the control of the minority lead-

er has expired. The majority leader has 15 minutes and 50 seconds remaining.

Mr. BINGAMAN. Mr. President, I ask for 4 minutes from the majority leader's time.

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

The Senator from New Mexico [Mr. BINGAMAN] is recognized for not to exceed 4 minutes.

(The remarks of Mr. BINGAMAN pertaining to the introduction of S. 4 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BINGAMAN. Mr. President, I yield the floor and reserve the remainder of the majority leader's time.

Mr. MCCONNELL addressed the Chair.

The PRESIDENT pro tempore. The Senator from Kentucky [Mr. MCCONNELL] is recognized.

Mr. MCCONNELL. I ask unanimous consent to proceed for 5 minutes as if in morning business.

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

The Senator from Kentucky is recognized.

Mr. MCCONNELL. I thank the Chair.

(The remarks of Mr. MCCONNELL pertaining to the introduction of S. 7 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

The PRESIDENT pro tempore. Who seeks recognition? What is the will of the Senate?

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. 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.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may proceed for 15 minutes as if in morning business.

The PRESIDENT pro tempore. The Senate is in a period for the transaction of morning business.

Is there objection to the Senator proceeding for 15 minutes?

The Chair hears no objection, and the senior Senator from Pennsylvania [Mr. SPECTER] is recognized for not to exceed 15 minutes.

Mr. SPECTER. I thank the Chair.

THE INAUGURATION SPEECH AND PROPOSED LEGISLATION

Mr. SPECTER. Mr. President, on this date, January 21, 1993, the first day of the Senate's legislative session, I begin by complimenting the new President, President Clinton, on his inauguration speech yesterday. I thought it was well delivered with a good tone. I especially appreciated his gracious reference to President Bush.

To express one preference: I would like to have seen President Clinton direct more attention to some of the substantive issues facing America. He did speak briefly about the economy, a reference to health care, and some reference to crime control. I would have preferred to have seen more explicit statements on those subjects as well as reference to other matters of tremendous importance such as education reform, environmental protection, trade policy, and perhaps more specifically to direction as to his current thinking on his campaign commitments on deficit reduction.

But now it is up to the Congress to proceed on the matters of great urgency which face this country. And this morning I am going to introduce legislative proposals directed toward two of the subjects: health care and economic recovery.

I was disappointed to note that on the first five bills—reserved by the Democratic side were bills 1 through 5 for the majority party, and 6 through 10 for the Republican minority party—none of the bills addressed by the majority party refer to health care legislation, which in my personal judgment is a substantial oversight.

I am advised that Senate bill 1 refers to NIH reauthorization, bill 2 to voter registration, so-called motor-voter, bill 3 to campaign finance, bill 4 to defense conversion, and bill 5 to family leave.

In light of the tremendous emphasis placed upon health care reform during the great national debate of 1992, I would have thought that this would be an item to be addressed immediately. And it is my hope that legislation will be considered very promptly by the appropriate committees and very promptly by the Senate and the House with a bill to be submitted by President Clinton.

(The remarks of Mr. SPECTER pertaining to the introduction of Senate Joint Resolution 4 and Senate Joint Resolution 5 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SPECTER. Mr. President, I will today introduce legislation on comprehensive health care which deals with two objectives: First, to cover the 37 million Americans who are now not covered and, second, to reduce the cost of health care for Americans who do have health care at the present time.

My legislation contains some 8 titles, and a floor statement of some 45 pages. I will merely summarize it at the present time.

The essence of the legislation is to make specific suggestions for reducing costs by approximately $112.4 billion from the $830 billion which we currently spend. There are specific indications in the course of this prepared floor statement as to where those savings will come from.

As I note in the prepared statement itself and repeat now, it is virtually impossible to be certain as to exactly what the dollar amount will be, but these are estimates based upon the best knowledge available at the present time with the appropriate source cited. There are new programs which have been suggested in the course of this floor statement which would cost approximately $30.4 billion, leaving a net saving of approximately $82 billion, which would be sufficient to cover the Americans which would not be covered under the extensions provided for in this legislation.

The first title deals with health insurance market reforms and provides among other things for full deductibility for all the self-employed. It is an anomaly that today if the person is an employee, the employer may pay the insurance of the individual and deduct 100 percent of the cost, but if someone is self-employed and has a health plan that may not be deducted at all. It is basically unfair and to advance that deductibility would include many other Americans with a tax break to have that kind of health insurance.

The second title refers to preventative health services significantly devoted to the so-called low birth weight babies. One-pound babies are a human tragedy, to come into this world weighing a single pound, about as big as the size of my hand, and are also a financial tragedy with billions being expended. This correlates with ideas from Dr. C Everett Koop, former Surgeon General.

My legislation providing for payment to teenage pregnant women for prenatal and post-natal visits will be calculated to tremendously relieve human suffering and also enormous financial savings.

Also under this title is an extension of health education being directed in a significant matter to the toddlers age 2 until 4, when the learning habits are very important, and continuing through high school.

The third title relates to the disclosure of information to beneficiaries under Medicare and Medicaid so that beneficiaries will know what the risk factors, alternative procedures, and whether the providers have been subject to censor by the regulatory agencies or for settlement or verdicts in malpractice suits.

The fourth title relates to the patient's right to decline treatment and reduce the delivery of unwanted and unnecessary care by strengthening the Federal law regarding patient self-determination. A legitimate action by the Federal Government would be to prohibit the expenditures of Federal funds under Medicare and Medicaid when the patient has stated in writing

the intention not to have those treatments.

The fifth title relates to primary care providers expanding the role of nurse practitioners and physician assistants.

The sixth title relates to managed health care where there is the opportunity to save very substantially, perhaps up to 20 percent, based upon the experience of managed health care in the Medicare Program.

The seventh title relates to cost containment on outcomes research, so that there would be a way of knowing what has been successful in the past and a better guide for the kind of treatment for the future.

Mr. President, this bill has been prepared after very, very extensive consideration and thought. It incorporates new ideas after talking to experts in a variety of fields, enumerated and coalesces a number of legislative proposals which this Senator had introduced last year, Senate bill 1995, Senate bill 3176, and Senate bill 1122, and also my cosponsorship of the work of the Chafee task force.

Mr. President, I now address the second subject, and that is a proposal for an economic recovery which again I think is a matter of tremendous importance on a priority basis.

Again I note my disappointment that none of the first five bills under the control of the Democrats was directed toward the economic recovery. And again, similarly, I note my disappointment that the new President has not moved forward with specific legislation for an economic recovery.

And I comment, Mr. President, about the reduction of political power in this city of ours. The new President has tremendous authority. Some may already have dissipated from November 3, the election date, to January 20, the inauguration date. It is much easier to move ahead with the steam and pressure that the new President has.

The Economic Recovery Act of 1993, which I submit on behalf of myself and the distinguished Senator from New Mexico [Mr. DOMENICI] builds upon a group of five proposals which have gained general acceptance and I think could be promptly enacted.

One relates to the use of the individual retirement accounts, IRA's, penalty free, so that individuals may withdraw up to $10,000 from IRA's without penalty and without tax, providing they are used for homes or for cars.

This legislation was conceived last year when we faced the problem of the impossibility of additional Federal expenditures because of the budget agreement—that is, no additional Federal expenditures without an offset—and noted that there are some $800 billion in funds in IRA's and related Keough's and 401(k) proposals. And this is separate from the $3 to $4 trillion in other retirement accounts.

Estimates have been submitted that as much as $40 to $125 billion would be injected into the economy to provide a real economic stimulus.

Notwithstanding some signs of growth, the substantial indicators show, Mr. President, that we need an impetus for the economy. The $10,000 withdrawal would not be subject to tax in 1993. But 25 percent would be subject to tax in each of the 4 succeeding years, or the taxpayer would have the alternative to repay $2,500 in each year so as to maintain savings.

A second item in this proposed legislation is a $5,000 first-time home buyer tax credit, which is calculated to produce some 415,000 new jobs.

A third item is the 15-percent investment tax allowance.

A fourth item is modification of passive losses so that there is no conclusive presumption that because a person invests in real estate that it comes in the passive loss category.

And the final, fifth, item is the modification of debt finance income rules to facilitate investment in real estate from pension funds.

Mr. President, a third legislative proposal which I am introducing now relates to a constitutional amendment for a balanced budget. We are facing increased deficits and an overwhelming national debt in excess of $4 trillion. The State of Pennsylvania, my home State, has a constitutional mandate for balancing its budget, as does each county and each city in my State. And only the Federal Government issues script and borrows money.

In the early 1980's, the Senate passed a constitutional amendment for a balanced budget by a vote of 69 to 31; and later we were one vote short, 66 to 34. The constitutional amendment for a balanced budget passed in the 101st Congress in the House, and I think that we really ought to move ahead on this important line.

The fourth and final legislative proposal which I introduce at the present time related to the line-item veto, which I consider to be very important. I cosigned a letter, drafted by Senator DOLE, last year to President Bush urging President Bush to exercise the line-item veto under his existing constitutional authority. President Bush declined to do so on the advice of counsel.

It is my legal judgment that there is sufficient authority under the Constitution at the present time. But to eliminate all doubt, Mr. President, this constitutional amendment would provide that express authority. The difference on overriding the line-item veto would be that the Congress could reinstate that item by a simple majority vote.

Mr. President, the Specter-Domenici Economic Recovery Act of 1993 and pushing ahead with the constitutional amendment for a balanced budget and the line-item veto would be substantial steps toward an economic recovery to put 10 million Americans back to work in this Nation.

Mr. SPECTER. Mr. President, I thank the Chair for the allowance of time, and noting that no other Senator is on the floor seeking recognition, I suggest the absence of a quorum.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, is it appropriate for me to introduce a piece of legislation at this moment and speak to it for 5 minutes?

The PRESIDENT pro tempore. Without objection, the Senator may proceed for 5 minutes.

(The remarks of Mr. BIDEN pertaining to the introduction of S. 11 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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 1. MIKE ESPY, to be Secretary of Agriculture;

Calendar 2. Robert B. Reich, to be Secretary of Labor;

Calendar 3. Donna E. Shalala, to be Secretary of Health and Human Services;

Calendar 4. Henry G. Cisneros, to be Secretary of Housing and Urban Development;

Calendar 5. Hazel R. O'Leary, to be Secretary of Energy;

Calendar 6. Richard W. Riley, to be Secretary of Education;

Calendar 7. Jesse Brown, to be Secretary of Veterans Affairs;

Calendar 8. Carol M. Browner, to be Administrator of the Environmental Protection Agency;

Calendar 9. LEON E. PANETTA, to be Director of the Office of Management and Budget;

Calendar 10. Roger Altman, to be Deputy Secretary of the Treasury; and

Calendar 11. Alice Rivlin, to be Deputy Director of the Office of Management and Budget.

One of the nominations reported earlier today by the Commerce Committee:

Mr. Federico Peña, to be Secretary of Transportation.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be imme-

diately notified of the Senate's action, and that the Senate return to legislative session.

Mr. President, I add to my request the nomination of Michael Kantor, to be U.S. Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary, for which I ask unanimous consent that the Senate Finance Committee be discharged from further consideration.

The PRESIDENT pro tempore. Is there objection?

The Chair, hearing no objection, the Senate proceeds to executive session to consider the foregoing nominations enunciated by the majority leader en bloc; they are considered en bloc, agreed to en bloc, the motion to reconsider en bloc is laid on the table. Appropriate statements will be placed in the RECORD in accordance with the request and the President will be immediately notified of the confirmation of the nominees.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF AGRICULTURE

Mike Espy, of Mississippi, to be Secretary of Agriculture.

DEPARTMENT OF LABOR

Robert B. Reich, of Massachusetts, to be Secretary of Labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Donna E. Shalala, of Wisconsin, to be Secretary of Health and Human Services.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Henry G. Cisneros, of Texas, to be Secretary of Housing and Urban Development.

DEPARTMENT OF ENERGY

Hazel Rollins O'Leary, of Minnesota, to be Secretary of Energy.

DEPARTMENT OF EDUCATION

Richard W. Riley, of South Carolina, to be Secretary of Education.

DEPARTMENT OF VETERANS AFFAIRS

Jesse Brown, of the District of Columbia, to be Secretary of Veterans Affairs.

ENVIRONMENTAL PROTECTION AGENCY

Carol M. Browner, of Florida, to be Administrator of the Environmental Protection Agency.

EXECUTIVE OFFICE OF THE PRESIDENT

Leon E. Panetta, of California, to be Director of the Office of Management and Budget.

DEPARTMENT OF THE TREASURY

Roger Altman, of New York, to be Deputy Secretary of the Treasury.

EXECUTIVE OFFICE OF THE PRESIDENT

Alice Rivlin, of the District of Columbia, to be Deputy Director of the Office of Management and Budget.

DEPARTMENT OF TRANSPORTATION

Federico Peña, of Colorado, to be Secretary of Transportation.

THE EXECUTIVE OFFICE OF THE PRESIDENT

Michael Kantor, of California, to be U.S. Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary.

STATEMENT ON THE CONFIRMATION OF MIKE ESPY

Mr. BAUCUS. Mr. President, I wish to add a few words of support for this nomination. I do so because I believe that MIKE ESPY is the right person for the job. I believe he will strive—successfully strive—to make the U.S. Department of Agriculture the effective, efficient, and farmer friendly agency it ought to be.

OPPORTUNITIES FOR THE NEW SECRETARY

The new secretary joins an administration which is characterized by hope and optimism. The Department of Agriculture should be no exception.

This Secretary has the opportunity to foster greater cooperation between this Department and the others of the administration. Mr. ESPY has the chance to help level the playing field of international trade for agricultural commodities. He will help guide the formulation of agricultural policy to carry American agriculture into the 21st century.

Since the USDA was established in 1862, there have been 24 previous Secretaries of Agriculture. They directed a tremendous growth and diversification. Now, with over 112,000 employees, that growth is probably over but trials will still be found. In fact, with issues like budgets, trade imbalances, and environmental issues at hand, Mr. ESPY may soon envy the job of his predecessors.

CHALLENGES IN AGRICULTURE

This nominee is now poised to become the focal point for an industry which needs help. Prices which are too low. The unavailability of credit. Programs which are sometimes unfair. Trade practices which play favorites. The dictation of agricultural policy from other agencies. These are all potential difficulties you will face.

In States like Montana where agriculture is the dominant economic influence, Mr. ESPY's appointment is met with hope for tomorrow. This hope is based on the expectation of success. An effective Secretary of Agriculture can help shore up the foundation of States like Montana.

CONCLUSION

Mr. ESPY has made a favorable impression on me. He has also made a favorable impression on the committee and on the Nation. I am confident that MIKE ESPY is an excellent choice for Secretary of Agriculture. I look forward to working Mr. ESPY as he helps to create a bright future for agriculture.

STATEMENT ON THE CONFIRMATION OF MIKE ESPY

Mr. LEAHY. Mr. President, it is a pleasure and an honor for me as the chairman of the Committee on Agriculture to take the floor this morning to support the nomination of MIKE ESPY as Secretary of Agriculture.

It is a special pleasure, because this is the first Democratic nominee for this position that I have presented to the Senate since I became chairman of the committee.

But as the events of recent days make clear, this is much more than a time for partisan pleasure.

This is a time for hope. A time of renewal.

MIKE ESPY represents the emotions that we all have felt so deeply in recent days.

The Senate Committee on Agriculture, Nutrition, and Forestry met last week on the nomination of MIKE ESPY to be Secretary of Agriculture. All members attended the hearing, and Mr. ESPY was questioned for over 3 hours. I am pleased that Mr. ESPY has broad bipartisan support from our committee, and I think that all Senators present were both impressed and moved by Mr. ESPY's testimony and response to their questions.

After the hearing, over 100 questions were sent to and have been answered by Mr. ESPY. The responses will be included in the Agriculture Committee's published hearing record. The committee met again on Tuesday and unanimously recommended by voice vote that Mr. ESPY be confirmed as President Clinton's Secretary of Agriculture. This is indeed a great day for American agriculture and rural America.

MIKE ESPY has a strong commitment to things that I believe in—a renewed focus on rural America, support for the family farmer, and investment in nutrition programs, rural development projects, and trade and marketing programs.

We all agree that the world has changed dramatically since our agriculture policies were crafted. Abraham Lincoln's original mission for the Department of Agriculture served the Nation well, and FDR restructured the Department to deal with the problems that faced the United States during the Great Depression. Now it is time for us to make another transition and lead the U.S. Department of Agriculture into the 21st century. USDA must adapt to the new realities of American agriculture and the U.S. economy.

The Department of Agriculture must be revitalized so that it will be in a position to refocus on environmental and marketing issues—issues that are essential to the survival of American agriculture.

A revitalized Department of Agriculture will be a partner with farmers in helping to keep America a world leader in nutrition and food safety, agricultural production, marketing, conservation, and rural development. USDA can again be a driving force in agriculture—a force that when teamed with farmers, can advance American agriculture and agricultural products to the front of world markets that are growing increasingly competitive.

There are a number of key issues that face the new Secretary. The most demanding of which involve nutrition and food safety, agricultural produc-

tion, conservation and the environment, rural development, trade, marketing, and congressional demands to restructure the Department. The Secretary of Agriculture must lead USDA through what will most likely prove to be a very demanding time.

The new Secretary of Agriculture will have the responsibility of overseeing an $83 billion budget and some 115,000 employees. Managing and revitalizing the Department of Agriculture is a huge undertaking—but I believe President Clinton has made a great choice in nominating MIKE ESPY to be Secretary of Agriculture.

I think that it is of great importance that President Clinton has chosen his long-time friend for this post. As such, Mr. ESPY will be in a position to bring agricultural and rural issues directly to the President—the plight of rural America will be on the Cabinet table and will not be lost in the shuffle.

Mr. ESPY has served his district of rural Mississippi extremely well. He identified their agricultural problems and set about to solve them. He formed an agricultural advisory commission to guide him, and every 2 months the 65,000 farmers in his district got a letter from their Congressman. Such efforts, along with his role in passing legislation to create a Mississippi Delta Commission stand as an example of Mr. ESPY'S understanding of and commitment to rural America.

And we must be committed to rural America—it can wait no longer. As we lose our small family farms, we lose not only our rural heritage, but the economic strength of our rural communities. In my work as chairman I have tried to give a voice to our small family farmers so they have a fighting chance.

I know Mr. ESPY shares this commitment. Family farmers are the backbone of his home district in Mississippi just as they are in my home State of Vermont. I trust he will hold fast to the responsibility of helping small farmers in all of rural America.

I know that the dairy farmers in Vermont have been frustrated at the closed doors at USDA. Their suggestions for dairy reform made sense to both dairy farmers and the taxpayers, but were ignored or opposed by the Department in recent years. I was reassured by MIKE ESPY'S openness to new ideas in this area when we met last week.

MIKE ESPY represents the best of rural America. He is a symbol of positive changes for the Department of Agriculture—the Department that touches each and every American. MIKE ESPY has a rural heritage that will guide him at USDA, and stands as our assurance that rural America will not be left behind.

I admire MIKE ESPY. I admire the work that he has accomplished in the House of Representatives. We broke new ground with the 1990 farm bill, and I look forward to working together with the new Secretary and with the Department.

I am confident that MIKE ESPY is the right person to lead the Department of Agriculture. MIKE ESPY will indeed be the Secretary for Agriculture.

STATEMENT ON THE CONFIRMATION OF DONNA SHALALA

Mr. BAUCUS. Mr. President, I am pleased to support the confirmation of Donna Shalala as Secretary of Health and Human Services. I am quite impressed with Dr. Shalala and her background. She clearly has tremendous energy and dedication. And a real take-charge attitude which I think is terrific.

As an Assistant Secretary for the Department of Housing and Urban Development, she initiated creative and effective programs so that women would receive fair treatment under Federal housing policies.

As president of Hunter College and the University of Wisconsin, she again showed her talent for successfully running large institutions and making them more efficient and effective.

That is impressive. I think it is clear that she has the experience and the creativity to not only oversee, but also to improve the Department of Health and Human Services.

The new Secretary of Health and Human Services faces a difficult road ahead. Many experts believe our health care system is in crisis. Medicare and Medicaid costs are soaring; more and more working Americans are being priced out of the health care system; the United States has one of the lowest immunization rates among industrialized countries; and Americans living in rural areas have less and less access to health care.

I believe that our health system needs comprehensive reform. The new Secretary of HHS likely will play a large role in the crafting of national health reform legislation this year.

I share President Clinton's goal to reform our health care system this Congress. I also support many of the same health reform concepts.

I am a strong supporter of controlling health costs by combining managed competition and global budgeting. We are the only industrialized country that fails to budget our health care spending. And this is a major reason why we spend so much more than other countries on health care even though our health statistics are lower.

However, I have two major concerns.

First, I am concerned about how rural areas, like Montana, will fare under comprehensive health reform. I hear a lot of talk about managed competition. But what will happen in areas where there are not any doctors to compete? Or if reimbursement rates are set too low so that needed rural hospitals are forced to close?

Rural areas face unique health care problems. It is not enough to increase the number of people with health insurance. National health reform must address the delivery and access problems faced in rural areas.

National health reform can be a tremendous improvement for rural areas if it is structured correctly. I urge Dr. Shalala to pay close attention to rural health care needs as she moves forward on health reform legislation.

I am also concerned about setting up a different health insurance system for small businesses than for large businesses. If we are going to create a managed competition system, then our health reform plan should ultimately lead to everybody playing by the same rules. Large businesses should be as much as part of a managed competition system as smaller businesses.

This is the first time in decades that the Government will have a chance to enact comprehensive health reform. What I am saying is that we may not get another chance. So we should do it right this time.

But it is not just with national reform that I am concerned about the treatment of rural areas. There are many pressing problems facing rural areas right now which could be alleviated through improved public policy.

According to the General Accounting Office many rural hospitals, which are the sole health providers in their area, will face financial problems from losing money on Medicare patients.

People living in rural areas are more likely to be uninsured than urban residents. And rural areas continue to face a desperate shortage of health professionals and resources.

In Montana the statistics are truly alarming. About 20 percent of Montanans have no health insurance. Eight of our 56 counties have no physician and almost half of our counties have no physician who will deliver a baby.

Federal policy can and should be targeted to alleviate these serious problems. Dr. Shalala and I discussed elevating the Director of the Office of Rural Health Policy to the status of Deputy Secretary. I strongly support this view and urge Dr. Shalala to implement this proposal.

While we are all working together on national health reform, I will also be working on rural health care legislation to address these immediate health delivery problems in rural areas. I hope to work with Dr. Shalala on these issues in the future.

Mr. President, I am pleased that President Clinton chose Dr. Shalala to be Secretary of HHS. With her experience, energy, and creativity, I am sure she will make HHS more responsive to the needs of the American public.

I wish Dr. Shalala well and look forward to working with her in the future.

STATEMENT ON THE NOMINATION OF HENRY G. CISNEROS

Mr. RIEGLE. Mr. President, I support the nomination of Henry G. Cisneros as Secretary of Housing and Urban Development. I believe President Clinton's selection of Mr. Cisneros as Secretary is an excellent choice. As the first Hispanic mayor of a major U.S. city, Mr. Cisneros demonstrated vision and innovation in addressing the problems of the city of San Antonio. He possesses a wealth of hands-on experience in urban policy and problem-solving. As chairman of the Committee on Banking, Housing and Urban Affairs, I look forward to the opportunity to work closely with Mr. Cisneros to enhance the vitality of our distressed communities.

According to the 1990 census, more than half of our Nation's population lives in urban areas. Yet, today our cities face increasingly difficult problems. The policies developed by the 103d Congress will have a direct impact on the quality of life of all Americans for many years to come:

The initiatives we adopt have the potential to boost our economic prosperity. The United States spends less of its gross domestic product on infrastructure than 54 other countries. As a result, 23 percent of our bridges and 10 percent of our roads—many of which are in urban areas—are structurally deficient. Furthermore, recent studies have shown that a weak urban core drags down the economy of the entire metropolitan area. By the year 2000, minorities concentrated in inner cities will provide 57 percent of new work force entrants.

The solutions we find to the problems of our inner cities will affect the safety and quality of life for all Americans. Since 1980, violent crime increased nearly 33 percent. The risk of a teenager being murdered has doubled since 1985. And, in 1990, the leading killer of young blacks aged 15 to 25 was violence. Lack of economic opportunity is a key cause of violence. Since the mid-1970's, blacks have suffered consistent double digit unemployment and black teenage unemployment has topped 30 percent. Today, 10 percent of the work force—over 16 million people—are unemployed, underemployed, or so discouraged they've stopped looking for work. If we want to build strong and safe communities, we must ensure there are opportunities for all.

The course we navigate will determine the future for millions of American children. Thirty percent of children under the age of 6 live in poverty. One-fourth of the babies born in inner city hospitals are drug addicts at birth. Furthermore, half the children in many inner city neighborhoods are not vaccinated against serious and preventable diseases. And, between 40 and 50 percent of children in schools drop out before they graduate. If we want our children to have the opportunity to play productive roles in society, we must create an environment where they can grow and thrive.

The answers we find will impact the ability of millions of families to prosper. It is estimated that 5.1 million very low-income families pay more than half of their income for rent or live in substandard housing. In addition, three-quarters of a million people are homeless on any given day. These conditions squeeze the incomes of families so tightly they cannot afford other necessities including food, clothing, and medicine. If we want strong families, we must ensure that the hurdles to their survival are not insurmountable.

I believe Mr. Cisneros possesses the leadership to address not only the housing needs of our Nation, but the urban development component of the Department of Housing and Urban Development. The Nation needs a centralized and coherent strategy to address the challenges facing the inner cities. Programs to aid urban areas are under the jurisdiction of over 10 different agencies and departments, yet there is no mechanism to promote sharing of information and coordination of policy among these agencies. Last week, several members of the Banking Committee and I sent a letter to President-elect Clinton recommending Mr. Cisneros to lead such an effort which I ask to have printed in the RECORD.

I strongly support the nomination of Henry Cisneros. As I have stated I believe he will make an excellent Secretary of HUD and I encourage the Senate to act favorably and immediately on his nomination.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC, January 14, 1993.

Hon. BILL CLINTON,
President-Elect, Presidential Transition Office, Washington, DC.

DEAR MR. PRESIDENT-ELECT: We are writing to urge you to create a formal mechanism within the White House to coordinate all federal programs affecting urban areas and to develop a coherent national policy to address the problems confronting our cities.

A central theme that arose during the Senate Banking Committee's hearing on the confirmation of Henry Cisneros to serve as Secretary of Housing and Urban Development was the nation's desperate need for a unified strategy to address the challenges facing its urban centers.

An effective national urban policy must take into account the complex relationships among the various challenges facing our cities and the various federal programs designed to address those challenges. Housing and community development programs, other economic development programs, crime and drug prevention efforts, job training programs, transportation programs, programs to provide health and human services, and tax policy, all have impacts on one another and on the urban environment.

Currently, no mechanism exists to facilitate sharing information among the more than ten agencies responsible for programs with urban impact, and to ensure their effective coordination. We therefore recommend that you create such a formal coordinating structure and place it under the leadership of the Secretary of Housing and Urban Development.

We urge your prompt attention to this recommendation which we believe is central to developing the most effective federal response to the social and economic crisis that confronts our cities and to getting maximum impact from the national resources we are able to apply.

Sincerely,

Donald W. Riegle, Jr., Chairman; Paul S. Sarbanes; Christopher J. Dodd; Jim Sasser; John F. Kerry; Alfonse M. D'Amato; Christopher S. Bond; Robert Bennett; Richard H. Bryan; Barbara Boxer; Carol Moseley-Braun; Patty Murray; Ben Nighthorse Campbell.

STATEMENT ON THE NOMINATION OF HENRY CISNEROS

Mr. D'AMATO. Mr. President, I am pleased to offer my support for the confirmation of Secretary-designate, Henry Cisneros for the Department of Housing and Urban Development. As ranking minority member of the Committee on Banking, Housing, and Urban Affairs, I have had the opportunity to hear Mr. Cisneros present the ideas of what the incoming administration plans to do in addressing the housing concerns of our Nation. I feel confident that by continuing bipartisan efforts, we can make a difference in our urban centers, in our rural towns, and in our suburban communities.

I would be remiss if I did not acknowledge the strong bipartisan cooperation on housing policy that we have enjoyed in the Senate with Secretary Jack Kemp. Secretary Kemp brought innovation and insight to our dialogue on housing and inner city issues facing this country. Thanks to Jack Kemp, we can never view problems facing our inner cities again without recognizing the need to provide individuals with opportunities to better themselves, own their own homes, and have a stake in their own communities. I hope that Mr. Cisneros will continue to work toward the goals set out by Secretary Kemp. I speak both of the Secretary's HOPE Program which allows residents of public housing to realize the dream of homeownership and his strident advocacy of enterprise zones.

If we are to undertake a concerted effort to rebuild the depressed areas of our cities and create sound and attractive neighborhoods, there is no question that housing will be a key component of any Enterprise Zone Program. People must not only be given incentives to work in urban areas but they must also want to live there.

This Congress will look for leadership from the Secretary of Housing and Urban Development in many areas including maintaining the health of the FHA insurance funds while balancing the desire to assist low and moderate

income home buyers. The Secretary should make the elimination of drugs in federally assisted housing a top priority. Scarce resources such as CDBG dollars and elderly and handicapped housing funds must be maximized. Focus on safety and security issues, such as requiring smoke detectors in federally assisted housing, must continue. Elimination of wasteful practices, such as lump-sum relocation payments for residents of public housing, should become standard practice.

I believe that with Mr. Cisneros as Secretary of Housing and Urban Development, we can and will make a profound difference in the lives of those who live and work in our Nation's urban centers, rural towns, and suburban communities. I look forward to working closely with him and his staff in continuing bipartisan cooperation on housing policy.

STATEMENT ON THE NOMINATION OF HAZEL ROLLINS O'LEARY

Mr. JOHNSTON. Mr. President, today I am pleased to recommend to the Senate confirmation of Hazel Rollins O'Leary to be Secretary of the Department of Energy. Mrs. O'Leary is an excellent choice for Secretary of Energy. She has a strong background in the energy business, and she will bring to this position her experience in both the Federal Government and the private sector. Her experience in business in the private sector will bring a healthy and fresh perspective to the Department of Energy.

I feel confident that Hazel O'Leary is up to the task of taking on the Department of Energy. If anyone can succeed at this position—and solve the many problems facing the Department—I am certain that Hazel can.

The position of Secretary of Energy is one of the most important jobs in the Federal Government. The Department of Energy has a critical role to play in the administration's plans for economic recovery as well as its traditional role in the development and maintenance of energy supply for the future. Development of a sustained and balanced energy policy—coupled with careful utilization and management of the assets of the Department of Energy—will be critical to the administration's near-term efforts to stimulate economic growth and international competitiveness.

The position of Secretary of Energy will also be a very challenging one. It will take strong management skills and a strong will to get things done. It will take a commitment to developing a balanced energy policy that recognizes the need for both efficiency measures and a diversity of supply. It will require an ability to juggle at the same time the many issues facing the Department that are not strictly related to energy supply.

There are many daunting tasks that await the Secretary of Energy—cleanup of the nuclear weapons complex, effective management of the civilian nuclear waste program, and development of an effective partnership between the national laboratories and private enterprise, to name just a few of them. The nuclear weapons complex, civilian nuclear waste, and the national laboratories account for a significant portion of the Department of Energy's annual budget. Each of these areas will present the Secretary of Energy with a significant and unique challenge.

One of the most important tasks facing the Secretary of Energy will be managing the cleanup of the environmental problems of the Department's nuclear facilities. Estimates of the total cost of cleanup range as high as $150 billion. Annual expenditures are in the range of $5 billion. One of the most difficult challenges in this program will be to establish priorities for cleanup that will ensure that the worst environmental problems are cleaned up first. In establishing priorities, it will also be necessary to develop realistic and sensible standards for cleanup and to make decisions on the extent of cleanup and schedules for cleanup based upon the risk involved.

Equally important to success at the Department of Energy will be effective management of the civilian nuclear waste program. Mrs. O'Leary will bring a fresh perspective to this issue. She has seen first hand the problems of the nuclear waste program from the perspective of a utility customer. She has felt the frustration of the waste of money in this program and knows all too well the need for improvements in its management. With each year, this program gets more expensive and its schedule for completion gets further away. We simply must structure this program in a way that it can succeed on a timely schedule.

The Department of Energy is the Federal Government's largest employer of scientists and engineers and owns the Nation's premier laboratories and facilities for basic science. These laboratories—and the Department's role in science—have evolved over time from a primary emphasis on nuclear weapons development to a broader role in the development of technology across the full spectrum of fundamental sciences. These laboratories are on the brink of change in how they operate. Properly managed, the tremendous assets of the national laboratories can ensure the continued preeminence of American science while also making a major contribution to the administration's efforts to stimulate economic growth and competitiveness. To accomplish these goals, we must develop an effective partnership between the national laboratories and the private sector.

Competition for Federal dollars for science throughout the Federal Government will be keen over the next several years. The Department has within its purview some of the most advanced facilities and programs of the entire Federal Government. Many of these programs have the potential both to keep the United States at the forefront of science and to enhance U.S. competitiveness. As competition for Federal dollars becomes more fierce, the administration will have to develop priorities for science. The Department will need to play a key role in the development of those priorities.

Finally, the Energy Policy Act of 1992 contains major new initiatives and far-reaching provisions affecting almost every aspect of energy policy. Effective implementation of these provisions will be a challenge, and there will be severe competition for limited Federal dollars. The Secretary of Energy will need to find the right balance and level of support for these programs. The Energy Act provisions in energy efficiency, renewable energy, alternative fuels, and global climate policy, taken together with the Clean Air Act amendments, represent the most significant programmatic response by any nation to the Treaty on Climate Change signed in Rio. Success at the implementation of these provisions will be especially important.

Mr. President, I look forward to working with Mrs. O'Leary and the Clinton administration on energy issues, and I urge strongly the prompt confirmation of this nominee.

STATEMENT ON THE NOMINATION OF HAZEL O'LEARY

Mr. BAUCUS. Mr. President, I wish to add a few enthusiastic words of support for this nomination.

The new Secretary takes charge of an agency whose mission is as diverse as it is important. The Department of Energy's role as energy provider to many communities and businesses in Montana underscores the impact which that agency has on the everyday lives of millions of Americans.

The importance of the DOE to my State was underscored several weeks ago when the Bonneville Power Administration announced a temporary 25-percent cutback in energy to its direct service industry customers. In real terms, BPA's actions mean that workers are laid off and that the long hoped for economic rebound in Montana's aluminum industry will not come about in the near future.

The new Secretary of Energy will face the challenge of ensuring that States like Montana are provided with accessible and affordable power. The lack of either clearly hampers our ability to be productive and contribute to any kind of economic recovery.

Having met Ms. O'Leary, I am sure that she is up to the task. The vitality and knowledge which she brings to the position is a real benefit to the Department of Energy. I am confident that Ms. O'Leary is an excellent choice for

Secretary of Energy, and I look forward to working with her.

STATEMENT ON THE NOMINATION

Mr. WALLOP. Mr. President, I rise in support of the confirmation of Mrs. Hazel O'Leary as Secretary of Energy. In nominating her as Secretary of Energy, President Clinton has selected someone with solid qualifications.

Mrs. O'Leary brings to the Department of Energy two decades of experience as both a regulator and as the regulated. She has served within the Department as assistant administrator for Conservation and as Administrator of the Economic Regulatory Administration. In this capacity she has firsthand experience with heavy handed government price regulations that did not work. As Mrs. O'Leary observed in her statement before the Energy and Natural Resources Committee yesterday, in the private sector she was aware of the importance of a strong and resilient energy policy, one that protects the environment but which also maximizes the Nation's demand and supply-side options and sustains economic growth.

The Department of Energy is at a critical juncture in its history. With enactment of the 1992 Energy Policy Act, the 102d Congress and the Bush administration redefined DOE's charter and set it on a course to meet the challenges of the next century. Whether it gets there or not rests on the leadership of the next Secretary of Energy.

The Energy Policy Act of 1992 contains many of the necessary reforms to assure sustainable economic development. This bipartisan agreement recognizes that an expanding national and global economy requires that America rely both on energy production and increased efficiency and conservation.

From this perspective I was encouraged by Mrs. O'Leary's December 12 acceptance remarks when she stated:

Our energy policy decisions are central to creating jobs, to maintaining the health of our nation's economy, and to improving the quality of our environment. The experience that I have has taught me that balance is essential in effective public policy, and most essential in making energy policy. We've got to utilize the wide range of demand-side and supply-side options to ensure adequate supplies of energy resources at reasonable and environmentally correct costs.

She then observed:

That eventually we are going to discover that there are natural and physical limitations to efficiency, conservation and renewables. People will come to realize that you need a supply strategy as well.

This reality is reflected in the Energy Policy Act of 1992 which provides a long-term, comprehensive, and consensus-based energy policy for the United States. The act sets forth an energy strategy that will further our national security, create American jobs, help our balance of payments, and lessen our dependence on foreign energy markets and international cartels.

But the challenge does not stop there. The responsibilities of the Secretary of Energy are not limited to just the administration of a national energy policy. They extend to administration of our national laboratories, the crown jewels of our Nation's scientific research capabilities, and administration of the Federal Government's nuclear weapons production facilities.

The environmental issues associated with the operations and decontamination of these facilities are numerous. Many of these facilities are more than 45 years old. Under Admiral Watkins, significant steps were taken to bring this situation under control; however, the task of bringing them into compliance with contemporary environmental requirements will confront the Department for many years.

The role of the Secretary within the decision making process in the Clinton administration is pivotal to the success of all of these missions. During her testimony and in her answers for the record, Mrs. O'Leary demonstrated her experience in dealing with the ongoing balancing act among and between legitimate environmental interests and concerns, and legitimate energy or economic concerns.

As the Secretary of Energy, she will be called upon to be the voice of reason in many contentious debates. As we all know, some of the ideas are just plain stupid; for example, such misguided proposals as a carbon tax will have significant, adverse employment, energy, and trade competitive implications for the United States. Similarly, proposals to eliminate development of advanced, passively safe, nuclear reactor designs are shortsighted and exhibit a lack of vision for the long-term energy security and environmental well-being of the Nation.

Too often we overlook the economic, social, and energy costs of our environmental policies. By our failure to consider the cost-effectiveness of our policies we incur an unnecessary dampening of the marketplace and a loss of competitiveness internationally. A reconciliation of environmental and energy policies is needed in order to assure sustainable economic development and international competitiveness.

Mr. President, significant benefits can be derived from the United States export of new energy technologies such as clean coal technologies as well as renewable and energy efficiency technologies. The 1992 Energy Policy Act, for the first time, places significant responsibilities in the Secretary of Energy in this regard. Now priority must be given to establishment of the necessary interagency mechanisms if the United States is going to realize the full economic, employment, and trade potentials of these technologies.

Among the critical issues which will immediately face Mrs. O'Leary as Secretary will be implementation of the Uranium Enrichment Corp. statutes. The administration also needs to conclude the arrangements necessary for DOE's purchase of weapons grade uranium from Russia.

Equally important is the timely characterization of the nuclear waste site at Yucca Mountain. The Federal Government needs to fulfill its commitment to the American people to provide for the long-term disposal of nuclear waste. It is critical that evaluation of the suitability of the Yucca Mountain site proceed as expeditiously as possible.

Other critical issues of concern to me are the issues surrounding energy consumption; initiatives in the areas of energy supply and production; and technology transfer.

In addition, there are the Department's nuclear weapons programs. These programs require a special expertise that is not reflected within Mrs. O'Leary's areas of experience. It therefore is critical that she have access to the necessary expertise and advisers so that she can affectively carry out her national security duties and responsibilities.

Mr. President, I would observe that our Nation has made significant progress in the formulation of a national energy strategy since the shortages of the 1970's. We have learned that the command-and-control policies of that period did not work. The Energy Policy Act of 1992 reflects that experience. Congress and the administration must resist the temptation to again try to dictate specific human behavior.

Let me say, Mr. President, that I do not envy Mrs. O'Leary the task ahead. However, she brings to the position a wealth of experience and knowledge. As we move forward I am confident that we can do so together as partners, with candor and cooperation as our hallmark. I recommend her confirmation. She is an excellent choice.

STATEMENT ON THE CONFIRMATION OF RICHARD RILEY

Mr. PELL. Mr. President, I rise in strong and enthusiastic support of the nomination of Richard Riley of South Carolina to be the Secretary of Education. This is a nomination we should confirm with dispatch.

I will be brief in my remarks on Governor Riley's behalf. Let me say at the outset that the fact that President Clinton has chosen a friend and former colleague underscores the fact that education will be high on the new administration's agenda. It is clear that its concerns will be heard in the highest levels of our government.

Richard Riley is an individual of very considerable talents. He has served South Carolina as State representative, State senator, and for two 4-year terms, Governor. Throughout his governorship, education was a major priority. He fought hard for educational re-

form, and he won. He fought hard for increased education funding, and he won. He fought hard for better teacher training and improved instruction in basic skills, and he won. In short, he was truly an education governor.

On three different occasions Governor Riley was given the South Carolina Friend of Education Award. To earn such an award once is a considerable accomplishment; to have it happen three times is remarkable.

American education is at a crossroads. Either we move to make excellence the byword of education, or resign ourselves to mediocrity. Either we move to insure that American education responds to the need to keep our Nation competitive, or resign ourselves to second-class status. Either we invest in education, or resign ourselves to an underfunded and inadequate education that cannot spur this nation forward. The choice may seem to be an easy one, but we are all too painfully aware that rhetoric is not enough * * * that actions speak louder than words.

In President Clinton we have someone who has demonstrated his commitment to education time and time again while he was Governor of Arkansas. His friend, Richard Riley, has done the same as Governor of South Carolina. We now have the chance to team them together, and to bring to education the one-two punch it needs at the national level.

I urge my colleagues to join me in confirming Richard Riley as the next Secretary of Education.

STATEMENT ON THE NOMINATION OF LEON PANETTA AND ALICE RIVLIN

Mr. DOMENICI. Mr. President, I rise in strong support of the confirmation of LEON PANETTA to be Director and Alice Rivlin to be Deputy Director of the Office of Management and Budget. I have known and worked with these two very capable candidates for over a decade.

I think the President has made an excellent choice in selecting the former chairman of the House Budget Committee as his OMB Director. Few bring such a strong familiarity with the scope and dangers associated with this Nation's fiscal problems. Moreover, Mr. PANETTA fully understands the complexities of our budget processes and brings unique skills to address the most serious long-term economic problem facing our country—the budget deficit.

Combined with Dr. Rivlin's skills and experience, particularly as the first Director of the Congressional Budget Office, the President has chosen an excellent team to head up OMB.

The Senate Governmental Affairs Committee was gracious enough to allow me to attend their hearings on Mr. PANETTA's and Dr. Rivlin's nominations. I was impressed with their commitment to make a major reduction in the budget deficit, particularly their recognition that we must confront mandatory spending as part of the solution.

Mr. President, none of the choices for deficit reduction are easy. This problem requires strong Presidential leadership and a bipartisan solution.

STATEMENT ON THE NOMINATION OF RICHARD W. RILEY

Mr. JEFFORDS. Mr. President, I rise in support of the nomination of Richard W. Riley to the Office of Secretary of Education. Governor Riley comes with high credentials and an impressive record. Beyond his documented success as a governor with a commitment to education, Mr. Riley's possesses the unique ability to work well with others which will serve him well in his new position.

As Governor, Mr. Riley gained his reputation as an ardent supporter of education. During his tenure, he initiated a comprehensive, nationally recognized education reform package for his State of South Carolina. He has had to deal with the tough issue of college desegregation and has had a strong record of education funding during his tenure as Governor.

I am anxious to work with Mr. Riley as Congress embarks on a full agenda of education reform in the upcoming session. Among those issues is the reauthorization of the Elementary and Secondary Act. Clearly, his understanding of these issues will bring great insight to the proposals now being considered for education reform. Furthermore, the recommendations of the National Commission on Responsibilities for Financing Postsecondary Education will be announced on February 3. The Commission's report has proposed significant reforms for the financing and restructuring of higher education. We can expect big changes and I look forward to working closely with the Secretary-designate.

I am also pleased that Mr. Riley will be assisted by a good friend of mine, Gov. Madeline Kunin. Governor Kunin has been nominated for the post of Deputy Secretary of Education. I can think of no one more qualified than she to assist in the process of reform and change. Her record in Vermont speaks for itself and I hope we can move swiftly with her confirmation.

This is an exciting time for the education community. I can think of few individuals more qualified than those nominated by our new President to assist in the vital work of education reform.

STATEMENT ON THE NOMINATION OF MICKEY KANTOR

Mrs. KASSEBAUM. Mr. President, I want to express concern about the nomination of Mickey Kantor for U.S. Trade Representative. In particular, I have serious reservations about his lack of experience and the potential conflict of interest between his private career as a lobbyist and this new position.

President Clinton has highlighted trade issues as central to our own renewal. As he stated in his inaugural address, we are living in a world where communications and commerce are global—we are living in a world in which we must compete for every opportunity.

I certainly agree with President Clinton's perspective, and it is for this reason that I am concerned that Mr. Kantor does not have a strong enough background in trade issues to hit the ground running. Given the challenges before us in the trade area from friend and foe alike and given the close integration between trade and our foreign and domestic policies, I believe experience is critical for this nomination.

While Mr. Kantor is clearly a very capable lawyer, it is still unclear after his hearings what his trade views are and what our trade policy will be. We cannot afford to lose time and, as President Clinton has said, opportunities, while our Trade Representative gets up to speed.

I am also very concerned that questions regarding potential conflict between his veteran lobbying career and the position of U.S. Trade Representative have not been fully answered. For example, Mr. Kantor and his firm Manatt, Phelps, Phillips & Kantor had represented Japanese firms involved in semiconductor and auto issues.

While nothing was raised during the hearing process that would have disqualified Mr. Kantor for the job, I believe the approval of this nomination places responsibility directly in the hands of the President to make clear to the American people what our trade policy will be and how we will effectively tackle the vast challenges before us in this area.

STATEMENT ON THE NOMINATION OF DONNA SHALALA

Mrs. KASSEBAUM. Mr. President, I would like to offer my support for Donna Shalala as Secretary of Health and Human Services. Dr. Shalala is a woman of undisputed talent, with an impressive record of varied public service—both inside and outside of government.

Taking the helm of the huge and often unwieldy HHS bureaucracy will require every ounce of her much-praised abilities as a forceful and effective administrator.

Of all the challenges facing the next HHS Secretary, none is greater than the urgent need to develop comprehensive national health care reform. I and many on my side of the aisle are very interested in working with Dr. Shalala and the incoming administration in the development of a bipartisan, responsible reform program.

I was very encouraged by a statement Dr. Shalala made at the time of her nomination in which she vowed to "energize that huge HHS bureaucracy to demonstrate that Government can

be sensitive, caring, and accountable." One of my own priorities in the coming session will be to pursue ways in which the vast bureaucracy at HHS can be reformed to assure better efficiency and return on taxpayer dollars.

Perhaps nowhere is the lack of Federal program coordination more starkly evident than in the area of children's services. The Federal Government spends hundreds of billions of dollars on income support, nutrition, social service, education, health, and housing programs designed to provide support to children and their families. And yet, our many different programs exist at best as an inadequate patchwork, with little coordination or integration.

A priority of mine in the coming Congress will be to try to rethink the way we provide assistance to children and their families, then create a response that makes more effective use of our resources.

I very much look forward to working with Dr. Shalala in the critical months and years ahead.

STATEMENT ON THE NOMINATION OF ROBERT REICH

Mrs. KASSEBAUM. Mr. President, I would like to express my support today for the confirmation of Robert Reich as Secretary of Labor. I have listened to Mr. Reich's testimony before the Labor and Human Resources Committee, and believe that he has the vision and skill necessary to lead this important Department.

Over the past decade, Mr. Reich has been at the forefront of innovative ideas on job training, economic transition, and global competition. He has written extensively on these and other subjects, and I compliment him for his contribution to these areas.

Mr. President, one part of nurturing our work force is promoting economic opportunity through private sector job creation. Mr. Reich has spoken frequently about assuring that our workers are prepared to take advantage of economic opportunity by increasing their job skills. But let us remain committed to the ultimate goal—job growth. All the preparation in the world will not help our workers if no jobs are available at the end of their training. I hope that Mr. Reich is committed to this effort.

In addition, I urge Robert Reich to focus on reshaping the Department of Labor. Unfortunately, many of the programs at the Department, especially job training programs, lack focus and coordination. In 1991, we spent $16 billion on 125 job training programs at the Departments of Education and Labor. I hope that we can reorganize our Federal Government to make sense of these programs. Along with our members of the Labor Committee, I look forward to working with Mr. Reich on reshaping the Labor Department.

STATEMENT ON THE NOMINATION OF RICHARD RILEY

Mrs. KASSEBAUM. Mr. President, I am pleased to offer my support for Gov. Richard Riley for Secretary of Education. I am genuinely looking forward to working with him. I had the pleasure of meeting with Governor Riley a few weeks ago and of talking with him further at the confirmation hearing last week. I am pleased and encouraged with what I have heard so far from him. Certainly, his record on behalf of school reform in South Carolina speaks for itself.

Governor Riley has a healthy respect for State and local control of our schools. He stated that he is committed to the decentralization of the Nation's education systems and that one of the main aspects of education reform is giving citizens a feeling of ownership of their public education system and their children's destiny. He also said that he is a strong believer in States controlling their own destiny in education.

In addition, when questioned about a Federal role in school finance equalization, he expressed reservations about the advisability of the Federal Government trying to deal with this complex State legal issue and indicated that it would be more appropriate to provide information and leadership to try to encourage States to take action themselves.

I find it reassuring that he feels a direct loan pilot is the right approach and indicated that he wanted more information about direct loans before he would consider replacing the entire student loan program with direct loans. Whether we should switch over to a full-scale direct loan program is a very serious question. Since I have grave reservations about the wisdom of adopting such a plan, the ability of Federal Government to manage such a program, and the accuracy of the cost savings, I was heartened to see that Governor Riley was not rushing into this decision.

Although I have concerns about the current national testing movement, I agree wholeheartedly with the Governor that any tests that the Federal Government helps develop or endorses should only be tests which help the student. He assured me that he is opposed to tests which are used for political purposes, to make a point, to put on a wall, or to belittle or drive students. I could not agree with him more. I also agree with Governor Riley that any national education standards that the Federal Government helps develop or endorses should be voluntary.

Finally, I share Governor Riley's view that we need collaboration and coordination across jurisdictions, agencies, and government programs. And most importantly, I share his hope that the bipartisanship that marked President Clinton's and his approach to education policy in the past will continue.

STATEMENT ON THE NOMINATION OF FEDERICO PEÑA

Mr. BAUCUS. Mr. President, I wish to speak in strong support of this nomination. I believe Mr. Peña possesses the intellect, experience, and drive to make the Department of Transportation an example of Federal Government at its best.

As chairman of the Senate Environment and Public Works Committee, I am particularly interested in the manner in which the Department of Transportation shapes our country's surface transportation policy during the next 4 years. In my home State of Montana, surface transportation, particularly highways, is of paramount importance.

The new Secretary will face the challenge of being a strong advocate for the unique transportation needs of each and every State. Fortunately, the Intermodal Surface Transportation Efficiency Act [ISTEA] of 1991 goes a long way in providing for the many different surface transportation requirements in the country.

I would encourage the new Secretary to take note of the forward looking nature of ISTEA and use it as a model for setting the surface transportation goals of the Department of Transportation. This act is literally a recipe for meeting this Nation's transportation needs in the 21st century.

I have met with Mr. Peña and am most impressed. I believe the Environment and Public Works Committee was equally impressed. I look forward to working with you, Mr. Peña, and wish you the best of luck.

STATEMENT ON THE NOMINATION OF HAZEL O'LEARY

Mr. CRAIG. Mr. President, I will vote to confirm Hazel O'Leary as Secretary of Energy. She is a women who possesses the capabilities and the desire to manage the complex problems that will face the Department of Energy.

In her responses to questions before the Energy and Natural Resources Committee, she expressed the administration's intent to open a high-level nuclear waste repository and to assure the waste isolation pilot project is tested for suitability for long-term waste disposal of plutonium contaminated wastes. This is good news for all Idahoans and the Nation as a whole. I encourage the Department of Energy to move forward with haste on both of those proposals.

As a person familiar with the nuclear industry, she recognizes the growing problems surrounding the issue of commercial nuclear waste. Several weeks ago, the Department of Energy suggested that, due to the difficulties associated with the development of a repository and MRS's, there is a possibility that our national labs and other Federal facilities would have to begin storing commercial waste sometime in the future.

While this statement was based on a reading of the Nuclear Waste Policy Act, let me say very clearly that this is not an acceptable option. I am speaking for Idaho's congressional delegation and our Governor when I say Idaho must not become a storage site for commercial waste.

It is good to know the administration views the National Laboratories as a precious resource that will be a central element in efforts to develop new technologies to stimulate long-term economic growth. Those labs offer some of the finest science and technology that this Nation possesses. In the case of the Idaho National Engineering Laboratory, I have seen first hand the ability of the labs to apply basic science to solutions of complex problems in the real world. It is this type of work at the labs that must be fostered and increased in the future.

Ms. O'Leary should be confirmed by this body.

STATEMENT ON THE NOMINATION OF HAZEL O'LEARY

Mr. THURMOND. Mr. President, I rise today in support of Hazel O'Leary to be Secretary of the Department of Energy. Ms. O'Leary will bring to this position both industry experience and knowledge of Federal Government operations.

Ms. O'Leary graduated from Fisk College and received her law degree from Rutgers University School of Law. She served in both the Carter and Ford administrations as a utility regulator at the Department of Energy and its predecessor, the Federal Energy Administration. She was vice president of an energy consulting firm in Washington, and most recently, she was to have been promoted to president of Northern States Power's Natural Gas Utility, but her nomination to Secretary of Treasury preceded this action.

The Department of Energy serves the important purpose of providing a balanced overall national energy plan. The Department must coordinate the energy functions of the Federal Government and must research and develop new energy technology to meet the growing needs of our Nation. The Department of Energy also has the important responsibility of overseeing our energy conservation policy and our nuclear weapons program.

Ms. O'Leary's background as a utility regulator and as a utility executive should assist her in addressing the needs and responsibilities of the Department of Energy. With the volatile situation in the Middle East, conservation and energy issues will continue to challenge our country. Therefore, I support Hazel O'Leary to be Secretary of Energy.

STATEMENT ON THE NOMINATION OF CAROL BROWNER

Mr. THURMOND. Mr. President, I rise today in support of Ms. Carol Browner to be the Administrator of the Environmental Protection Agency.

Ms. Browner was born and educated in Florida, and has a broad background in addressing environmental issues. Her career includes service as counsel to the Senate Committee on Energy and Natural Resources and Secretary of the Department of Environmental Regulation. She also served as legislative director to Vice President GORE while he served in this body.

The Environmental Protection Agency is charged with the responsibility of protecting our environment under the laws of this country. As Administrator of this important agency, it will be necessary for Ms. Browner to balance Federal environmental rules with continued growth and productivity of our industries. Because it is necessary that she work with State and local governments to coordinate efforts to combat pollution, she must also ensure that Federal rules preserve our environment without unduly burdening the States and local governments.

Ms. Browner's experience should be extremely helpful to her as Administrator of the Environmental Protection Agency and should assist her in being an effective advocate for a safe, healthy environment. I am pleased to support her nomination for this important position.

STATEMENT ON THE NOMINATION OF MICKEY KANTOR

Mr. THURMOND. Mr. President, I rise in support of the nomination of Mickey Kantor to be U.S. Trade Representative [USTR].

Mr. Kantor received his bachelor's degree from Vanderbilt University and his law degree from Georgetown University Law Center. Since the early 1970's, Mr. Kantor has been active in numerous political campaigns. He has held high positions with many Democratic campaigns, such as with former Senator Alan Cranston in 1974, with Gov. Jerry Brown in his unsuccessful bid to become President in 1976, with President Carter in 1980, with Walter Mondale in 1984, and most recently with our new President.

Since 1975, he has been a partner with the law firm of Manatt, Phelps, Phillips & Kantor in California. Further, in 1991, he served on the Independent Commission To Investigate the Los Angeles Police Department.

Once confirmed as USTR, Mr. Kantor will have the challenging job of representing the interests of the United States in negotiations in the international trade arena and will be instrumental in shaping our trade policy. Several items, like implementing the North American Free Trade Agreement, completing negotiations on the Uruguay round of the GATT, and deciding on the continuing fate of most-favorite-nation trading status for the People's Republic of China, will make this an important job over the next few years. Additionally, trying to slow the growth of the ever-increasing amount of imported textile and apparel items entering this country will make this a tough assignment. However, I hope that he will be a tough negotiator and represent the United States well.

Accordingly, I will support the nomination of Mr. Kantor for U.S. Trade Representative.

STATEMENT ON THE NOMINATION OF REPRESENTATIVE LEON PANETTA

Mr. THURMOND. Mr. President, I rise today in support of President Clinton's nominee to be Director of the Office of Management and Budget, Representative LEON PANETTA.

Representative PANETTA was born and educated in California. He received his law degree from the University of Santa Clara, and served honorably in the U.S. Army from 1963 to 1965. He was elected to the House of Representatives in 1976, and has served in that body since that time.

Representative PANETTA will bring considerable experience to his new position as Director of the Office of Management and Budget. He was named to the House Budget Committee in 1979 and was chairman of that committee from 1989 to 1992. Representative PANETTA is well known for his commitment to reducing the deficit.

The Office of Management and Budget has the significant responsibility of supervising and controlling the administration of the Federal budget. This Office also assists the President in formulating the annual Federal budget. In his position as Director, Representative PANETTA will have great influence over policy decisions affecting the Federal budget.

I believe that Representative PANETTA is a man who possesses the qualities of integrity, good judgment, and leadership, and I am pleased to support his nomination for Director of the Office of Management and Budget.

STATEMENT ON THE NOMINATION OF GOVERNOR RICHARD RILEY

Mr. THURMOND. Mr. President, I rise today to support the nomination of Richard Riley to be Secretary of the Department of Education.

Mr. President, Governor Riley has a long and distinguished career. He is a nationally recognized leader in the areas of public education reform, nuclear waste disposal, and preventive health care. He is now a partner with the distinguished law firm of Nelson, Mullins, Riley & Scarborough, one of the oldest and largest firms in South Carolina.

Richard Wilson Riley was born and raised in my home State of South Carolina. He has a lovely wife, Tunky, and four children. After earning his undergraduate degree from Furman University, he served in the U.S. Navy as an operations officer on a minesweeper. In 1959, he received his juris doctorate from the University of South Carolina School of Law and then served as a

legal counsel to the Judiciary Committee of the U.S. Senate.

From 1963 to 1977, Richard Riley served in the South Carolina State Legislature. On January 10, 1979, Richard Riley became the 81st Governor of South Carolina.

During his tenure, Governor Riley initiated many outstanding pieces of legislation. Among his most significant accomplishments was the South Carolina Education Improvement Act of 1984. This act was judged the most comprehensive educational reform measure in the country by a RAND Corp. study. The act called for increasing academic standards at all grades, improving the teaching and testing of basic skills, improving the training and evaluation of teachers and administrators, and evaluating and rewarding schools for measurable progress.

Mr. President, Governor Riley's administration was marked by conservative fiscal management of government and progress in job development and quality education. As Secretary of the Department of Education, Governor Riley will again be faced with this task. He will have to make wise use of limited resources. He will be challenged with the responsibility to redirect educational funding so that more goes into the classroom and less into bureaucracy.

Mr. President, I believe Richard Wilson Riley possesses all the virtues necessary to be the Secretary of the Department of Education. He is a leader. He is capable, intelligent, industrious, and honorable. He is a long time friend and colleague.

Accordingly, Mr. President, I urge my colleagues to support Richard Riley's nomination.

STATEMENT ON THE NOMINATION OF JESSE BROWN

Mr. THURMOND. Mr. President, I rise today to support the nomination of Jesse Brown to be Secretary of the Department of Veterans' Affairs.

Mr. President, Mr. Brown served in the U.S. Marine Corps from 1963 to 1966. While serving his country, Jesse Brown was wounded on combat duty in Vietnam and received the Purple Heart.

Mr. Brown has served as a member of the Chicago Mayor's Committee on Employment of the Handicapped. Since 1967, he has also served as an officer of the Disabled American Veterans. Mr. Brown achieved the status of executive director of the Disabled American Veterans in 1988 and continued in that capacity until January 5 of this year.

Mr. Brown has been a tireless advocate for the veterans of this Nation. I have enjoyed his articles in the DAV monthly magazine. I have also enjoyed his presentations before the Committee on Veterans' Affairs as a representative of the Disabled American Veterans.

Mr. President, I have met with Mr. Brown and we have discussed his duties as the Secretary of Veterans Affairs. I believe Mr. Brown is a man of integrity, honor, and ability. Accordingly, I urge my colleagues to support Jesse Brown's nomination.

STATEMENT ON THE NOMINATION OF HENRY CISNEROS

Mr. THURMOND. Mr. President, I rise today in support of the nomination of Henry Cisneros by President Clinton to be Secretary of Housing and Urban Development.

Mr. Cisneros is a proven individual, who will bring strength and energy to the agency as Secretary of Housing and Urban Development. As the mayor of San Antonio, the 10th largest city in the United States, he has considerable experience in urban policy and housing programs.

After graduating from Texas A&M, Mr. Cisneros received a doctorate in public administration from George Washington University and a master's degree from Harvard's John F. Kennedy School. He also was a White House fellow serving under Elliot L. Richardson, the Secretary of Health, Education and Welfare during President Nixon's administration.

In 1975, Mr. Cisneros was elected to the city council in San Antonio where he served 6 years before he won his first mayoral election in 1981. Mr. Cisneros held the position of mayor of San Antonio for 8 years, and during this period he briefly was president of the National League of Cities. His ambition and innovative ideas brought economic growth to his city and in 1982, the national Jaycees selected him as one of the "10 Outstanding Young Men of America."

Mr. Cisneros later set up a successful asset management business and sat on the board of the Federal Reserve Bank of Dallas. He also was a member of the Los Angeles task force created to deal with the tragedies of the L.A. riots. After the election, he joined the Clinton transition team.

After confirmation, Mr. Cisneros will be forced to deal with the monumental housing problems facing our cities today that include the role of community development programs, public housing modernization and Government enterprise zones. I am confident that Mr. Cisneros recognizes the problems facing both rural and urban communities and will reclaim HUD's status as advocate for the people of America.

I urge my colleagues to support his nomination.

STATEMENT ON THE NOMINATION OF REPRESENTATIVE MIKE ESPY

Mr. THURMOND. Mr. President, I rise today in support of the nomination of Mississippi Representative MIKE ESPY for Secretary of Agriculture. Mr. ESPY possesses ample qualifications for this position.

Mr. ESPY was born in Yazoo City, MS, and attended the local schools for his early education. In 1975, he graduated from Howard University, located here in Washington, DC. He then received his law degree from the University of Santa Clara Law School.

Mr. ESPY started his legal career with the Central Mississippi Legal Services as a managing attorney. He later worked as the assistant secretary of State, as director of the Division of Public Lands and as the assistant attorney general, as director of Consumer Protection in his home State of Mississippi.

In 1986, Mr. ESPY was elected to the U.S. House of Representatives, and he has served on the House Agriculture Committee and the House Budget Committee since his election. He was recently reelected with 78 percent of the vote.

Mr. President, Mr. ESPY will be the second Secretary of Agriculture who was not born into farming or agribusiness since Orville Freeman who served under Presidents Kennedy and Johnson. However, Mr. ESPY has worked extremely hard for the agriculture interests of his constituents. He has become active in the formulation of rural development, nutritional, crop insurance, disaster assistance, and alternative cropping programs. Further, he is given much credit with helping to develop and to promote the catfish industry in Mississippi.

Accordingly, Mr. President, I will support his confirmation to be the 25th Secretary of Agriculture.

STATEMENT ON THE NOMINATION OF ROBERT REICH

Mr. THURMOND. Mr. President, I rise in support of the nomination of Robert Reich to be Secretary of Labor.

Mr. President, Mr. Reich possesses excellent qualifications for the position of Secretary of Labor. He has earned degrees from Dartmouth College, Oxford University and Yale Law School. He was also a Rhodes Scholar. He is currently a lecturer on public policy at the John F. Kennedy School of Government.

The Secretary of Labor has the responsibility to organize the Department of Labor so that it will revitalize and strengthen our work force. The Secretary must create an atmosphere that will promote the creation of more permanent jobs. He must assist dislocated workers and promote competition.

As a nation, we must promote and harness the productivity of the American worker. We must assure small and large businesses that we will be careful to implement regulations which foster job growth and productivity. I believe Mr. Reich has the necessary qualifications to accomplish this.

Accordingly, Mr. President, I urge my colleagues to support Robert Reich's nomination.

STATEMENT ON THE NOMINATION OF FEDERICO PEÑA

Mr. THURMOND. Mr. President, today I rise in support of the nomina-

tion by President Clinton of Federico Peña to be Secretary of Transportation.

Mr. Peña brings to Washington experience in transportation policy, fiscal planning, economic development and management gained from his service as the mayor of Denver, CO for 8 years.

Mr. Peña received his bachelor's degree and law degree from the University of Texas at Austin. After law school, he joined his brother's law practice in Denver, CO.

In 1979, Mr. Peña began his career as a public servant when he was elected to Colorado's State Legislature. He served two terms, during which he rose to become Democratic minority leader and was voted outstanding legislator in 1981. Mr. Peña became the mayor of Denver in 1983 and held that office until 1991. He then started his own investment advisory business and was counsel for Brownstein, Hyatt, Farber & Strickland. He then served as the head of the President's team studying U.S. transportation needs.

Mr. Peña's legal background and experience with transportation issues will enable him to serve as a capable and industrious Secretary of Transportation. I urge my colleagues to support his nomination.

STATEMENT ON THE NOMINATION OF DONNA SHALALA

Mr. THURMOND. Mr. President, I rise today to support the nomination of Ms. Donna Shalala to be Secretary of Health and Human Services.

Ms. Shalala has an extensive background in education and public services. She is a 1962 graduate of Western College for Women. After college, Ms. Shalala spent 2 years in the Peace Corps in Iran. She earned her doctorate in 1970 from Syracuse University. In 1977, she served as Assistant Secretary for Policy Development and Research at the Department of Housing and Urban Development. Since December of 1988, she has been chancellor at the University of Wisconsin-Madison.

Mr. President, the Secretary of the Department of Health and Human Services has the responsibility to oversee the Social Security Administration, the Health Care Financing Administration, the Administration for Children and Families, and the Public Health Service.

The Secretary has the responsibility to organize the Department of Health and Human Services so that it will create and maintain an atmosphere that continues to service the health and well-being of American citizens from newborn infants to our most elderly citizens. The Secretary must constantly plan and evaluate the services provided by the Federal Government.

The incoming Secretary will be challenged with the responsibility to confront the growing crisis in our medical care system.

Medicare alone is the fourth largest item in the Federal budget. Recent reports indicate that Medicare and Medicaid are troubled by fraud and abuse. In this time of scarce Federal resources, we must streamline the bureaucracy and cut out payment policies that may encourage abuse and excessive charges.

Mr. President, I urge my colleagues to support Ms. Shalala's nomination.

STATEMENT ON THE CONFIRMATION OF CAROL BROWNER

Mr. SMITH. Mr. President, I would like to join my colleagues today in support of Carol Browner's appointment to head the U.S. Environmental Protection Agency [EPA]. Although she faces numerous challenges in managing a large Federal bureaucracy like EPA, I believe her State government experience gives her a unique perspective on what it means to be regulated by this Agency.

While Ms. Browner's duty will be to formulate and implement policy to protect our country's health and environment, she must also recognize our limited financial resources to accomplish this goal. I believe that creativity, flexibility and adequate risk assessment will be critical to the successful management of EPA.

The challenge for both Congress and the administration will be to preserve the intent and goals of our environmental laws without encouraging unnecessary regulations that strangle our Nation's businesses and local governments. As a State government official, Ms. Browner should be acutely aware of the problems that State and local governments are having in complying with the plethora of Federal regulations.

In my State of New Hampshire, and for most States, the situation is a serious and growing problem. Between Safe Drinking Water Act requirements that many towns simply cannot pay for and Superfund costs that have already put many small companies out of business, there seems to be no recognition of the economic realities that exist.

We cannot continue to pass on the burden of unfunded Federal mandates to our States and local governments without jeopardizing the livelihood of the citizens in our communities. In my view, our goal should be twofold: First, we need to create a partnership between business and Government to protect the environment and promote economic growth. And second, we need to prioritize our limited resources to achieve the greatest environmental benefit.

Ms. Browner stated during her confirmation hearing that EPA should spend more time listening to the particular concerns of businesses and communities affected by environmental problems and will seek to reform regulatory practices that unnecessarily harm economic activity without significantly aiding the environment. She also stated her support for more incentive-based programs and use of cost-benefit analysis in the regulatory review process. I hope these are not just words, but a real objective that is carried out aggressively by the new Administrator.

Mr. President, I look forward to working with Ms. Browner and EPA to meet these goals and hope we can embark on a more cooperative, commonsense approach to environmental policymaking.

STATEMENT ON THE NOMINATION OF DONNA SHALALA

Mr. SMITH. Mr. President, I would just like to say a few words about the nomination of Donna Shalala for Secretary of Health and Human Services. My understanding is that other than myself, only one other Senator raised an objection to her confirmation. I do not wish to hold up the Senate needlessly, so I have agreed to allow a voice vote. I thank the distinguished minority leader for noting in the RECORD that I would have voted against confirming Ms. Shalala in a recorded vote.

I take the duty of giving advice and consent on Presidential nominees very seriously. However, I do believe that in general, a Senator should not object to a nomination solely on policy or political grounds, as was the case during Judge Robert Bork's failed nomination. After all, a President has a right to appoint individuals that share his ideas. That notwithstanding, I feel a Senator has a duty to object when he or she feels the nominee lacks that proper qualifications for a post, has ethical problems, or has demonstrated a lack of commitment to upholding the Constitution.

Using that standard, I feel that this nomination is objectionable. I think most in this body would agree that one of the most cherished of all rights guaranteed by the Constitution is the first amendment's right to free speech. I am alarmed that students at institutions of higher education across the Nation are finding that this precious right is being eroded by so-called speech codes. As chancellor of the University of Wisconsin, Donna Shalala gave her support to one of the most broad-reaching speech codes in the country, a code that was found unconstitutional by a U.S. district court. I feel this raises questions about the nominee's commitment to upholding the Constitution.

That much said, I will offer my cooperation to Ms. Shalala when she becomes head of the Department of Health and Human Services. Some of the Nation's most pressing challenges, such as the need for health care and welfare reform, will confront her in the years ahead. She will be helped by the talent and energy she has demonstrated throughout her career and during her confirmation hearings, but she will also need the cooperation of Republicans and Democrats alike to succeed. I wish her the best of luck.

STATEMENT ON THE NOMINATION OF JESSE BROWN

Mr. ROCKEFELLER. Mr. President, as chairman of the Veterans Affairs' Committee, I am delighted to voice my strong support for the confirmation of Jesse Brown as Secretary of Veterans Affairs. He will bring to this tremendously important position a firm grasp of the issues and a keen sensitivity to the needs of veterans. I am confident he will be an effective Secretary.

Jesse Brown's 25-year career as an advocate for veterans reflects a deep-seated commitment to ensuring that the Government fulfills its fundamental obligation to those who have defended our country in times of war and peace. He is truly a veteran's veteran—a decorated combat marine who experienced great personal hardship in Vietnam.

Following his service, he returned to devote his entire adult life to helping his fellow veterans secure adequate health care, get a fair shake from the Government, provide for their families and survivors, and overcome the physical and mental injuries that are, tragically, so often related to military service.

Mr. President, it is a long way from the Chicago regional office, where Jesse Brown first began his career of service to veterans as a DAV national service officer, to the Secretary of Veterans Affairs. Every step that Jesse Brown has taken on that road has been marked by principled hard work, unwavering commitment, and excellence. He embodies the noble concepts of which we so often speak in the Veterans' Affairs Committee—patriotism, heroism, service to country, and honoring the fundamental obligation this Nation owes to veterans. Through his distinguished career with the DAV, Mr. Brown excelled in each position he occupied and advanced to the position of executive director. He earned the reputation as an incredibly hard worker, effective and compassionate advocate, clear thinker, and dynamic and hard-working manager and leader. In addition to his strong record of accomplishment within that organization, Mr. Brown has been active in many other volunteer and public service endeavors.

Mr. President, on January 9, the committee held a hearing on the then expected nomination of Mr. Brown. He was questioned extensively by members about programmatic matters, policy issues, and how his prior employment with a veterans service organization might affect his ability to manage and lead VA. He responded directly and openly to all questions, including dozens of written questions submitted before and after the hearing, and displayed detailed understanding of various VA programs as well as a clear commitment to addressing the many problem areas that confront VA. He understands the critical nature of VA's budget and assured members that he will be deeply involved in the development of the President's budget requests and that he will not hesitate to pursue additional resources that he believes would be necessary for VA to carry out its mission. I have no doubts about his ability to function as an independent manager of the Department—he demonstrated a spirit of authority and independence during his confirmation hearing.

Mr. President, Jesse Brown's confirmation as Secretary of Veterans Affairs is the first and most important step in putting President Clinton's stamp on VA. Tomorrow our committee will have a hearing on the President's nominee to be the VA's Deputy Secretary, Hershel Gober. I anticipate prompt action on his nomination as well and I look forward to receiving nominations for the other top management positions at VA so that the full team can be assembled and we can get on with the business of meeting the needs of America's veterans, their dependents, and survivors.

STATEMENT ON THE CONFIRMATION OF MIKE ESPY

Mr. CRAIG. Mr. President, today we will be voting to confirm Congressman MIKE ESPY as the next Secretary of Agriculture. I have worked with MIKE ESPY in the House of Representatives and will support his confirmation as Secretary of Agriculture.

I would like to thank the distinguished majority leader, Mr. MITCHELL and the distinguished Republican leader, Mr. DOLE, for the timely scheduling of this vote and the cooperative spirit shown by the Agriculture Committee, Chairman LEAHY and Mr. LUGAR, and all the members of the Agriculture Committee. It is essential that we have continuity at the Department of Agriculture and having the Secretary of Agriculture in position early will facilitate this.

Due to previous commitments in Idaho, I was unable to attend the confirmation hearing of Congressman ESPY. I have noted several of the comments made by Mr. ESPY at that hearing and would like to make some remarks on several issues.

I was delighted with the commitment of Mr. ESPY to have a Department of Agriculture that represents the entire country. Much of my home State of Idaho has a dry, arid climate. This dictates a unique approach to agriculture, very different from the wet, warm Mississippi agriculture. I join with other Senators in inviting the new Secretary of Agriculture to visit other parts of the country to become familiar with the diversity.

Environmental issues are daily on the minds of farmers and ranchers of this Nation. Individual rights and property rights must always be foremost in our minds as decisions are made regarding wetlands, endangered species, utilization of the natural resources of the Federal lands, and other such issues. The pledge by Mr. ESPY to defend individual farmers on such matters is reassuring.

Mr. President, it was refreshing to learn that Mr. ESPY not only considers the health of American agriculture dependent upon trade but that, no deal is better than a bad deal, regarding trade. I have serious concerns regarding the North American Free-Trade Agreement as it relates to sugar, Canadian rail subsidies, price transparency, end-use certificates, and such. I was pleased to know that Mr. ESPY was intent in working out the trade problems, specifically as related to GATT and NAFTA.

Mr. President, I was also impressed by the commitment of Mr. ESPY that he supported reorganization initiatives taken by Secretary Madigan and he pledged to move quickly to reorganize and streamline the Department of Agriculture, at all levels, in order to make it more efficient. This is a laudable goal and there is not a person in this country who has had to deal with that, or any department of government, who would not support such action. We must also keep in mind, however, that improved service must accompany any effort to increase efficiency and reduce cost.

In order for American agriculture to be able to take full advantage of the experience and expertise of MIKE ESPY, he must be surrounded with Under and Assistant Secretaries with similar commitments to improve agriculture through more efficient and responsive service, not simply reduced cost. I am anxious to see the names of those to fill the several Senate-confirmed positions that will compliment the USDA team.

There will be many tugs and pulls on the budget in the coming months and years. I would also caution Mr. ESPY that the USDA budget review be based upon the needs of agriculture first.

I look forward to working with Mr. ESPY and the others he brings together at the Department of Agriculture.

STATEMENT ON THE NOMINATION OF HENRY CISNEROS

Mr. GRAMM. Mr. President, I rise today to recommend to the Senate Henry Cisneros to be Secretary of Housing and Urban Development. As I told my colleagues when I introduced Henry to the Banking Committee at the hearing on his nomination, I have known him since he was at Texas A&M University.

Henry Cisneros has served Texas in various capacities, including city manager of my hometown of Bryan, and city councilman and later mayor of San Antonio. I know that his leadership at HUD will equal the record of service at those previous posts. Henry will bring a wealth of experience to the job of HUD Secretary, including service

as president of the League of Cities and active involvement in urban programs while mayor of San Antonio.

One objective of Federal housing policy has been to transform public housing into a community asset and to promote private ownership as a way of accomplishing this goal. I believe Henry's past involvement with public housing initiatives, his experience with local government, and with one of our Nation's largest cities all qualify him to serve as President Clinton's HUD Secretary.

I am happy to support the nomination of Henry Cisneros to be Secretary of Housing and Urban Development. I hope the Senate approves his nomination unanimously.

STATEMENT ON THE NOMINATION OF ROBERT REICH

Mr. LEAHY. Mr. President, President Clinton promised Americans change and innovation in government and through his nomination of Robert Reich to be Secretary of Labor he has delivered. Achieving the goal of renewed and continued economic growth and prosperity begins with rebuilding our economy at its foundation by investing in our workers. No one understands the importance of putting people first better than Robert Reich. He wrote the book.

The appointment of Mr. Reich, one of President Clinton's top economic advisors during the recent campaign, is significant because it speaks to the importance of American workers in the formation of the new administration's economic policy. As the American economy makes its difficult transition to the global marketplace, many painful challenges face our workers through labor-saving technologies and the permanent elimination of jobs in industries such as the defense industry. Mr. Reich understands that for the United States to successfully compete in the global economy, investment in our work force is essential. Without well-trained, well-educated, healthy workers, there is little prospect of long-term economic growth.

In Bob Reich our Nation will benefit from a Labor Secretary who will get America looking to the future again. His vision for a more competitive work force includes greater cooperation between management and labor organizations. It includes building career paths for the 75 percent of our young people who do not complete 4 years of college. Mr. Reich understands that good jobs not only mean good wages, but also proper health and child care, safe working conditions, and the eradication of all types of discrimination in the workplace.

Mr. Reich's long-established commitment to retraining and aiding workers caught in the transition to a global economy is a refreshing and badly needed change from the policies of the last 12 years. I eagerly await the progressive leadership Secretary Reich will bring to the Department of Labor.

STATEMENT ON THE NOMINATION OF DONNA SHALALA

Mr. DODD. Mr. President, I rise today to offer strong support for President Clinton's nomination of Dr. Donna Shalala as Secretary of Health and Human Services. Her demonstrated commitment and concern for children raises hope for the Nation that our Government will at last be responsive to the pressing needs of today's families. Moreover, Dr. Shalala's outstanding record as a manager of complex institutions—such as the Nation's fourth largest university—makes her a particularly strong candidate to run the organization that consumes 40 percent of the Federal budget.

Dr. Shalala has shown unparalleled dedication in every endeavor she has undertaken—from her beginnings as a Peace Corps volunteer, to her work at Housing and Urban Development, to her term as the youngest president in the history of Hunter College—and, finally, to Wisconsin, where she accomplished the nearly impossible task of exceeding university fundraising goals while simultaneously cutting costs. Each institution she touched is a better place for her having passed through it.

As chair of the Children's Defense Fund, Dr. Shalala recognizes, as I do, that unless we improve the lives of millions of children in this country, the future of our Nation will indeed be bleak. For it is not just a matter of family values, nor of our obvious moral obligation to protect our most vulnerable citizens—it is also a question of our ability to survive and compete as a world-class power in the global marketplace of the 21st century.

As chairman of the Labor Subcommittee on Children, Family, Drugs and Alcoholism, I would emphasize the need for HHS to address the issues confronting children and families, for they are truly our most precious resource. Government cannot substitute for the family, but we can give families the tools they need to remain strong and to nurture their children. I fully support the new administration's ideal of investing upfront in our people, in order to ensure a productive work force for the future and to reduce long-term dependency on public assistance programs.

At this time in our history, children are our poorest citizens—with one out of every five children living below the poverty level. For children in female-headed households, the rate is staggering: every other child lives in poverty. In the past 20 years, we have seen the numbers of children in poverty increase by nearly 100 percent.

Poverty brings with it all manner of related problems for children and families, which the Secretary of HHS must address. Lack of prenatal care, premature and low-birth weight infants, and limited availability of pediatric care and immunizations are just a few of the health-related issues we face. Dr. Shalala understands that urgency of these issues, stating, for example, that full funding for immunization programs will be one of her first priorities. Such support is especially critical at this time in history, when barely more than half of all U.S. children are fully immunized, and we are seeing some diseases returning that had been virtually eradicated in the past.

The health and welfare problems of U.S. families translate into a full 35 percent of kindergarteners entering school in 1991 unprepared to learn. The Head Start Program has shown marked success in improving poor children's chances of success. In 1990 I sponsored the Head Start reauthorization that, for the first time, laid a blueprint for funding levels that would permit every eligible child to participate. Yet 65 percent of the children eligible for Head Start still are not being served. President Clinton and Dr. Shalala have expressed support for fully funding Head Start, and I look forward to working with the administration to finally realize that dream.

Working parents also are struggling to make ends meet, and they often lack access to adequate, affordable child care. In 1990, the Labor Committee led the effort to enact a landmark child care law that created a new direct service grant program and a substantial expansion in Federal tax credits available to working families with children. I am confident we will be able to work with Dr. Shalala to implement a strong and coordinated administrative structure for this and other child care programs, and to correct deficiencies in the Bush administration's initial regulations.

Finally, Mr. President, no one doubts that our health care system needs reform. We need a comprehensive health care policy that preserves the quality of our current system while addressing the problems of spiraling costs and increased numbers of uninsured individuals. I am especially concerned that our health care policy meet the needs of children, who represent a disproportionate number of the uninsured. The health status of our children is declining; for example, the United States ranks 20th in the world on infant mortality. President Clinton and Dr. Shalala are committed to reforming our health care system, and I look forward to working with them toward a consensus for a comprehensive reform proposal.

In conclusion, I strongly support the nomination of this accomplished, dedicated professional to lead this powerful organization. Her creative leadership skills are sorely needed for the arduous tasks we must tackle if we are to make this country work again.

STATEMENT ON THE NOMINATION OF HENRY G. CISNEROS

Mr. DODD. Mr. President, I rise today in strong support of the nomination of Henry G. Cisneros for the Secretary of Housing and Urban Development.

Our Nation, Mr. President, faces no greater challenge than the revitalization of our cities. Too many of our urban residents are out of work and struggling to make ends meet. Additionally, that struggle is taking place in neighborhoods with desperate problems—neighborhoods where gun battles, burned-out houses, and hungry children are a part of everyday life.

We must adopt a comprehensive strategy to deal with these problems and we need a strong and skilled Secretary of Housing and Urban Development to implement that strategy. Henry Cisneros will provide that leadership.

Henry's years of public service demonstrate an understanding of the diverse views and ideas emanating from our communities, and an ability to forge those thoughts into a coherent vision. As mayor of San Antonio, he brought community organizations, local officials, and businesses together and focused everyone on the need to create jobs and improve living conditions. That approach to urban issues will serve Henry well as he works with Congress, Governors, mayors, and citizens to fight urban decay.

And Henry will hit the ground running. During his confirmation hearing, he outlined three main goals: revitalizing our urban areas, working to expand housing opportunities, and overhauling the management systems at the Department of Housing and Urban Development.

Each of these goals is critically important. As I mentioned earlier, our cities have become difficult and dangerous places to live. But there is cause for optimism. Because our urban residents have not given up hope. Instead, with the help of churches and community organizations, they are forming block patrols, operating day care centers, rehabilitating housing, and developing small businesses. They are fighting to reclaim their neighborhoods, and we must help them.

Similarly, Henry's second goal—the expansion of housing opportunities—is also fundamental. Far too many of our citizens are living in substandard housing. Additionally, it has become increasingly difficult for middle- and low-income families to purchase a home. Clearly, we must make it easier for these families to obtain quality housing.

Of course, it will be impossible to improve our cities and expand housing opportunities if the Department of Housing and Urban Development is not managed effectively. Consequently, Henry's commitment to reforming the Department is encouraging. He also stressed the need to make Federal programs work together and in coordination with local efforts. That approach will help ensure that tax dollars are used as effectively as possible.

I was also impressed by Henry's familiarity with, and concern for, the problems facing Connecticut's cities. In response to my question concerning the need to address the problems of smaller cities like Bridgeport, New Haven, Hartford, and New London, he pledged to review the formulas that HUD uses to allocate funds and to ensure that these cities would be treated fairly.

In short, Henry's skills and energy make him an ideal candidate for Secretary of Housing and Urban Development. Working with him, we can provide comprehensive help to the men, women, and children who are struggling to survive in our cities. I strongly support his nomination and I look forward to working with him in the years ahead.

STATEMENT ON THE NOMINATION OF ROBERT REICH

Mr. DODD. Mr. President, I am pleased today to rise in strong support of the nomination of Robert Reich to serve as Secretary of Labor.

Mr. President, as the response to the inauguration yesterday demonstrates, there is, across our great country, a feeling that our Nation today is on the brink of great change—change which will assure a quality education for all children; access to health care for all Americans; a cleaner environment; renewal in our Nation's cities; and safe, good jobs for American workers.

But achieving significant change will not be easy. Our Nation is confronted today with a host of problems from a huge Federal deficit to an anemic economy. Too many children go to school hungry and too few graduate from high school with marketable skills; 9.2 million Americans are currently looking for work; 1.3 million manufacturing jobs have been lost in the United States since 1989. In my State alone, we have lost 170,000 jobs in the last several years, many of these losses are concentrated in defense-related industries. While I have faith our economy will emerge from this recession, it will be a fundamentally different economy.

As a nation, we must develop and adopt a comprehensive strategy to help America and American workers meet the challenges of our changed economy. And I believe that Robert Reich has the unique talents to provide our Nation with the leadership to meet this challenge.

Robert Reich, born in Pennsylvania and educated at Dartmouth, Oxford, and Yale, has a distinguished record of Government service at the Federal Trade Commission during the Carter administration. He is, however, much more widely known for his academic work in the field of political economics and his brilliant observations on the American and world economy. In his most recent book, "The Work of Nations," Reich argues eloquently that Government should invest in its infrastructure and its most precious asset—its people—to improve its competitive position.

As Secretary of Labor, Reich promises to put these ideas to work and to turn the Department of Labor into the Department of the American work force. I am hopeful that we here in the Senate can start him off on the right foot with early passage of the Family and Medical Leave Act, which I introduced this morning. With close to two-thirds of women with young children working, we need a national policy to assure that workers do not have to choose between their jobs and their families. But family and medical leave is only the beginning—there is job training and education for tomorrow's economy, free trade talks, workplace safety issues and more.

Mr. President, there is much to be done and I can think of no candidate more qualified to take on this challenge than Robert Reich. I urge my colleagues to join me in support of his nomination.

STATEMENT ON THE NOMINATION OF RICHARD RILEY

Mr. DODD. I rise today to express my strong support for the nomination of Gov. Richard Riley to serve as Secretary of Education.

Mr. President, I believe it would be nearly impossible to find an individual as qualified or with a record of such success in education reform as Richard Riley.

As Governor of South Carolina from 1978–1986, Richard Riley pushed through a package of visionary education reforms that today make South Carolina one of the leading States in our Nation in education reform. Governor Riley overcame the objections of State legislators and passed a $240 million educational reform package, which included higher academic standards for promotion and graduation, better assessments, improved teacher training, salaries and accountability, and upper level course work at all high schools.

Indeed, our new President Bill Clinton, well-known for his interest, expertise and involvement in education reform, called Governor Riley, his mentor in education matters. I am pleased to support his nomination and believe we are truly privileged that Governor Riley has agreed to take on this task and serve our Nation as the Secretary of Education.

And we will need Governor Riley's many talents. The challenges that we face in improving education in America are clearly great. Too many children go to school hungry and too few graduate from high school with marketable skills. Too many student loans

fall into default and too few minority students seek higher education. Even in my home State of Connecticut, one out of every five children under the age of 6 lives in poverty. In 1991, over 3,000 of these young children lived in homeless shelters and 94,000 had no health insurance. Twenty-two percent of the students in Bridgeport, CT drop out of school.

Just last week, I had a letter from the New Haven Board of Education about the Clinton Avenue School—a magnet school dedicated to preparing students for the multicultural workplace of the 21st century.

No one would be surprised that a school board would write their Senator about their magnet school. But this letter says much about the conditions of schools in America today. The school board wrote asking for help—they asked, not for fiber optics or an advanced film lab for their magnet school, but instead, for help in preparing numerous leaks in the classroom ceilings, for paint for water-damaged walls, for a library, for separate bathrooms for the boys and girls, and for text books with bindings intact. Too many schools across our Nation have this same wish list.

Buildings are only part of the story—many of our Nation's children are badly in need of help. Our Nation's first educational goal states that by the year 2000, all children will start school ready to learn. Yet, in 1991, 35 percent of kindergarten students came to school unprepared to begin learning, according to a survey by the Carnegie Foundation. In some States, as many as one out of five children have to repeat first grade.

We must also renew our commitment to equity in education and equal access to a quality education for all children. It is clear that inequities exist across town lines in my State and in others across the Nation. With this trend toward growing inequality, our Nation's commitment to equity in education is being brought increasingly into question.

The dreams and hopes of so many Americans rest in our educational system. Learning is truly the ladder of economic opportunity in our Nation. But it little resembles a ladder for too many of our young people—young people who have discovered, in the decaying walls of their schools, in the classrooms plagued with violence, that the rungs on their ladder are missing.

Mr. President, I can think of no issue more critical to our Nation's future than the quality of education for our children. And I can think of no candidate more qualified to take on this challenge than Richard Riley. I urge my colleague to join me in support of his nomination.

STATEMENT ON THE NOMINATION OF LEON PANETTA

Mr. DODD. Mr. President, I rise today in strong support of President Clinton's nomination of my colleague and friend, LEON PANETTA, to head the Office of Management and Budget.

No one questions LEON'S qualifications, although some may understandably question LEON'S judgment in taking this job. He represents one of the most beautiful districts in the country, a chunk of California that includes Monterrey and Big Sur. I know he loves to go home on the weekends to his house in the Carmel Valley to tend his walnut trees and play his piano. Yet he is giving all that up to head an Agency that is generally less popular than the grinch that stole Christmas.

In taking the OMB job, LEON is, I know, motivated by the same deep sense of duty he has demonstrated throughout his career in public service. After graduating from law school at Santa Clara in 1963, LEON served in the Army for 2 years, and then as Legislative aide and counsel to California Senator Thomas Kuchel, where he helped craft key civil rights legislation.

In 1969, LEON was named Director of the Department of Health, Education, and Welfare's Office of Civil Rights. His job was to enforce civil rights legislation and hasten the desegregation of public schools throughout the Nation.

Negotiating agreements with school boards and elected officials intractably opposed to integration was not easy work, but LEON was sustained always by his steadfast belief in the equality of all Americans. In 1970, his deep commitment to justice led him to resign his post, after it became apparent to him that others in the administration aimed to slow down faithful execution of civil rights laws.

LEON returned home to California and practiced law for several years, before running successfully for the House of Representatives in 1976. In the 16 years since then, LEON has served his constituents with distinction, and has grown to be widely respected and admired for his compassion, his knowledge, and his effectiveness.

His compassion has been evident in his work on hunger issues during his tenure in the House. He has long supported food and nutrition programs to banish hunger from America. Just last year, he pushed a children's initiative in the wake of the Los Angeles riots which included significant provisions to attack hunger among our Nation's young people.

LEON'S thoughtfulness, knowledge, and hard work were on constant display during his past 4 years as chairman of the House Budget Committee. While many have sought to skirt the deficit issue, LEON has always been forthright, both about the scope of the problem, and about the tough choices that are required to get our fiscal house in order. Last year, while others sought delay and proposed half-measures, LEON PANETTA was busy offering a real plan to tackle the problem.

The challenges that face the Clinton administration are substantial, and in no case will the going be tougher than with the deficit. To do nothing is to place our children's future further at risk. But making real progress will not be easy, because it will require sacrifice that is shared fairly and equitably by all Americans.

LEON PANETTA is the right choice to help President Clinton lead the charge on this issue. He is a deeply committed public servant who understands the intricacies of budgeting and the budget process. He is a person of integrity who is dedicated to finding real solutions and making real progress. He is a warm and gifted man who recognizes that our Government must be leaner, not meaner.

LEON is an outstanding addition to the Clinton economic team. He will be a very real asset to the administration and the country in the months and years ahead. I look forward to working with him to address the deficit and other issues, and I urge my colleagues to join with me in supporting his nomination.

STATEMENT ON THE NOMINATION OF MICKEY KANTOR

Mr. HOLLINGS. I am pleased today to enthusiastically support Mr. Mickey Kantor for U.S. Trade Representative. As America faces new economic and social challenges which profoundly impact our future as a world power, it is necessary that the position of U.S. Trade Representative be manned with a skilled negotiator willing to formulate a tough, new trade policy. In Mickey Kantor, we have such a candidate.

As his long and impressive resume reveals, Mr. Kantor has repeatedly achieved success in finding the elusive middle ground required to facilitate agreement and stimulate cooperation among conflicting interests. With experience that spans the fields of energy, agriculture and aviation, Mr. Kantor has proven his skills as a zealous, artful negotiator. This is exactly the kind of person we need in this job.

I had an opportunity recently to meet with Mr. Kantor. We talked at length about trade policy and I am convinced that Mr. Kantor has the resolve to create an aggressive American trade policy. He will serve this county well, as he brings his formidable bargaining skills to the international table, as U.S. Trade Representative.

STATEMENT ON THE CONFIRMATION OF RICHARD RILEY

Mr. KENNEDY. Mr. President, I urge the Senate to approve the nomination of Richard Riley as Secretary of Education in the Clinton administration.

On Tuesday, January 12, 1993, the Labor and Human Resources Committee, of which I am Chair, held a hearing on this nomination. At the hearing he displayed a complete grasp of the difficult issues he must address as Sec-

retary of Education. On Thursday, January 14, 1993, the committee voted unanimously to recommend Governor Riley's nomination to the Senate.

Governor Riley has a strong record in education and did a wonderful job leading the education reform efforts in South Carolina. Unafraid to tackle the difficult issues, Governor Riley was a tireless advocate for education, crisscrossing the State, explaining the need to prepare South Carolina's students for the 21st century.

The results of Governor Riley's reform effort, The South Carolina Education Improvement Act, was a multifaceted program that became nationally renowned for boosting student achievement. Among its accomplishments:

SAT scores in South Carolina increased faster than anywhere else in the country in the last 7 years.

The achievement gap between black students and white students has narrowed.

More high school graduates are going to college than ever before.

More students are taking advanced placement examinations.

Job placements for vocational education students have increased.

Teacher salaries have increased.

I asked the Congressional Research Service to report on Governor Riley's education record in South Carolina, and that report is attached to this statement.

Governor Riley understands that real change requires not a single simple solution, but a complex remaking of the whole system. He also understands that we will not get meaningful reform without greater resources, and he successfully convinced the voters of South Carolina of the need to raise the sales tax by 1 cent and to dedicate those revenues for schools.

I am confident that Governor Riley will be equally successful as Secretary Riley, and bring to the national level the same excellence and success in education that characterized his tenure in South Carolina. We look forward to working with him on transforming the Nations' schools.

I urge the Senate to approve his nomination unanimously.

I ask unanimous consent the attached Congressional Research Service Report be printed in the RECORD.

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

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, January 4, 1993.

To: Senate Committee on Labor and Human Resources, Senator Edward M. Kennedy, Chair.

From: Wayne Riddle, Specialist in Education Finance, Education and Public Welfare Division.

Subject: Education Policies in South Carolina During the Tenure of Richard Riley as Governor.

This memorandum was prepared in response to your request of December 29, 1992, for a brief review and analysis of the education policies and legislation promoted by former South Carolina Governor Richard Riley, President-elect Clinton's designee for U.S. Secretary of Education.

EDUCATIONAL IMPROVEMENT ACT OF 1984

Mr. Riley was Governor of South Carolina for 1978–1986. While several pieces of education legislation were adopted in South Carolina during this period, the most comprehensive and noteworthy of these was the South Carolina Education Improvement Act of 1984 (EIA). The EIA was adopted in response to a proposal made by Governor Riley,[1] and was one of the earliest efforts to adopt comprehensive, statewide education reform in the period following publication of A Nation at Risk in 1983. This proposal and the subsequent legislation were organized on the basis of 7 "initiatives." These initiatives are listed below, along with the most significant of the specific provisions related to each theme:[2]

Raising student performance by increasing academic standards—course requirements for high school graduation were increased; passing grades in four academic courses were required for students to participate in extracurricular activities; it was specified that the school day should be 6 hours (excluding lunch); all local educational agencies (LEAs) were required to provide advanced placement (AP) courses in high school; special programs were to be provided for gifted and talented students; pupil discipline was to be enhanced through establishment of "clear rules of behavior," extra law enforcement officers to enforce drug laws in schools, and greater enforcement of school attendance requirements; higher order problem solving skills were to be emphasized in school curricula; kindergarten attendance was to become mandatory (unless a waiver is granted); African-American history and South Carolina history coursework were to be required for all pupils; job placement standards were to be established for vocational education programs; services to certain groups of disabled pupils were to be expanded; and a study was to be conducted of vocational and technical education in South Carolina.

Strengthening the teaching and testing of the basic skills—a mandatory basic skills examination was to be administered to pupils in the 10th grade, with passage of it required for high school graduation; stricter pupil promotion policies were to be established; half-day, voluntary preschool programs were to be offered to 4-year old children with "predicted significant readiness deficiencies"; State-funded compensatory and remedial instruction programs were to be provided to pupils in grades 1–6 with low achievement levels; pupil-teacher ratios were to be reduced in certain mathematics and language arts classes; the State's school finance program was to be modified to provide additional funds on the basis of pupils who are in compensatory, handicapped, or vocational programs; and alcohol and drug abuse education and treatment programs were to be established for students.

Elevating the teaching profession by strengthening teacher training, evaluation, and compensation—postsecondary student loans for prospective teachers were to be provided, with repayment canceled in return for service; conditional, temporary certification was to be authorized for individuals to teach in areas of critical need; teacher salaries were increased (to be equal to the projected average for the Southeastern States); performance incentive pay was authorized for teachers; standards for approval of teacher training programs in the State's colleges and universities were to be raised; inservice training for currently employed teachers was to be expanded, particularly at Centers of Teaching Excellence; teacher evaluation procedures were to be established; teacher recruitment efforts would be expanded; and grants to individual teachers to implement innovative techniques were authorized.

Improving leadership, management, and fiscal efficiency of schools at all levels—an Assessment Center Program was established to evaluate potential principals, as well as train and evaluate them; expansion of inservice training for school administrators; performance standards and evaluation system for school superintendents and principals were to be developed; performance incentive awards for principals were authorized; and standards for approval of administrator preparation programs at colleges and universities were to be raised.

Implementing strict quality controls and rewarding productivity—performace incentive grants for schools and LEAs were authorized, and awards to be made on the basis of such factors as achievement test score increases, improved attendance, or increased parental participation; competitive grants to LEAs for the implementation of instructional innovations were authorized; annual improvement reports were required to be prepared for each school, such reports to be focused "on factors found by research to be effective in improving schools," and to be prepared by school improvement councils that include representatives of parents, teachers, community representatives and, for high schools, students; a Public Accountability Division was established in the State education agency (SEA), to monitor implementation of the EIA and report annually to the public; a select committee of State legislators, the State superintendent of education, plus the governor and lieutenant governor was created, to make recommendations on implementation of the EIA; and intervention by the SEA in LEAs that do not meet minimum performance standards was authorized.

Create more effective partnerships among the schools, parents, community and business—parental involvement in the schools was to be increased, through such mechanisms as school improvement councils (see above), regular conferences of parents and teachers, and parenting skills instruction; business, volunteer, and civic or professional asssociations involvement in the schools was encouraged; and a Public Education Foundation to support exemplary or innovative programs was to be established.

Providing school buildings conducive to improved student learning—assistance would be provided for the renovation and repair of school facilities, or to subsidize the repayment of school construction revenue bonds.

The costs of implementing this legislation were to be paid by an increase in the State's general sales tax from 4 to 5 percent, which was included in the EIA. By 1988–89, this earmarked tax was raising approximately $270 million annually for EIA activities. The increased funding has been focused largely on increasing teacher salaries, remedial instruction, school construction, and gifted/talented programs.

While the EIA was quite broad and reflected many of the popular themes of school

[1] South Carolina. Office of the Governor. "The New Approach to Educational and Economic Excellence in South Carolina." 1984. 24 p.

[2] The specific language used to describe these themes is taken from the legislation.

reform efforts in several States in the early and middle 1980s, certain consistent, functional themes may be identified. These themes include:

Increased services and resources for disadvantaged children;

Enhanced involvement of parents, business, and the community in the schools;

Extensive reporting requirements and other forms of accountability;

Increased pay, higher standards, and expanded evaluation of teachers and administrators;

A variety of financial incentives for school staff;

Higher standards for pupil achievement and behavior;

Expansion of kindergarten and prekindergarten services;

While some provisions addressed higher order skills, there was an overall emphasis on basic skills instruction and assessment for pupils; and

Expanded programs for gifted and talented students.

EVIDENCE ON IMPLEMENTATION AND EFFECTS OF THE EIA

As with any single influence on educational performance, no matter how comprehensive in legislative terms, it is impossible to precisely specify the effect of the EIA on the educational system of South Carolina. Nevertheless, one of the accountability measures required under the EIA—a series of annual reports entitled What is the Penny Buying for South Carolina?, by the SEA's Division of Public Accountability—has attempted to catalog a wide variety of direct, and possible indirect, effects of the Act.[3] Evidence on the effects of the EIA that is cited in these reports includes:

Increases in Scholastic Aptitude Test (SAT) scores between 1984 and 1989 that were greater than for any other State (see further discussion below);

A 7 percentage point increase in the proportion of high school graduates who directly enter college;

A doubling of the number of high school students taking advanced placement examinations;

Positive responses by teachers, students, and the public in a variety of opinion surveys;

Increased enrollment in programs for gifted and talented students;

Increased placement of vocational education graduates in jobs related to their training;

Increased percentages of 10th grade students passing the mandatory basic skills examination;

Reductions in the proportion of pupils determined to require compensatory instruction;

Increased overall scores, and reduced gap between African-American and white student averages, on the national Comprehensive Test of Basic Skills (CTBS), a national norm-referenced, standardized test given to pupils at several grade levels;

A tie with one other State for the greatest percentage increase in teacher salaries between 1981–82 and 1986–87;

Increased teacher recruitment;

A 13 percent decrease in private school enrollment between 1983–84 and 1988–89, while public school enrollment marginally increased; and

Large numbers of individual school affiliations with businesses, civic organizations, and individual volunteers;

In addition to the report described above, there are limited sources of information on educational trends in South Carolina that might indirectly reflect the impact of the EIA. It must be emphasized that all of these indicators are quite imperfect as measures of educational quality, although analyses of their specific limitations are beyond the scope of this memorandum. Further, some of these indicators—e.g., increased expenditures for public elementary and secondary education—may be viewed positively by some analysts, but negatively by others (i.e., as "unnecessary" public taxation and spending). These indicators include:

Average scores for South Carolina students on the SAT rose from a total of 780 in 1981 to 832 in 1991, an increase of 52 points, while national average scores rose from 890 to 896, an increase of only 6 points. However, the South Carolina scores are still well below the national average.

South Carolina's average per pupil expenditure for public elementary and secondary education rose from $2,183 in 1983–84, 47th among the 50 States plus the District of Columbia, to $4,088 in 1989–90, with a ranking of 39th. Thus, relative expenditures per pupil rose substantially for South Carolina, but are still well below the national average.

Average teacher salaries in South Carolina rose from $17,384 in 1983–84, 46th among the 50 States plus the District of Columbia, to $28,301 in 1990–91, with a ranking of 34th. Again, this represents a large increase in ranking, but teacher salaries remain substantially below the national average.

POSSIBLE CRITICISMS OF THE EIA

As with all education reform legislation, certain criticisms have been, or might be, made of the EIA by some observers. Several of these points reflect primarily the passage of several years since enactment of the EIA; over this time, many educational reform priorities have arisen that generally did not receive substantial attention in 1984. Please keep in mind that one observer's "negative" criticism, as listed below, may be another observer's "positive" comment on the EIA. These potential criticisms might include the following.

The EIA generally placed greater emphasis on basic skills instruction and assessment than higher order skills. In particular, there was little emphasis on making curriculum content more challenging.

The EIA relied heavily on conventional forms of pupil assessment (standardized, norm-referenced tests) that are currently widely criticized. There was little emphasis on increasing the quality of pupil assessments.

Some have expressed concern that the various financial incentives in the EIA have lead to "excessive" amounts of "teaching to the test" in South Carolina, or that the incentive programs are unfairly administered.

The EIA contained no provisions regarding school choice, school based management, or regulatory flexibility.

While most EIA provisions have been implemented, funds have been inadequate to substantially implement some EIA provisions, especially a provision calling for reduced pupil-teacher ratios and grants for school facility construction and renovation.

While a variety of spending levels and achievement measures have increased significantly in South Carolina since 1984, the State still is well below the national average on most such measures.

While South Carolina is not among the States usually deemed to have the greatest disparities among localities in education funding, and some EIA provisions might have indirectly served to reduce finance disparities, the EIA did not directly provide to greater school finance equalization.

High school dropout rates have not significantly declined, according to the measure used by the South Carolina SEA.

[3] See, for example: South Carolina. Department of Education. "What is the Penny Buying for South Carolina? Assessment of the Fifth Year of the South Carolina Education Improvement Act of 1984." Dec. 1, 1989. 152 p.

STATEMENT ON THE CONFIRMATION OF ROBERT REICH

Mr. KENNEDY. Mr. President, I am pleased to speak on behalf of the nomination of Robert Reich to be Secretary of Labor. I have known Mr. Reich for many years and believe that he is an excellent choice for this post.

On January 7, 1993, the Senate Committee on Labor and Human Resources, which I am privileged to chair, held a hearing on Mr. Reich's nomination. At this hearing, Mr. Reich displayed a superb command of the many complex issues that he must address as Secretary of Labor.

His facility with these issues stems from a distinguished career in both academe and government.

His academic background is impressive. He studied at Dartmouth College, then at Oxford University where he was a Rhodes Scholar, and finally at Yale Law School. For the last decade, he has lectured at the John F. Kennedy School of Government at Harvard University where he has been a prolific author and a popular teacher.

Mr. Reich has also had extensive experience in the Federal Government as the Director of Policy, Planning, and Evaluation at the Federal Trade Commission and as the Assistant to the Solicitor General of the United States.

Mr. President, all Members of this body know that in the last two decades we have seen great changes in the economy and in the way Americans work. We have learned that in the global economy, nations which invest in the training and the education of their work force outperform those nations that do not.

President Clinton has repeatedly said that if we are to prosper as a nation, we must invest in the education and training of our people. I know that from his confirmation hearing and from my review of his writings that Bob Reich shares this vision.

In his testimony before the Labor Committee, Mr. Reich laid out an impressive agenda for the Department. If confirmed, he pledged to ensure that the Department of Labor is the Department of the American Work Force—dedicated to nurturing our most important national asset. The overarching goal is not only more jobs for our citizens, but higher wage jobs, and business organizations which foster such jobs by continuously upgrading their work forces and providing safe and rewarding work for all their employees.

Mr. President, this is a distinguished appointment to head this vitally im-

portant agency. I look forward to working with Mr. Reich if the Senate approves his nomination and urge my colleagues to do so unanimously.

STATEMENT ON THE NOMINATION OF LEON PANETTA

Mr. LEAHY. Mr. President, in choosing Cabinet members that look like America and that are eminently qualified to manage the Government, President Clinton could not have made a finer choice than LEON PANETTA to be the Director of the Office of Management and Budget.

The son of Italian immigrant parents, Mr. PANETTA served 2 years in the Army and later worked in the Nixon administration as Director of the Office for Civil Rights. Since 1977, Mr. PANETTA has represented his home district in the Congress. The last 4 years he has very ably served as the chairman of the House Budget Committee.

Mr. PANETTA has also been a leader in attacking the problems of hunger in this country, an issue I hope will continue to be a priority of his at OMB. He has been a leader in the fight for increased investment in the Women, Infants and Children feeding program and he introduced the House version of the Mickey Leland Hunger Relief Act. His support on the Budget Committee has also been essential in the ongoing effort to combat hunger.

During his stewardship of the Budget Committee, Mr. PANETTA has earned the respect of the Nation and his fellow Members of Congress for his detailed knowledge of the budget process and his clear vision of the fiscal challenges that face this country. The Director of the OMB, more than any job in the Cabinet, demands leadership that tells it like it is. The integrity with which Mr. PANETTA has distinguished himself as Budget Committee chairman will truly be appreciated by the American people who are tried of the smoke and mirror gimmicks of the last decade.

Mr. PANETTA will face the greatest economic obstacle this country has faced since the Great Depression: getting control of the escalating budget deficit. Last year in his fight against a balanced budget amendment to the Constitution, Mr. PANETTA outlined different budget scenarios that would lead us to a balanced budget. He knows the tough choices that have to be made and that budget trickery only creates problems. He knows that cutting the fat in the Federal bureaucracy—and there is plenty—will need to be a top priority.

Getting this economy growing at a healthy rate will require a shift in Federal spending policies. Mr. PANETTA understands the need to invest in programs that will ensure better economic performance. Investing in public infrastructure, in education and job training, in preventive medicine will build the foundation for growth. This Mr. PANETTA understands.

Mr. President, to deal with the challenges of the budget deficit and the investment deficit, President Clinton has tapped the most qualified person to head the OMB.

STATEMENT ON THE NOMINATION OF WARREN CHRISTOPHER

Mr. LEAHY. Mr. President, I rise to commend President Clinton for his choice of Warren Christopher to be Secretary of State. I am pleased that he has been confirmed by the Senate.

Let us use this opportunity to demonstrate once again that partisanship has no place in foreign policy. The President has chosen well. Mr. Christopher is superbly qualified for this critical post, and I confidently anticipate that he will be an outstanding Secretary of State.

Warren Christopher began public service in 1949 as a clerk for Justice William O. Douglas at the Supreme Court. He rapidly demonstrated his excellent legal and diplomatic skills. In 1965 he was appointed as vice chairman of the McCone Commission that investigated the 1965 Watts riots in Los Angeles and he coordinated the Federal response to racial turmoil in Chicago and Detroit as Deputy Attorney General during the Johnson administration.

Mr. Christopher's adroitness and resolve while handling these racial incidents established his reputation as a troubleshooter of the first rank. Mayor Tom Bradley asked him to head the commission that examined the Los Angeles Police Department after the crisis there last year. Once again, he performed a difficult and sensitive task admirably and with consummate skill.

Mr. Christopher is best known for his distinguished service as Deputy Secretary of State during the Carter administration. Always discreet, measured, deliberate, and dignified, Mr. Christopher adeptly negotiated treaties and championed human rights abroad. His mastery of negotiation culminated with this successful diplomacy that resulted in the release of American hostages from Iran in 1981.

At his confirmation hearing, Mr. Christopher laid out his views on the basis of U.S. foreign policy under the Clinton administration. I was particularly impressed with two aspects of his policy objectives.

First, Mr. Christopher believes in diplomacy and negotiation as the preferred means of resolving international disputes. He stated that the United States "must apply new dispute resolution techniques and forms of international arbitration to the conflicts that plague the world." With Warren Christopher as our chief negotiator, I believe we will see diplomacy become the primary method of resolving international conflict.

The United Nations will continue to play a major role in deterring aggression, relieving suffering and keeping the peace. Mr. Christopher has pledged to work with the United Nations to ensure that it has the means to carry out the formidable tasks confronting it, including ensuring that the United States pays its obligations.

Second, Mr. Christopher recognizes that our foreign aid program must coordinate with other aspects of our foreign policy to reflect our commitment to the spread of democracy and human rights and to serve more effectively as an instrument or our international economic and commercial interests. To help accomplish this, Mr. Christopher has advocated an overhaul of the Agency for International Development and streamlining the State Department. As hearings in my Foreign Operations Subcommittee and in other committees have amply demonstrated, a top to bottom overhaul of foreign aid is urgently needed.

I applaud Mr. Christopher for his commitment to aligning our foreign aid program with the realities of the post-cold war era. I look forward to working with him to examine the rationale and structure of our foreign aid program so that it responds to the challenges of the 21st century.

Warren Christopher brings exemplary skills in diplomacy, negotiation, management, and problem solving to the position of Secretary of State. These skills and his philosophies on U.S. foreign policy make him the right person for this difficult job during what will certainly be challenging times.

As chairman of the Foreign Operations Subcommittee, I look forward to working with Chris as Secretary of State.

STATEMENT ON THE CONFIRMATION OF RICHARD RILEY

Mr. HARKIN. Mr. President, I rise to support the nomination of Mr. Riley to be the Secretary of Education. President Clinton has made an excellent choice for his Secretary of Education.

Governor Riley has the vision, background, and record to put us on the right path of progress toward reaching the national education goals. He has demonstrated his abilities in South Carolina and he is ready to break new ground at the national level as well. He has the commitment and the energy to define the problem and shape the plan. This Nation is, indeed, fortunate that Richard Riley is available to lead our educational reform effort.

Governor Riley's long fight to reform education in South Carolina is a lesson in perseverance and coalition building. This was more than just a fight to convince the State legislature to adopt his legislation. Governor Riley built support across South Carolina city by city, almost parent by parent. He worked with business leaders pointing out that illiterate labor and unskilled employees made their businesses less competitive. He worked with teachers to increase their salaries but only in

return for greater accountability. And, of course, he worked with the State legislature, member by member to have his reforms adopted.

The results of Governor Riley's leadership in his State on education are impressive:

Average per pupil expenditures for public elementary and secondary students rose from $2,183 in 1983–84 to $4,088 in 1989–90;

Teachers salaries have increased and teacher recruitment has improved. Teachers salaries rose from $17,384 in 1983–84 to $28,301 in 1990–91;

South Carolina's SAT scores have increased and enrollment has increased in programs for gifted and talented students; and

Placement of vocational education graduates in jobs related to their training has increased.

Mr. President, Mr. Riley has had a brilliant career both in politics and in education. He is extremely well qualified to be the Secretary of Education.

STATEMENT ON THE CONFIRMATION OF DONNA E. SHALALA

Mr. HARKIN. Mr. President, President Clinton has made an excellent choice in the nomination of Donna E. Shalala to head the Department of Health and Human Services.

At Dr. Shalala's confirmation hearings, she spoke in a strong and compassionate manner about addressing the AIDS crisis, the TB epidemic, the shortfall in the immunization program, and the need to address the inequities in areas of women's health. She strongly supported the need for continued and expanded disease prevention programs and the need to improve the quality of our rural health care system. She vigorously stressed the importance of reforming the health care system to reduce the growth rate of health care costs to a rate of growth similar to the rate of general economic growth. She pledged to work vigorously to reform the Nation's welfare system and certainly not least, very high on this Senator's priorities, she focused on the need to help our Nation's children.

Donna Shalala knows what must be done and I believe she can do it.

Dr. Shalala has had a long and notable career in public service which started as a U.S. Peace Corps volunteer in 1962. She has worked at the city, State, and Federal level in government; she has served as a teacher; an academic; and a university administrator; she had been the president of Hunter College in New York City and the chancellor of the University of Wisconsin at Madison. In her last job as chancellor of the University of Wisconsin, she managed an important state university with a budget of $1 billion. Donna Shalala has published dozens of books and articles and has served on a long and impressive list of foundations, forums, task forces, and commissions.

As the Secretary of the Department of Health and Human Services, Donna Shalala will manage a department with more than 126,000 employees and a budget that covers 250 different categorical programs. The Department's budget of $590 billion representing almost 40 percent of the Federal Government is the world's third largest budget, smaller only than the entire Federal budget and the budget of Japan. The budget of the Department of Health and Human Services touches the lives of every American.

Mr. President, there is no Cabinet Secretary that faces as many challenges as does Donna Shalala at the Department of Health and Human Services. While she faces a monumental and important challenge, I can think of no one else better suited to the job. Donna Shalala is a tough manager. She is a person of immense intelligence and compassion who cares greatly about the issues that she faces. We are indeed fortunate to have a person of Donna Shalala's talent to serve as Secretary of the Department of Health and Human Services.

STATEMENT ON THE CONFIRMATION OF ROBERT REICH

Mr. HARKIN. Mr. President, I serve on the Labor and Human Resources Committee that approved Mr. Reich's nomination for Secretary of Labor on January 19. Let me just say a few words in support of his confirmation by the full Senate.

Bob Reich has been a tireless advocate of President Clinton's program of putting people first, and has eloquently stated the need for upgrading the skills, education, and training of our work force. As a nation, if we are to compete internationally, we must not forget those in our work force who are not college bound. Bob Reich has made the point that to reverse the trend toward lower wages, we need significantly greater investment in the development of our front line work force.

Bob Reich is one of our Nation's foremost political economists and he knows what needs to be done to transform America into a high wage, high-skilled jobs economy that will raise the standard of living and help our Nation effectively compete in the global marketplace.

Mr. Reich's nomination shows that the Clinton administration will give a high priority to creating more high-wage jobs that provide a good work environment. Greater attention will be focused on the 75 percent of our young people who do not complete 4 years of college. We can expect Bob Reich to take the lead in developing apprenticeship-type programs for our youth, which will improve school-to-work transition for the non-college educated.

Bob Reich has pledged to make significant progress toward coordination and consolidation of the various vocational training programs administrated through several Federal agencies, which will provide convenient one-stop shopping for clients, and improve the efficiency and effectiveness of program operations. He has the ideas, the reputation, and the support of President Clinton to make this happen.

At Harvard's John F. Kennedy School of Government, Bob Reich lectured widely and authored many books that recognize the importance of investing in human capital by fully developing the skills and abilities of our frontline work force. His previous government experience includes service as Assistant to the Solicitor General in the Ford administration, and as Director of the Federal Trade Commission's policy planning staff.

Mr. President attention to work force issues will undoubtedly be vital for determining the standard of living for Americans as we approach the 21st century. Senate confirmation of Robert B. Reich as Secretary of Labor will therefore be an enormously important step toward reviving the American dream.

STATEMENT ON THE CONFIRMATION OF FEDERICO PEÑA

Mr. LAUTENBERG. Mr. President, I am pleased to rise in support of the nomination of Federico Peña to be Secretary of Transportation.

I met Mr. Peña when he was mayor of Denver, and he came to me seeking support for important transportation efforts in his city. As chairman of the Senate Transportation Appropriations Subcommittee, I routinely hear from officials of towns, cities, and States all over the country. They all recognize the importance of transportation to their economies, and to the future of their areas. And I work to address the transportation needs across this country, in my home State, New Jersey, and elsewhere. But, in all my dealings, no one was more determined and focused than Federico Peña.

Federico Peña's views of transportation and the role it can play in accomplishing broader goals is very consistent with mine, and with those enacted in the Intermodal Surface Transportation Efficiency Act of 1991. I believe that, when it comes to environmental problems, transportation is now too often part of the problem. Transportation accounts for approximately 63 percent of all petroleum used in this country. And, in many areas, automobiles are the single largest contributor to air quality problems.

Denver in the early 1980's was a prime example of this. I've aggressively pushed greater support for Amtrak and mass transit as part of an effort to make transportation part of the solution. And, as mayor, Federico Peña worked to make transportation improvements work in coordination with environmental goals. We worked together to secure funding for the con-

struction of high occupancy vehicle lanes, bus acquisition, and other measures to help relieve congestion and cut down on emissions. The implementation of these measures is an important part of the success of his efforts to clean up Denver's air. I'm sure that, as Secretary, Federico Peña will work to see that transportation policies are not only coordinated with environmental policies, but that they actively enhance environmental efforts.

Mr. President, the challenge facing Mr. Peña at the Department of Transportation are tremendous. Over the last two decades, our infrastructure has been neglected, and the results are clear. Thirty-nine percent of the Nation's bridges are in need of repair or replacement, and approximately two-thirds of our roads are in disrepair. Our transit systems are overburdened, as is our air traffic control network. Amtrak, after years of repeated attacks from the Reagan and Bush administrations, is playing a vital role, but needs to be expanded to serve the Nation better. Our airline industry is in turmoil, and tough decisions need to be made about competition and globalization of air carriers. The Coast Guard continues to see its mission expanded beyond its traditional marine safety role to include drug interdiction, oilspill prevention and response, and a growing presence in our national defense.

As Secretary, Federico Peña will have to deal with many critical issues in his tenure. I hope that, drawing on his experience, he'll be an advocate for increased investment in our transportation infrastructure. In the past, he's shown the ability and willingness to take on tough issues, and deal with them in an effective manner.

I am pleased to support his nomination, and look forward to working with him on the many important issues facing us in the coming months and years.

STATEMENT ON THE CONFIRMATION OF MICKEY KANTOR

Mr. BAUCUS. Mr. President, I wish to express my strong support for this nomination. Throughout his testimony before the Finance Committee and during private meetings, Mr. Kantor has impressed me as a man of enormous integrity and ability.

The post of U.S. Trade Representative is one of the most important posts in the administration. It is also one of the most difficult.

The U.S. Trade Representative is charged with conducting literally dozens of complex international trade negotiations covering dozens of topics and involving hundreds of nations. The USTR is also charged with winning congressional approval for trade agreements and trade legislation as well as coordinating trade policy with the private sector.

And all of these tasks must be accomplished with the help of a professional staff of about 125.

Mr. Kantor is likely to log nearly tens of thousands of air miles and spend months overseas each year. Mr. Kantor and his family will be making some heavy sacrifices. But those sacrifices could open markets for billions of dollars worth of new U.S. exports and create tens of thousands of new American jobs.

If he does his job well—and I believe he will do his job very well—Mr. Kantor could create more jobs and have a greater impact on American incomes than any other Cabinet member.

I congratulate President Clinton on this superb choice. As chairman of the Finance Committee's International Trade Subcommittee, I look forward to working with Mr. Kantor and the rest of the new administration's international trade team. Working together, we can help build a better economy and quality of life for every American.

STATEMENT ON THE CONFIRMATION OF CAROL BROWNER

Mr. LAUTENBERG. Mr. President, I rise in support of the nomination of Carol Browner to be the Administrator of the Environmental Protection Agency. Her nomination represents a step, a giant step, in the right direction—that of greater commitment to solving some of our Nation's environmental problems. And she has the experience and knowledge to fulfill that obligation.

The election of Bill Clinton and AL GORE signaled the end of the politics of division and legislative gridlock that has blocked the solution of many of our Nation's most pressing problems. Carol Browner's nomination, also, marks the end of environmental stalemate and brings to a close an era of antiquated thinking about the environmental challenges we face.

For the last 12 years, the politics of diversion has meant that passing meaningful legislation on the environment was highly unlikely. With Carol Browner's selection, it is clear that enlightened thinking about our environmental problems, and cooperation in working to solve them, will prevail.

And, it shores up a view I have that environmental regulation is consistent with economic growth and will find a home in a Browner EPA. A healthy environment is not only consistent with, but essential for, a prosperous, sustained-growth economy. President Clinton and Vice President GORE understand this truth well, and spoke eloquently about it during the campaign.

In New Jersey, we already know that a clean environment and a growing economy go hand in hand. Our State faces some of the toughest environmental problems in the Nation, and has adopted some of the most far-reaching and innovative environmental laws. Yet, until the most recent recession, New Jersey enjoyed robust economic growth and business expansion, even in many industries regulated by tough environmental requirements. And a new report by MIT Professor Stephen M. Meyer confirms that over the past two decades, the States with the stronger environmental programs outperformed States with weaker environmental programs on all measures of economic growth.

With a new, environmentally sophisticated team in the White House, and with Carol Browner at EPA, we can move swiftly to break through the environmental logjam that prevented progress on some of our most significant environmental problems. We face many challenges—on Superfund, Clean Water, RCRA, Safe Drinking Water Act, radon and indoor air pollution. The Congress must work with the new administration to break the gridlock and legislate the solutions we need to preserve our environment and foster our economy.

The selection of a committed environmentalist with a knack for aggressively crafting creative solutions to environmental problems sends an unmistakable signal that this administration means business on the environment. Carol Browner understands that a clean environment and a prosperous economy go hand in hand. She has a reputation as a tough but fair negotiator, and a strong record of accomplishment in the short time she headed the Florida Department of Environmental Regulation.

With her experience as head of a State environmental department, and her Senate experience, Carol Browner should be well prepared to help lead our Nation in a new direction on the environment.

It's been said, and I quote, "We do not inherit the Earth from our parents, we merely borrow it from our children." I am committed to working with Carol Browner and with President Clinton and Vice President GORE, to make sure that the Earth that we borrow from our children is passed on to them in as fine a condition, and with as few environmental problems, as possible.

I urge my colleagues to support the nomination of Carol Browner to be Administrator of the Environmental Protection Agency.

STATEMENT ON THE NOMINATION OF FEDERICO PEÑA

Mr. GORTON. Federico Peña has been nominated to fill a position which is critically important to all Americans—the Secretary of Transportation.

I have had the opportunity to meet briefly with Mr. Peña and begin what I hope will be a continuing open dialog about issues of concern both specific to the State of Washington and to the Nation as a whole.

Reports that I had read regarding Mr. Peña's views on the reregulation of certain transportation sectors caused me concern. I was pleased to hear that his views have been misinterpreted and that it is not his intent to be an advo-

cate of reregulation. Indeed, he believes, as I do, that strong, healthy competition is the best regulator. We have had the opportunity to briefly discuss maritime reform, a subject that must be a priority if this Nation is going to continue to have an American flagged fleet. We have discussed the need for a healthy airline industry which is obviously so critical to consumers and to business and a special priority to me as the Senator that represents the home State of the largest aircraft manufacturer in the world. We have also discussed the need to complete the work that has begun on the auto safety regulations included in the 1991 Intermodal Surface Transportation Efficiency Act.

The State of Washington has many diverse and important transportation needs. One in six jobs in my State is dependent upon trade and healthy trade is only possible with a strong transportation component. Secretary Card was an advocate for intermodalism and our ports lead the Nation in innovative maritime, rail, highway, and air links. Mr. Peña apparently shares Secretary Card's belief in the importance of intermodalism. The last decade in the Puget Sound region has made it clear that transportation must look forward and find innovative solutions. For too many hours a day, Puget Sound residents face gridlock on the highways. The 1991 Intermodal Surface Transportation Efficiency Act recognized the diverse needs of States and properly gave the State and local governments much more of a say in how Federal transportation dollars are spent. I believe we must look toward the future in Puget Sound and emphasize increased ferry service, more HOV lanes and eventually to develop rapid transit. I look forward to working with DOT to support these projects.

If confirmed by the Senate, as I certainly expect he will be, Mr. Peña has a tremendous and important challenge in front of him. I wish him the best of success.

STATEMENT ON THE NOMINATION OF RON BROWN

Mr. GORTON. Mr. President, today, the Senate is voting to consider the nomination of Ron Brown to be Secretary of Commerce. He has been nominated to fill a position which is critically important to the Nation and to the Pacific Northwest in particular.

Many newspaper articles have been written about Mr. Brown's nomination. Some reporters have questioned whether his past business dealings or his representation of certain companies should disqualify him for a Cabinet post. Along with other members of the Commerce, Science, and Transportation Committee, I have carefully looked into these concerns. While Mr. Brown wouldn't have been my choice for the Secretary of Commerce, and I dare say, wouldn't have been other Republicans choice either, it is my strong belief that Cabinet Secretaries and most other high-ranking administration officials serve at the pleasure of the President. As a consequence, I believe that a President should be given the widest possible latitude in choosing such person. Absent any evidence of wrongdoing of a nominee, a Senator should not substitute his judgment or philosophy for that of the President. I have not found any evidence of wrongdoing by Mr. Brown and it is my belief that he should be confirmed.

The issues before the Commerce Department are complex and important to everyone in the United States. I am confident that Mr. Brown understands the importance of increasing economic opportunities and jobs for Americans and will be a strong advocate for American workers. Many of these jobs, and especially those in my State, depend upon exports. The Commerce Department will play a key role in assuring that U.S. companies are in a good position to sell their products abroad. It will be critical that the new administration avoid protectionist policies which only provide an excuse for retaliatory actions against U.S. companies.

Half of the Department of Commerce's budget is spent on the activities of the National Oceanic and Atmospheric Administration. This agency, and particularly the National Marine Fisheries Agency, oversees some of the most difficult, controversial and complex problems that we face in the Northwest. Perhaps it is a good thing that Mr. Brown's background does not include experience in these fields because many of these matters are in desperate need of a new, fresh perspective. When I met with Mr. Brown, we discussed upcoming reauthorization bills including the Magnuson Act, the Endangered Species Act, and the Marine Mammal Protection Act. All of these bills are critical to the very survival of my State and they will require the patience, diligence, and study not only of this Congress, but of the new administration officials. I look forward to many more discussions about these topics with Mr. Brown. Assuming he is confirmed by the Senate, as I do, I hope he will soon accept my suggestion to visit the Northwest, meet with the people whose lives will be so dramatically affected by his decisions, and to learn more about the real day to day impact the decisions made by his Department will have upon so many of the people of the State of Washington.

ALICE RIVLIN

Mr. SIMPSON. Mr. President, I would like to say a few words of commendation regarding the nomination of Alice Rivlin to be Deputy Director of the Office of Management and Budget.

A phrase that has come into vogue in Washington in recent times has been the characterization of some individuals as "deficit hawks"—people who press for deficit-reduction as the single most important issue that we face, one that must be addressed immediately, even to the short-term detriment of some other policy goals—because no other policy goal can be ultimately met if we do not achieve this one.

Alice Rivlin has a reputation of being particularly zealous on the deficit issue, and it is my earnest hope that she will add to that reputation during her service with the new administration. During her time with the Brookings Institute, and with the Congressional Budget Office, she has repeatedly stressed the need for deficit reduction, and has been unstinting in her descriptions of the politically difficult actions that are necessary to do that. Ms. Rivlin is one of the coauthors of the "Strengthening of America" report with which I was involved this past year—that report spells out very clearly in what direction this country is going if we do not, very quickly, begin to face up to our Federal fiscal situation. I therefore applaud her appointment. She is a splendid choice and a splendid person. And I urge my colleagues to confirm as I know they will.

CONGRESSMAN PANETTA

Mr. SIMPSON. Mr. President, I would like to say a few words of commendation for the nomination of LEON PANETTA to be Director of the Office of Management and Budget.

I was particularly and personally pleased to hear of Congressman PANETTA'S nomination. He is one fine person. I have always admired him greatly. Prior to the time of the nomination, there was a great amount of speculation in the media about whether the new President would seek to focus on new "investment"—that is, new Government spending—or whether he would be willing to direct a serious assault on the deficit. Selecting LEON PANETTA, someone who has been very honest "up front" and outspoken about the need to reduce the deficit, sent a powerful signal that I personally found to be very positive.

During LEON PANETTA'S time here in Congress, he would frequently share information with the rest of the Congress about what kinds of difficult steps would be necessary to conscientiously and seriously address the deficit—he was never one to posture, but rather he would produce various scenarios, with examples of the kinds of programs that would have to be cut if we were to make any serious progress on the deficit.

So this fine man knows exactly what is required—indeed, he knows better than most in Washington do. After Congressman PANETTA'S appointment, President Clinton said that he would give the new OMB Director a "chance to teach me some math." I sincerely hope—and I fully expect—that Congressman PANETTA will be ever forthright and truthful in his analyses of just what kinds of spending cuts will

need to be made if we are to ever recapture control of the Federal budget.

STATEMENT OF SENATOR ALAN K. SIMPSON ON THE NOMINATION OF PEÑA

Mr. SIMPSON. Mr. President, I have cast my "aye" vote to confirm Federico Peña as Secretary of Transportation. I believe that Mr. Peña is a sound choice to serve this administration in this vital Cabinet post. I have come to know him.

I was very impressed by Mr. Peña's awareness of the issues and his attitude of cooperation during his confirmation hearings. He will do well, I am certain, in ensuring that the improvements made to our transportation infrastructure made by the Bush administration will continue.

I am also very pleased to see that the Clinton administration has "looked to the West" to fill this Cabinet position. Highways and transportation are, literally, our lifelines in the West and particularly in the Rocky Mountain States, such as my home State of Wyoming.

I look forward to observing Mr. Peña's sensitivity to Western concerns and issues as he works to implement administration policy within the Department of Transportation. I trust that he will work as openly and candidly with us in the future as he has worked with all of us during the confirmation process.

CAROL BROWNER

Mr. SIMPSON. Mr. President, the position of EPA Administrator is a most challenging position as we all know. EPA's responsibilities have increased greatly over the years without any real increase in funding. Environmental problems have become more complex and more technical. The easy problems have been solved. Now we are dealing with the more difficult and contentious issues. I have met with Ms. Browner and learned she has had a good deal of experience in being a regulator and she will surely find this experience to be most useful in her new endeavor. Regulating is never easy. It requires the balancing of competing interests while keeping the goal of environmental protection and the state of the national economy in mind.

Among the many challenges the new EPA Administrator will face is the need to revamp the Superfund toxic waste cleanup program. Now there is a real challenge! The existing Superfund Program is simply not doing the job it was designed to do. I know Carol Browner wants to revitalize that program and Congress is going to have to pitch in and help. We need to look hard and closely at the current system of strict, joint, and several liability, among other things.

Municipal waste, funding for wastewater projects, enforcement, safe drinking water standards and testing requirements, indoor air pollution, implementation of the Clean Air Act, and many other regulatory issues will be simmering along as the new Administrator takes office. I believe Carol Browner will be able to "hit the ground running." I was impressed with her experience and credentials and I think she will take into account the different problems which different regions of the country face. I also think she understands the special needs of rural areas and small communities. EPA should not treat these areas in the same manner as the huge metropolitan areas are treated. I am also aware that she knows the importance of taking economic considerations into account and I find that most heartening. As she herself has said so well on previous occasions—the economy is the number one problem for Congress and the administration today.

I look forward to working with Ms. Browner in her new capacity as EPA Administrator.

STATEMENT ON THE NOMINATION OF JESSE BROWN

Mr. SIMPSON. Mr. President, I rise today to support the nomination of Jesse Brown to be Secretary of Veterans Affairs.

This is a memorable occasion because Mr. Brown is the first veterans advocate—one who comes from the ranks of the service organizations—and will now serve America as the Secretary of Veterans Affairs.

It will be a most challenging time for Jesse Brown as well as for Congress. We will face very difficult choices between balancing entitlement programs with an everburgeoning national debt.

We will be taking a close look at cutting the fat in some programs and increasing funding in others where needs have been genuinely demonstrated.

We must all realize that Government in general, and the Department of Veterans Affairs in particular, can not be and were never intended to be "all things to all people." I think Jesse Brown understands this concept full well.

I know Jesse Brown to be an extremely capable, qualified, dedicated and honorable person who cares about America's veterans and also about the deficit and the burgeoning debt and I do look forward to working with him as he takes over his new Cabinet position. I wish him well and urge him not to heed the keening wail of some of the professional fund raising veterans organizations who are often interested only in more, more, more. Those days are gone.

STATEMENT ON THE NOMINATION OF MIKE ESPY

Mr. COCHRAN. Mr. President, I was very pleased today when the Senate voted to approve the nomination of U.S. Congressman MIKE ESPY to serve as Secretary of Agriculture.

It has been my pleasure to work as a fellow Member of the Mississippi congressional delegation with MIKE ESPY since he was elected to serve in the House to represent the Second District of Mississippi in 1986. I have worked closely with him in matters relating to agriculture, because he was selected to serve on the House Agriculture Committee. It has been my honor to serve on the Senate Agriculture Committee and the Appropriations Subcommittee for Agriculture and Related Agencies.

I have come to know him in that working relationship, and I have come to respect him and appreciate him. I have seen him work very hard and diligently to understand the various farm programs and also the rural development needs in the Mississippi River Delta and throughout the county. He has become a very conscientious, knowledgeable, and effective Congressman and our State has benefited from his service.

He was educated at Howard University and at Santa Clara Law School. After he graduated from law school he served as assistant attorney general in the State of Mississippi and as an Assistant Secretary of State.

Since this election to Congress he has become better known throughout our State. And to show you the kind of support he had in his district in the last elections last November, he was reelected to the Congress with 78 percent of the popular vote in the general election.

I also feel constrained to point out, Mr. President, that our State is very proud to have someone from within our borders selected to serve in the President's Cabinet. It has been a long time since we have had a member of the Cabinet from the State of Mississippi. As a matter of fact, the last Mississippian to serve in the Cabinet of the President of the United States was L.Q.C. Lamar, who was an outstanding U.S. Senator from our State, widely regarded as a person of great intellect and influence in the Congress. He was appointed by President Grover Cleveland in 1885. His appointment was viewed at the time as a symbol of reconciliation between the South and the rest of the United States, because he was the first Southerner appointed to serve in the Cabinet following the Civil War.

But L.Q.C. Lamar was more than a symbol. He served with great distinction as Secretary of Interior in the Cabinet of President Grover Cleveland, and he was then appointed to serve on the U.S. Supreme Court where he also served with great distinction.

Well, MIKE ESPY is more than a symbol, too. He is the first African-American to serve as Secretary of Agriculture, and he is the first Mississippian to serve in the President's Cabinet since L.Q.C. Lamar in 1888. MIKE ESPY has been good for Mississippi. I predict that he will be good for the Department of Agriculture and good for America. And it was an honor to present him to the Committee on Agri-

culture and to recommend his confirmation.

I want to thank Chairman LEAHY and the ranking member, Senator LUGAR, for their courtesies during the confirmation process. I am confident that MIKE ESPY will continue to reflect credit on the State of Mississippi.

STATEMENT ON THE NOMINATION OF ALICE RIVLIN

Mr. MITCHELL. Mr. President, Alice Rivlin is an excellent choice for Deputy Director of the Office of Management and Budget. As our first Director of the Congressional Budget Office, she is acutely aware of the disparate interests that influence Federal fiscal policy. I think her background gives her unique insight into how the Federal Government can and should allocate taxpayers' money.

President Clinton will benefit from a wealth of ideas Dr. Rivlin will bring to his Cabinet. Her job of helping formulate and communicate fiscal policy decisions will be one of the toughest in Washington. I have no doubts she is capable of meeting the challenge.

I look forward to working with Alice Rivlin, and LEON PANETTA as we work together to enact rational, investment-oriented budgets for the Nation's future. Mr. President, I wholeheartedly endorse this nomination and urge my colleagues to do the same.

STATEMENT ON THE NOMINATION OF LEON E. PANETTA

Mr. MITCHELL. Mr. President, President Clinton recognizes the tough economic decisions he will make in helping lead this country. None will be more difficult than fiscal policy. His choice of LEON PANETTA to head the Office of Management and Budget demonstrates this administration will tackle tough choices head on and well armed with vital facts. Few Americans know Federal programs as well as LEON. His participation in budget battles, including the 1990 budget agreement, provide him critical experience in achieving consensus necessary for meaningful budget policy.

The President yesterday said our future posterity will require near-term sacrifice. Soon he will send us a plan for long-term economic growth that features investment in education, our national manufacturing base, job training, and national security. It will also offer ideas for balanced deficit reduction. LEON PANETTA and other truly dedicated public servants are working on that plan with the President.

We in Congress look forward to contributing to and ultimately helping enact a budget for America's future. I think LEON PANETTA will play a crucial role in these deliberations.

STATEMENT ON THE NOMINATION OF MICKEY KANTOR

Mr. MITCHELL. Mr. President, I rise in support of President Clinton's nomination of Mickey Kantor as U.S. Trade Representative.

Trade policy must be an important part of an integrated strategy to revitalize this Nation's economy. The global marketplace offers tremendous opportunities for U.S. businesses and workers. We must open foreign markets to U.S. manufactured goods, agricultural products, and services. But we also must vigorously enforce both the international and domestic trade laws to ensure that U.S. exports can compete fairly. The gesture of opening a foreign market is meaningless if the rules of fair trade are ignored.

I am confident that Mickey Kantor will aggressively empower our businesses and workers to compete and win in the global marketplace. His reputation as a hardworking, tough, and highly efficient negotiator and his practiced negotiation skills will make him an effective trade ambassador for U.S. interests. Before the Finance Committee on Tuesday, he demonstrated that he quickly grasped the complexities of the international trading rules and relationships. I look forward to working with Mr. Kantor to expand and defend U.S. interests in the world markets.

STATEMENT ON THE NOMINATION OF CAROL M. BROWNER

Mr. BAUCUS. Mr. President, on Tuesday the Committee on Environment and Public Works voted unanimously to recommend that the nomination of Carol M. Browner to be Administrator of the Environmental Protection Agency be confirmed when it is received by the Senate.

Ms. Browner's nomination has now been received, and in behalf of the committee I recommend without reservation that the Senate confirm her nomination.

In my judgment, President Clinton made an excellent choice in naming Carol Browner to be EPA Administrator, and based on the vote by the committee, I think every other member of the committee shares this view. Ms. Browner has demonstrated that she is thoughtful, articulate, and principled in her approach to environmental policy. She has pledged to work closely with the members of this committee and other Senators and Members of Congress in addressing the most pressing environmental issues now before us, and I know that we all look forward to working with her.

Ms. Browner also has expressed her intent to make EPA a more effective government agency and her desire to forge a new era of cooperation between the EPA and American business. These goals are of paramount importance. We must move beyond the present adversarial relationships that have taken over the regulatory process. As Ms. Browner herself pointed out, the present system too often ignores the real complexities of environmental problems and creates delay. Ultimately, neither businesses, local communities, nor the environment are well served by the present system.

It is clear that Ms. Browner understands that environmental protection and economic growth must go hand in hand, and that America must have both to compete in the international marketplace. She said when named by President Clinton that she was looking forward to serving at a time "when we will finally move away from the trade-off and the debate that we have focused on for far too long between jobs and the environment, toward a sustainable economic future." In our hearing, she specifically mentioned that we must develop a stronger sense of innovation when it comes to environmental problems—that as a society we need to approach these issues as challenges to American ingenuity.

It is this sort of vision and deliberate sense of purpose that impresses me most about Carol Browner. We have reached a critical moment for the environment in the United States; there is a great deal of work ahead of us, and I feel very confident Ms. Browner will serve her country well.

Ms. Browner, a 37-year-old Miami native, received a law degree in 1979 from the University of Florida, where she also did her undergraduate work. Subsequently, she was general counsel for the Government Operations Committee of the Florida House of Representatives. In that capacity, Ms. Browner helped revise Florida's Conservation and Recreational Lands Program. From 1983 to 1986, Ms. Browner worked on environmental issues as associate editor for Citizen Action, a not-for-profit, grassroots organizing group. She was Senator Chiles' legislative assistant for environmental issues from 1986 to 1989. In that capacity, Ms. Browner helped negotiate legislation establishing the Big Cypress Natural Preserve northwest of the Everglades and Pinhook Swamp in the Osceola National Forest. She also worked on legislation that imposed a moratorium on oil drilling off the Florida Keys. Ms. Browner served briefly as a counsel on the Senate Energy and Natural Resources Committee in 1989. She then worked as legislative director to Senator GORE from 1989 to 1991.

In January 1991, Governor Lawton Chiles named Carol M. Browner to be Secretary of the Florida Department of Environmental Regulation [DER]. The DER is the State of Florida's principal environmental protection agency. It is responsible for regulation of activities affecting air and water quality, including wetlands, and hazardous waste activities.

As secretary of the DER, Ms. Browner has been described as a proactive administrator who is pragmatic and willing to try new solutions to problems in order to get results. Ms. Browner moved quickly to settle the Everglades lawsuit and to gain enact-

ment of legislation implementing that settlement, under which the State is converting thousands of acres of farmland into wetlands to act as a filter to remove pollutants from water flowing into the Everglades. She worked successfully with Walt Disney World and the Nature Conservancy to fashion an agreement that will result in the preservation and restoration of 8,500 acres of environmentally sensitive land and that will minimize the environmental impact of Disney World's development over the next 20 years. Ms. Browner was the pivotal mediator in the settlement of a lawsuit in which, for the first time, States will take an systemwide approach to managing a shared ecosystem. She was the force behind passage of a new State law that significantly improves the way petroleum cleanups will be addressed and encourages greater owner/operator responsibility for cleanup and restoration costs. And Ms. Browner worked with the Florida legislature to enact legislation that creates the framework for the DER to obtain delegation from the EPA to implement the Federal Clean Air Program. The legislation also established a Small Business Technical Assistance Program to assist small businesses in achieving compliance with the new law.

In September 1992, Ms. Browner received the Nature Conservancy's President's Conservation Achievement Award, the highest honor given by that organization to public officials.

I urge my colleagues to vote to confirm Carol Browner as Administrator of the Environmental Protection Agency.

STATEMENT ON THE NOMINATION OF ROGER ALTMAN

Mr. MITCHELL. Mr. President, I am confident that Roger Altman will be an excellent Deputy Secretary of the Treasury and I look forward to working closely with him in the years ahead.

The U.S. Treasury Department has critically important responsibilities for managing the Nation's financial system and providing leadership to the entire world in the conduct of international economic affairs. The Secretary and his Deputy also have a preeminent role as economic advisers to the President.

Roger Altman is tremendously well qualified to help manage these responsibilities for the Treasury Department and I strongly support his confirmation. He has an impressive background, both in business and Government. During the Carter administration, Roger served as Assistant Secretary for Domestic Finance. He then went on to a very successful career in investment banking, first for Lehman Bros. and then for the Blackstone Group.

His keen understanding of business, investment, and the financial markets will serve him well at the Treasury Department. More importantly, those skills will serve the Nation well as Roger Altman advises President Clinton and Secretary Bentsen.

I congratulate Roger and wish him well in this new position.

STATEMENT OF THE NOMINATION OF MIKE ESPY

Mr. KERREY. Mr. President, I am pleased to have the opportunity today to support the confirmation of MIKE ESPY to serve as our next Secretary of Agriculture.

I know from my conversations with Congressman ESPY that he will bring a perspective to USDA that spans, to borrow a theme from our new President, what is wrong with rural America and what, with bold leadership, could be made right in that part of our Nation that still provides a home and livelihood for one in every four Americans.

MIKE ESPY's vision for rural America is shaped by his understanding that new opportunities, such as state-of-the-art telecommunications technology, could revitalize life on the farms and ranches, and in the small communities, that make up the rural landscape. He recognizes that new technology can ensure for rural Americans a fair chance to secure the high-skill, high-wage jobs of the future, and allow them to enjoy many of the educational and cultural advantages once thought available only to city dwellers.

Though Congressman ESPY's enthusiasm for the bright future that technology could bring to rural America is high, it is tempered by his deeply personal recognition that the promise of fiber optics and interactive learning is a rather distant concept to the many rural residents who do not, in the United States in the year 1993, have, as he said during his confirmation hearing, such basics as running water in their homes. He knows that too many Americans today, and especially those in rural areas, have basic needs that are unfulfilled, including access to health care, a sound diet, and the other essentials that one needs simply to live before one can begin to learn or otherwise lead a productive, self-sufficient life.

The need to maintain basic services in rural areas is particularly acute in my own State of Nebraska. Nebraska has more land in farms and ranches—92.4 percent—than any other State in the Nation. Thus, the lifeline of rural Nebraskans to the services that make rural living possible is as tenuous for them as for anyone in the country. I am confident, therefore, that Nebraskans will welcome Secretary Espy's special commitment to rural development and the need to maintain rural services.

Two other positions enunciated by Congressman ESPY during his confirmation hearing are likely to strike a particularly responsive chord among Nebraska farmers and ranchers.

First was his declaration that any reorganization and consolidation efforts implemented at USDA must include, if not begin with, reductions in the bureaucracy and redtape at the Department of Agriculture in Washington. That is the same message that I hear from virtually every farmer who has contacted me to express concerns about the proposed closing of USDA field offices at the county level. These farmers, and their new Secretary, understand and agree that sacrifice and hardship must be a shared burden.

Second, Congressman ESPY has observed that, during his service as a member of the House Budget and Agriculture Committees and during his trips to monitor the progress of the Uruguay round of GATT negotiations, he came to fully appreciate the sheer folly of the United States making unilateral reductions, for budgetary reasons, in our farm price support and export programs at the very same time that we were pressing the European Community, without success, to roll back its more costly and elaborate system of support for European agriculture. As he has said, this one-sided forfeiture of negotiating leverage has simply caused the EC to sit back and say, "Let's not agree to make any cuts, since, over time, the Americans are going to do themselves in."

To our new Secretary of Agriculture I say, among Nebraska producers, your on-the-mark observation gives new hope that this administration will break a 12-year policy drought that saw U.S. farm numbers shrivel by one-fourth—1.5 million people—during the decade of the 1980's. Nebraska producers do not expect the Secretary of Agriculture to win every battle within an administration. But they do hope that the Secretary of Agriculture will speak up for them. I believe they have in MIKE ESPY an advocate for agriculture, and that is why I will vote for him.

STATEMENT ON THE NOMINATIONS OF LEON PANETTA AND ALICE RIVLIN

Mr. GLENN. Mr. President, I rise today to praise President Clinton in his selection of LEON PANETTA to be Director of the Office of Management and Budget and of Alice Rivlin to be Deputy Director of the Office of Management and Budget.

As chairman of the Committee on Governmental Affairs, it was my privilege to hold the nomination hearings for Congressman PANETTA and Dr. Rivlin. The committee favored both nominations, and I am very happy that the Senate has agreed to confirm these nominees. These were terrific choices for very difficult jobs, and I extend my best wishes to both of them.

As we discussed at some length at their nomination hearings, both OMB Director PANETTA and Deputy Director Rivlin have an incredible task facing them. All of us know that the time has come to make hard choices. Our na-

tional debt and our Federal budget deficit must be brought down. The economy, though coming out of a recession, is moving forward slowly. Our rate of national capital investment, already less than one-half the investment rate of Japan and lower than our other major trading partners, continues to fall. And the number of Americans without health coverage continues to rise.

For the day-in, day-out operation of Government that affects every American—the matching of policy with money resources, the monitoring of stifling over-regulation, the reduction of waste and abuse, cutting the deficit, etc.—we depend on the leadership shown by OMB. In my opinion, Congressman PANETTA and Dr. Rivlin have exactly what it takes to make the decisions—the trade-offs, the investments, the spending cuts—that will be critically important to our future.

Congressman PANETTA and Dr. Rivlin stressed that they will work to finally put the "M" back in OMB. This is more important than ever, after Comptroller General Charles Bowsher's statement at a hearing 2 weeks ago, that he could think of almost no Federal agency that was well-managed. In fact, he said that the Army was about the only agency in the entire Government which had made significant management improvements. Obviously, this state of affairs cannot be allowed to continue, and we look to Congressman PANETTA and Dr. Rivlin to oversee the changes necessary to make the executive branch work more effectively. The "M" in OMB must come to mean more than it has in the past.

There are, no doubt, some Federal programs which are poorly conceived, but many other programs are not operating effectively because of inadequate investment, and as a result, some agencies no longer have the capacity to perform their public missions. And like any undercapitalized business, the result is often failure and a waste of investment, even if the underlying ideas and objectives are good. Determining which programs should be retained and which should be eliminated are among the tough choices facing OMB.

Again, I am pleased that President Clinton selected Congressman PANETTA and Dr. Rivlin to lead OMB because I believe they understand the magnitude of our problems, as well as the urgency we face in finding solutions. I congratulate them both, and look forward to working together with them to solve the problems of our Government and our country.

STATEMENT ON THE NOMINATION OF CAROL M. BROWNER

Mr. MITCHELL. Mr. President, I am pleased to support the nomination of Carol Browner to be Administrator of the U.S. Environmental Protection Agency. Ms. Browner brings valuable State experience to this position that will serve her well.

EPA is responsible for implementing and setting policies to protect the public health and the environment. EPA runs programs that focus on pollutants that contaminate the air, water, and soil. These are large, complex programs. In addition, many States have their own delegated programs that EPA must assure meet Federal standards. Virtually all sectors of the economy are affected by what EPA does.

The burdens are many; the resources are few. Yet the pressures on human health and the environment have never been greater. The pressure of increasing population taxes the ecosystem as never before. The demands of an increasing population threaten to overrun the progress we make in improved pollution controls, leaving the public at risk from unhealthy levels of exposure to contaminants.

To successfully negotiate these potential conflicts, the EPA Administrator needs to have a firm hand, an ability to lead, and a vision for the future. Ms. Browner has these qualities. I strongly support her nomination.

STATEMENT ON THE NOMINATION OF JESSE BROWN

Mr. MITCHELL. Mr. President, I rise today to express my support for the nomination of Jesse Brown as Secretary of Veterans Affairs.

President Clinton has made an excellent choice in selecting this decorated Vietnam combat veteran to head the second largest agency in the Federal Government. Certainly Jesse Brown brings a wealth of personal and professional experience to the job.

Jesse Brown enlisted in the Marine Corps shortly after graduating from high school in Chicago. Wounded in Vietnam, he went to work for the Disabled American Veterans in 1967. In the past 24 years, he has served with distinction rising from National Service Officer in Chicago to executive director of DAV's Washington headquarters.

In the period following the announcement of his nomination, I was pleased to see a series of stories in various newspapers regarding Mr. Brown, the headlines of which described him as a "defender of the rights of veterans," a "master of regulations," a "warrior" in fighting for veterans benefits and "hard-driving." Those are valuable qualities to bring to the challenges he faces as the new Secretary.

First and foremost, he takes over a health-care system whose medical programs, operations, and expertise are wide ranging and extensive—with more than 200,000 employees, hundreds of hospitals, clinics, nursing homes, and domiciliaries and an annual budget of $15 billion.

It will take considerable effort and attention to restore the system's ability, which has been compromised over the past decade, to provide first-class medical care to America's veterans. But, I know the new Secretary will be up to the challenge in this area, as well as the others facing him.

We want him to succeed as Secretary of Veterans Affairs. For we share a common goal, to see to it that those benefits earned by veterans through their service to this country are provided them in an efficient, fair, equitable, and cost-effective manner.

I congratulate the President for his selection of Jesse Brown to be Secretary of Veterans Affairs. I urge my colleagues to support this nomination.

STATEMENT ON THE NOMINATION OF RICHARD W. RILEY

Mr. MITCHELL. Mr. President, I strongly support the nomination of Richard Riley to be Secretary of Education. His successful experience as a reformer of education is matched, perhaps, only by the man who nominated him. The longstanding relationship between Governor Riley and President Clinton, much of it forged in the trenches of school restructuring, indicates education will properly assume a place at the head of the Cabinet table. Both men expended tremendous energy convincing their legislatures and citizens that educational and economic outcomes are inextricably tied.

As Governor in the early 1980's Mr. Riley led education reform at the State level. He was the first among Southern Governors to recognize his State could compete in the future for high-wage jobs only if all youngsters received better preschool educational and nutritional services. Richard Riley in 1984 forced through a comprehensive $200 million reform plan that included rigorous standards and an evaluation program for all public schools that remains in place today. He reiterated the importance of these programs as well as services for gifted students during his confirmation hearing. I look forward to working with Secretary Riley.

STATEMENT ON THE NOMINATION OF HAZEL R. O'LEARY

Mr. MITCHELL. Mr. President, the Secretary of Energy plays an important role in the security and economic prosperity of this Nation. Our Nation's dependence on foreign oil and the continuing turmoil in the Persian Gulf makes Americans painfully aware of the importance of energy to the security and future of this Nation. Moving this country away from its dependency on foreign oil, dismantling our nuclear weapons complex, managing a complex environmental clean-up program, and expanding research and development in new energy technologies requires a Secretary of Energy with broad experience in energy policy and management. The position demands a person with a keen understanding and broad experience in energy affairs and the workings of American government. I am pleased that President Clinton has selected such a person for this most important position.

With a law degree from Rutgers University, Ms. O'Leary served as a county

prosecutor and an assistant attorney general for the State of New Jersey. During the Ford administration, she became Director of the Office of Consumer Affairs in the Federal Energy Administration, the forerunner of the Department of Energy. In the Carter administration, Ms. O'Leary headed the Economic Regulatory Administration of the newly created Department of Energy. In this capacity, Ms. O'Leary was responsible for overseeing a staff of more than 2,000 lawyers, accountants and engineers.

Following her service in the Federal Government, she created her own energy consulting firm. In 1989, Ms. O'Leary joined the Northern States Power Co. where she managed the environmental, human resources and law departments. Currently, she serves as the executive vice president for corporate affairs. Ms. O'Leary's experience in Government and the private sector has made her familiar with a wide range of energy issues including utility regulation and management, energy efficiency, conservation, alternate and renewable energy technologies.

As a Federal regulator and corporate vice president, Ms. O'Leary will bring experience and balance to an agency facing a crucial restructuring in the post-cold war era. I believe Ms. O'Leary will lead the Department of Energy in to a new era in which technology serves as an engine for job creation, industrial energy efficiency and environmental management. I am confident that she will make the Department of Energy integral part of this Nation's long term economic strategy. Without question, Ms. O'Leary possesses the knowledge and experience to carry out this mission. It is for this reason that I support her nomination.

STATEMENT ON THE NOMINATION OF HENRY CISNEROS

Mr. MITCHELL. Mr. President, Henry Cisneros has been a leader throughout his life. Bright, articulate, and energetic, Henry has a proven track record as an effective manager and a man of great vision.

As the first Hispanic elected mayor in a major American city in 1981, Mr. Cisneros brought about remarkable change for San Antonio. It is that same spirit for change that we hope will transform the Department of Housing and Urban Development. With his broad base of knowledge about housing and community development issues, Henry Cisneros will bring hands-on experience to HUD.

Despite internal management changes at the agency to comply with the 1989 HUD Reform Act, a December 1992 GAO transition report found that many fundamental management problems remain unresolved. Those deficiencies include:

In adequate information and financial management systems, weak internal controls, and insufficient staff resources to perform necessary functions, such as monitoring and enforcing program requirements.

As HUD Secretary, I hope that Mr. Cisneros will take the corrective actions necessary to ensure that the agency operates as intended. I look forward to working with Mr. Cisneros to enable HUD to regain its key role in revitalizing American communities.

STATEMENT ON THE NOMINATION OF DONNA E. SHALALA

Mr. MITCHELL. Mr. President, I rise today in support of the nomination of Donna E. Shalala as Secretary of the Department of Health and Human Services.

Ms. Shalala brings a wealth of experience to this most demanding position, having served as chair of the board of the children's defense fund, president of Hunter College, Assistant Secretary for Policy Development and Research in the Department of Housing and Urban Development during the Carter administration, and most recently, chancellor of the University of Wisconsin-Madison.

Ms. Shalala faces a tremendous task. Many of the most difficult challenges facing the new administration are within the purview of the Department of Health and Human Services. The HHS budget is estimated to be about $590 billion next year, representing about 40 percent of all Federal spending—only the Government of Japan and the United States have larger total budgets.

Perhaps the greatest challenge facing Ms. Shalala in her new capacity is the reform of the Nation's health care system. President Clinton has made health care reform one of his top priorities, as it is a priority for me. We must get the rapidly escalating cost of health care under control if we are to reduce the Federal deficit. We must also address the unmet health care needs of millions of Americans without access to affordable care.

Other difficult challenges for Ms. Shalala include welfare reform and reforming our child support enforcement system. I share the President's view that welfare should not be a way of life. Clearly, we need to create jobs to ensure that families can become and remain self sufficient. We also need to ensure that single-parent families, primarily headed by women, receive sufficient child support. Both parents, not only the parent with whom children live, have a financial responsibility in raising children.

I look forward to working with Ms. Shalala on these and other issues of concern to American families.

STATEMENT OF THE NOMINATION OF ROBERT REICH

Mr. MITCHELL. Mr. President, as our economy changes, the American workplace also is changing. In a time of American renewal, there is a need for Government to work with both business and labor to promote a renewal of a progressive spirit in American labor-management relations.

Robert Reich is uniquely qualified to lead the efforts to promote this spirit. He has given thoughtful consideration to and has written extensively of his vision for the future. This vision includes providing job training for the American work force, encouraging labor-management cooperation and increasing America's technology competitiveness.

As Robert Reich has stated over and over, America's workers are one of our most important economic assets. Under Robert Reich's leadership, the Department of Labor will foster partnership between business, labor, educational institutions, States and other Federal agencies to utilize this asset to its fullest. I also anticipate policies which support child care, family and parental leave, and a safe work environment.

I look forward to working with Robert Reich in the years ahead.

STATEMENT ON THE NOMINATION OF MIKE ESPY

Mr. MITCHELL. Mr. President, I rise today to express my support for the nomination of MIKE ESPY as Secretary of Agriculture.

MIKE ESPY has represented Mississippi's Second Congressional District with distinction for the past 6 years. It is a rural district, one in which agriculture is the dominant force in the economy.

As a member of the House Agriculture and Budget Committees, MIKE ESPY has been a leader in Congress on trying to fashion bipartisan, responsible and fiscally sound agriculture legislation on issues ranging from hunger prevention, rural development, and international trade. He will bring a solid background in agricultural policy to the Department based on his tenure in Congress.

As Secretary of Agriculture, MIKE ESPY will oversee a $67 billion budget and some 115,000 employees. The mandate of the Department of Agriculture in nutrition and food safety; agricultural production, marketing and trade; environmental protection; forestry and rural development makes USDA a dominant force in the economy of many States as well as the Nation.

Earlier this year, I had the opportunity to meet with the Secretary-designate with the rest of Maine's congressional delegation. We wanted to alert the incoming Secretary to several very serious problems facing our State's potato industry. I would characterize our meeting with Mr. ESPY as very positive.

I was very impressed with MIKE ESPY at that time, much beyond his obvious sensitivity to the circumstances facing many Maine farmers. He demonstrated a good grasp of the USDA disaster assistance programs we raised and he clearly understood the impact USDA disaster, lending, rural development

and commodity programs have on farmers and rural America.

I believe MIKE ESPY will be an excellent Secretary of Agriculture. In fact, the more I see and learn of MIKE ESPY, the more I believe he will be a forceful advocate for agriculture, producers and consumers, and rural America within our Government and with other governments worldwide.

I very much look forward to working with Secretary ESPY in the coming months to find and fashion solutions to the many problems he will face, from reorganizing the Department's field and central office structure so that the Department will operate in an efficient, fair, equitable, and cost-effective manner to improving America's markets in international trade and maintaining our world leadership in food safety.

I congratulate the President for his selection of MIKE ESPY to be Secretary of Agriculture. I urge my colleagues to support this nomination.

STATEMENT ON THE NOMINATION OF ROBERT REICH

Mr. BYRD. Mr. President, these are exciting times for our Nation. We begin the year with a new President and a new Congress, and with a renewed sense of hope and great expectations for the future. Yet, these are also challenging times. As a nation, we are confronted by the legacy of a decade of debt; a decade of living for the present, seemingly without any real concern for the future; a decade of borrowing against our children's inheritance.

Clearly, the time has come to change course. We must begin to invest in the future, rather than borrow from it. We can no longer afford to live so wildly beyond our means, nor can we afford to continue to ignore the tremendous public investment needs that exist across our country. If we are serious in our concern about the future, we must act to solve both our budget and our investment deficits. To neglect either would be to fall short of the challenges before us.

It is with precisely such a concern in mind that I am so encouraged and pleased by President Clinton's nomination of Robert Reich to be the next Secretary of Labor. I believe that Mr. Reich understands not only the need to bring our budget under control, but also the critically important role that public investment plays in promoting long-term economic growth. He understands how public investment complements, rather than competes with, private investment; how public investment encourages private investment by making it more productive. He understands that public investment is a necessary part of any strategy designed to ensure that American workers remain the most productive in the world. Simply put, Robert Reich understands that public investment is essential if Americans, now and in the future, are to enjoy an ever-rising standard of living.

In testimony presented to the Senate Appropriations Committee last year, Mr. Reich explained:

* * * in the emerging global economy, public investment is especially important. Global capital is not yet perfectly mobile, but it is highly mobile and becoming ever more so. If Americans want to attract global capital to the United States to create jobs here, the Nation faces the same fundamental choice of methods as that faced by other nations: We can either attract global capital by promising low wages and low costs of meeting environmental, safety, and other standards; or we can lure global capital by promising a highly skilled work force and a world-class infrastructure of communications, energy, transportation, water and sewage systems—linking the work force together and with the rest of the world. Only the second method will enhance our standard of living. But a highly skilled work force and a world-class infrastructure require public investments. * * * Ultimately, of course, it is the American people who must decide whether their children and their children's children are to live at least as well as we do today—and how much we are willing to sacrifice in order to ensure that they do.

Mr. President, I commend Mr. Reich for the insight he has shown with respect to the challenges that confront America. I commend our new President, Bill Clinton, for the good judgment he has shown in his selection of Robert Reich to head the Department of Labor. Having risen many times on this floor to speak of the need to commit ourselves to the task of investing in America, in our infrastructure and our people, I am pleased to be able to rise today in support of the nomination of Robert Reich for Secretary of Labor, an individual who understands the positive role that Government can play—that Government must play—in promoting economic growth and prosperity.

STATEMENT ON THE NOMINATION OF HAZEL O'LEARY

Mr. DURENBERGER. Mr. President, I join my Senate colleagues in congratulating President Clinton for his selection of Hazel O'Leary to be the new Secretary of Energy. When confirmed, she will be the seventh Secretary of Energy since the department was first created in 1977. She is truly one of Minnesota's finest, and we are all very thrilled and optimistic about her appointment.

During the last several years, I have known and worked with Hazel and am aware of her many contributions to Minnesota and the country. In her service as executive vice president of Northern States Power Co. [NSP] in Minnesota, I have found her to be bright, competent, and insightful. I have also come to know her as an excellent leader and as someone who understands the complex nature of the energy industry.

Mr. President, Minnesota has always prided itself on being environmentally progressive and forward thinking. As such, we are fortunate to have major power utility companies that understand the need to protect the environment and make wise use of the State's natural resources. Under her watch, NSP has made significant advances and contributions to progressive environmental policies. One example is the Clean Air Act.

As one of its authors, I can personally attest to NSP's involvement in the passage and implementation of the Clean Air Act, as well as the debate on global climate change, energy conservation measures, and alternative sources of energy such as its recent proposal to implement a 100-megawatt wind energy program in southwest Minnesota.

Mr. President, as energy policy is viewed more in the context of economic growth and revitalization, a commitment of President Clinton, Hazel's strong background in both the public and private sector will prove to be a tremendous asset to the country. Hazel has always demonstrated a unique ability to interweave sound energy policy with sound economic strategy. She has a reputation for being able to reach a consensus on difficult issues, an ability that is essential to this position.

I extend my sincere congratulations to Hazel O'Leary on her nomination. The President has my strong support for his outstanding nominee and I urge my colleagues to vote to confirm her, as well. I look forward to working with her in the coming years and watching her succeed at the Department of Energy.

STATEMENT ON THE NOMINATION OF CAROL M. BROWNER

Mr. DURENBERGER. Mr. President, I join my Senate colleagues in congratulating President Clinton for his selection of Carol Browner to be the new Administrator of the Environmental Protection Agency. She will be the eighth Administrator of EPA since it was created in 1970. Her experience on the frontline of environmental policy as the head of Florida's Department of Environmental Regulation will bring a new perspective to EPA's leadership.

The framework of environmental policy in the United States is established by the National Government. But the policy is actually carried out at the State level. It is the States which issue the permits, hear the appeals and enforce the regulations. It is the State officials who work daily with the millions of businesses, local governments and private citizens who are affected by environmental law. Experience at the State level provides an invaluable perspective on our national environmental laws.

Ms. Browner reflected this experience at the hearing on her confirmation. Her principal message was a concern for those businesses, local governments and citizens who are directly affected

by environmental regulations. Here is what she said:

EPA must deliver quick, consistent decisions. We must recognize the special problems of small businesses. EPA should spend more time listening to the particular concerns of businesses and communities affected by environmental problems and the EPA must recognize the value of State regulators. And the EPA should promote, encourage and develop rewards for businesses that develop pollution prevention and recycling strategies.

I am sure that message will be warmly received by business people and local government officials all across the country.

During the hearings of the Environment and Public Works Committee on her nomination and at an earlier courtesy call, I raised three issues with Ms. Browner that I would like to touch upon today. My statement to the Senate, and to Ms. Browner, comes in the way of a caution on three major themes that one hears over and over again in contemporary discussions of EPA, its missions and its operations.

The first theme is about risk. The assertion made by many is that EPA's priorities should be realigned so that they better reflect the public health risks that are actually confronting the Nation. There is a suggestion that we may be wasting billions of dollars on some problems, like cleaning up hazardous waste sites, while other more serious threats to public health receive relatively little attention. The solution sometimes put forth is to turn over the priority setting process to some quasi-scientific body that will, using the tools of risk assessment, help us better allocate our environmental budget and regulatory effort.

No one can argue with the proposition that we ought to allocate our environmental dollars as carefully as possible. And everyone would agree that decisions based on solid scientific information are better than decisions guided by hunches, superstition or bias. Congress is constantly called upon to make decisions that allocate billions of public and private dollars toward one problem or another often before the science on causes and solutions is settled. We make difficult choices that are criticized from every direction.

But there is no technical or scientific fix for our condition. There is no philosopher king or committee of Ph.D.'s who can relieve the policymakers in Congress and in the executive branch of this difficult job of setting priorities in a world of competing interests and limited knowledge. And there is no reason to believe that we have chosen incorrectly in the past.

To properly express these concerns, I should need more time than I have today. But let me just list the three main problems with the argument for comparative risk assessment. First, is the state of the science. Risk assessment is in its infancy. There is no agreed-upon methodology of risk assessment. We know a lot about some health problems, cancer for instance, but next to nothing about the environmental factors in other adverse effects like birth defects or neurological disorders or suppression of the human immune system.

Second, even if the methods reflected a solid consensus, there are questions that risk assessment cannot answer. EPA's mission covers a wide range of public values from childhood health to natural resource protection. There is not one objective, scientific yardstick on which one can rank the relative importance of healthy children in comparison to the population of migratory waterfowl. How much do you spend on children's health, before you start spending money on ducks? This is a question of preferences that in our system of government is assigned to elected officials, not appointed members of science boards. The choice between kids and ducks can be informed by science, but ultimately it can only be resolved in a democratic society by an appeal to the preferences of the public.

Third, even where one yardstick of risk can be applied, for instance, the risk of contracting fatal cancer, it does not necessarily follow that achieving the largest risk reduction is an absolute guide to policy. I believe that the public is more willing to accept small risks widely distributed, than large risks focused on the few. It is not just the absolute mortality, but also the equity, the distribution of the risk, that informs the public's sense of priorities.

The public gets incensed about hazardous waste sites or chemical spills because they are immediately devastating to their victims, even if those victims are few in number, and hundreds more could be saved by spending the same dollars addressing some other problem. Allocating public and private resources to achieve the greatest reduction in risk for each dollar spent is not the best public policy, because it fails to reflect the public's sense of equity and justice.

I am all for more science. And the Federal Government has a fundamental obligation to spend the taxpayers' money as wisely as possible. But I do not agree that these propositions call into question either the process we have used to select environmental priorities or the allocation of resources now reflected in the budget and regulations of the EPA and the other agencies we charge to protect public health and the environment.

The second theme I would touch upon goes by the shorthand phrase "market incentives". The notion here is that our current approach to environmental regulation which is called "command-and-control" by its critics is inefficient and unworkable for the environmental challenges that we face in the future. The new conventional wisdom says that we should move to an alternative set of regulatory mechanisms including taxes, fees, trading systems and other market-based approaches to influence private behavior in a way that is favorable to the environment.

Again, there is something to be said for the use of market incentives to achieve environmental objectives. But as with comparative risk assessment, the push for market incentives has been embraced with so much uncritical enthusiasm that its limitations have been overlooked.

The acid rain provisions of the 1990 Clean Air Act Amendments are often cited as an outstanding example of market incentives replacing command and control regulations in environmental policy. It is true that the 1990 Clean Air Act Amendments include a very innovative emissions trading scheme that will help reduce the costs of acid rain controls. But people who think that command and control has had its day should go back and read the acid rain title of the Clean Air Act.

It lists every powerplant in the country by name and sets a cap on the tons of sulfur dioxide that each plant is allowed to emit each year, a different amount for each plant based on its historic emissions. That's about as "command-and-control" as you can get. The authority to trade allowances as a way to reduce costs is a second step that can only be taken because of the "command-and-control" limits that have been established for each plant. Trading in this example doesn't have any relevance as a public policy tool unless a cap on emissions has already been established by command-and-control regulations.

It's also important to keep in mind that in the case of acid rain we are dealing with a single pollutant, SO_2, from a limited universe of plants, about 600, with continuous monitoring and a long history of pollution data. We hope that trading helps reduce the cost of the acid rain control program, but I don't know that a limited use of a trading scheme like that can be translated into a clarion call to abandon traditional environmental regulations for market solutions.

There are other examples of market incentives that one can cite. For instance, in 1989 the Congress imposed a tax on the production of chlorofluorocarbons or CFC's. These are substances that deplete the ozone layer. The tax is substantial. Current revenues to the Government from this tax exceed $1 billion per year. The tax has clearly discouraged the production and use of CFC's.

But the real effort on ozone depleting chemicals is not being carried by the tax. Rather, we have a worldwide treaty called the Montreal protocol that bans the production of CFC's and other ozone depleting chemicals by the year

2000. Considering the risk that these chemicals present to human health and to the global environment, I don't think that anyone would now suggest that we replace the Montreal protocol with a mere tax or fee designed to change behavior.

There are areas where fees or taxes can be used in ways that advance our environmental objectives. There are trading schemes that can appropriately be used to bring down the cost of a command and control system regulations. But there are fundamental limitations on these mechanisms that must also be kept in mind. Efficiency is only one objective to be reflected in our regulatory system. Equity and enforceability are also essential considerations in designing environmental policy.

The third subject that I would touch upon today is called regulatory negotiation. It is a process that is sometimes used by EPA to reduce the conflict that may be associated with the promulgation of a major rule. In a regulatory negotiation, EPA calls in representatives of all the groups that may have an interest in a specific rule and they meet over a period of time to see if their views can be reconciled into one consensus regulation.

There is great value in this negotiated process. It may shorten the time it takes to put a rule in place. It may also eliminate the litigation that often occurs after a major rule is promulgated. And during the negotiations EPA may acquire information from the negotiating parties that improves the quality of the rule and assures its effectiveness.

But the process can be abused. Recently, we have seen a new motivation behind these negotiations. EPA has been using negotiations to circumvent oversight by the White House. It has been widely reported that EPA regulators and White House officials have had serious disagreements about major environmental policies. In this atmosphere some at EPA have pushed regulatory negotiations as a way to limit White House review. If all the interest groups agree to a rule before it is sent to OMB, then OMB's role will be limited.

The interest groups also see an opportunity for circumvention in these negotiations. They sometimes see it as a way to rewrite the law—to get around the clear mandates that the Congress has established. The most important example of this abuse of regulatory negotiation is the reformulated gasoline rule that was negotiated by EPA in 1991. The proposed rule that resulted from those negotiations sets aside some clear provisions of the law including a cap on emissions of nitrogen oxides and a requirement that reformulated gas achieve a 15 percent reduction in VOC emissions.

There are some benefits to negotiated rulemaking. It can make the administrative process work better and it can produce better rules.

But if the motivation at EPA and among the interest groups is to use regulatory negotiation as a way to get around the law or rewrite the law or as a way to avoid oversight by the White House and those were significant factors motivating the regulatory negotiation on reformulated gasoline—then ultimately, regulatory negotiation will not serve the country well.

The law is more than a deal reached by the special interests in a hotel ballroom under the tutelage of EPA contractors. The pledge not to sue—which is the ticket that gets a special interest into the reg neg process—is not a test of lawfulness. Even if all the interests promise to stay out of the courts, EPA still has a duty to the Congress and to the public to determine whether a rule is in compliance with the law.

As I said earlier, Mr. President, I have raised each of these issues with Ms. Browner. Based on her responses at the hearing and in our private discussion, I am satisfied with her understanding of the limitations of risk assessment, market incentives and regulatory negotiation. Each is a tool that can be used to improve environmental regulation. But our enthusiasm for new methods must not blind us to the fundamentals of policy and process in a democratic government.

STATEMENT ON THE NOMINATION OF RICHARD W. RILEY

Mr. DURENBERGER. Mr. President, I am pleased to rise to support the nomination of Richard W. Riley as Secretary of Education. I intend to vote to confirm the nominee and look forward to working closely with him in the months and years to come.

Mr. President, Members of the body on both sides of the aisle know of my strong personal interest in education and my commitment to work on a bipartisan basis on a wide variety of initiatives designed to encourage and support what I like to call real education reform.

Both the incoming and outgoing Presidents have correctly identified a better educated work force as an essential element in a long-term economic strategy that will keep this Nation competitive as we enter the 21st century.

President Clinton has included reforming and improving education as one of the top priorities for his new administration. I believe he has chosen an excellent Secretary of Education to help him turn those objectives into reality.

Governor Riley brings to this challenge many of the same assets that defined his predecessor—another southern Governor with recent experience in higher education—who had previously launched a major education reform initiative designed to improve quality and outcomes in his State's elementary and secondary schools.

Both Lamar Alexander and Dick Riley also became national leaders in education reform through their work in the National Governor's Association. And, both these former Governors have shared common objectives in education—and a long and positive personal relationship—with a third southern Governor who is now President of the United States.

Mr. President, this Nation was very well-served by the last Secretary of Education this body confirmed. And I cannot let this opportunity pass without saying how much I will miss Lamar Alexander, and the vision and energy and commitment he brought to his job.

But, the American people have elected a new President, and that new President has selected a new Secretary of Education whom I also believe is an excellent choice to continue the quest for excellence in education that was begun in the preceding administration.

Governor Riley and I have already had an opportunity to establish a number of points of common interest and common concern in a brief meeting in my office and during his confirmation hearing before the Senate Labor and Human Resources Committee.

Given the kind of strong support he will need from the new President, I believe he will succeed.

I believe he will use—and, I believe he will need—the ideas and support that I and my colleagues on this side of the aisle have a duty and an obligation to help provide.

I make that observation, Mr. President, because of my strong belief that any real reform in education must be bipartisan.

Last year, for example, I joined with Senator LIEBERMAN, Senator KENNEDY, and others in a bipartisan initiative to allow Federal education improvement funds to be used to support public school choice programs, and to help start innovative new public schools—including charter schools.

And, last year, I joined the Senators SIMON, BRADLEY, KENNEDY, and others in a bipartisan initiative to design new and better ways of paying for college.

These three ideas for change—public school choice, charter schools, and new and better ways of paying for college—are all part of the Clinton education reform agenda.

In fact, one of the items I'd like to enter into the record of this confirmation, Mr. President, is the chapter on needed changes in education from the Progressive Policy Institute's new book, "Mandate for Change."

One of the three core recommendations from that chapter urges the new President to, and I quote:

Promote charter schools and other State efforts to harness choice and competition to improve our public schools.

President Clinton—

The recommendation continues:

should put the resources of his Education Department behind State efforts to design

and enact public school choice laws. He should further encourage the States by proposing that they be allowed to use a significant portion of Federal education aid to set up innovative public schools. Presidential leadership also is essential for setting broad, national standards of performance for all public schools, including charter schools.

Also included earlier in this same chapter, Mr. President, is a specific recommendation that the new President support the legislation that Senator LIEBERMAN and I introduced last year to allow States to use Federal education improvement grants to help set up new charter public schools.

Mr. President, I would ask that relevant portions of the education chapter of "Mandate for Change" be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

FOUR PRIORITIES FOR THE CONGRESS AND NEW PRESIDENT

Mr. DURENBURGER. During the course of his confirmation hearing, Mr. President, I identified for Governor Riley four personal priorities I have for the Senate's work on education during the course of the coming year. I believe these are all priorities that are shared by the new administration and by many members of this body—on both sides of the aisle.

Briefly, Mr. President, those priorities are:

First, the recommendation I just read from "Mandate for Change"—to authorize Federal funding of State-level public school choice initiatives and start-up funding for innovative new public schools—including charter schools.

The logical vehicle for this proposal is legislation reauthorizing the Elementary and Secondary Education Act which the Labor Committee will draft this year. In addition, Senator LIEBERMAN and I intend to reintroduce our legislation authorizing a new Federal grant program to fund start-up expenses for new charter schools.

A second priority is to authorize expanded Federal support for colocation of health and other services in and around schools.

In addition to legislation considered by the Labor Committee, I intend to author legislation in the Finance Committee to expand support for school-based health services using the Maternal and Child Health Block Grant Program.

And, I'm also exploring ways of inceasing Medicaid reimbursement for otherwise eligible primary care services that are delivered in school-based settings.

A third priority for this coming year, Mr. President, is to use elements of the Simon-Durenburger IDEA proposal to help shape the income-contingent direct loan components of a Clinton national service initiative.

I am also helpful that the new administration will draw on the IDEA proposal as it implements the direct loan demonstration we included in last year's reauthorization. I have written a letter to the new President detailing my thoughts on how some elements of IDEA could be incorporated into the President's national service proposal which I would ask to be printed in the RECORD at the conclusion of my remarks.

A fourth priority, Mr. President, is that we ensure that legislation implementing a Clinton national service proposal is considered in the context of broader education reform.

Service in the community can be a powerful force in improving teaching and learning—as well as an alternative way to help pay for college.

That's why I believe that expanded service learning opportunities should be included in this year's reauthorization of the Elementary and Secondary Education Act, as well as legislation reauthorizing the Commission on National and Community Service.

All four of these goals are consistent with campaign themes and priorities we have heard from the new President. But, they are not Democratic ideas or Republican ideas. They are good ideas that deserve bipartisan support in the Congress and from both consumers and providers of education all across America.

I am confident that these good ideas are also high priorities for Governor Riley. Beyond his excellent qualifications, that's one of the reasons I strongly support his nomination. I urge my colleagues to vote to confirm him, as well.

EXHIBIT 1

STATEMENT BY U.S. SENATOR DAVE DURENBERGER AT A HEARING CONDUCTED BY THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE—DECEMBER 14, 1992, MINNEAPOLIS, MN

Let me begin by joining Senator Wellstone in welcoming the Commission—and the rest of our out-of-town guests and witnesses—to Minnesota.

We're all proud that you chose North High School for one of only two national hearings you're conducting outside of Washington. You've made a wise choice. And, I know you'll be impressed with what you hear from the witnesses . . . and from the "open mike" period later on.

I've stated many times before that most of what I've learned about this subject has come from a lot of the people in this room.

That's why I asked that Paul and I be on this side of the table this morning . . . doing more listening than talking . . . and having a chance to engage in at least some of the dialogue the Commission will be having with the students and other witnesses who are here to testify.

I've said many times before that, I came to this issue several years ago with a much narrower vision of what we've traditionally called "volunteerism".

My vision was limited by my own experience as a community volunteer . . . as president of the South St. Paul Jaycees . . . as president of the Burroughs Elementary School PTA . . . as an active participant in the Citizens League and a lot of other community projects and community organizations.

It was also defined as "volunteerism" by my years as a director of VOLUNTEER, the National Center for Voluntary Action, and by my work in the 1970's on the National Study Commission on Volunteering in America.

I did my "volunteering" out of a strong sense of "civic duty." And, I still believe that promoting what President Bush calls a "Thousand Points of Light" is an important part of what the Commission on National and Community Service is all about.

But, from people like Jim Kielsmeier and a lot of teachers and students in Minnesota, I've also learned that integrating community service into the school curriculum can be an essential element in "education reform."

And, I've learned service corps and other forms of stipended service can be an effective "education alternative" for students who aren't well-suited for more traditional schooling that's totally based on textbooks used in the classroom.

This growing awareness of these broader values of community service is one reason I became the lead Republican co-sponsor of the Commission's authorizing legislation when it first passed the Congress two years ago this fall.

Because both Paul and I serve on the committee that will draft the bill, I'm also looking forward to playing an active and positive role in the Commission's reauthorization this coming year.

And, I'm especially pleased that President-elect Clinton has placed a high priority on both changing the way we pay for college—and on creating new opportunities for youth and community service—in his campaign, and in the priorities he's now setting for the next session of Congress.

Some of what Governor Clinton is proposing sounds a lot like legislation that Senator Paul Simon and I introduced last year to create a new student loan program.

Our proposal—called IDEA—creates a new type of student loan that's available to everyone regardless of income. And, the payments on IDEA loans go up or down every year because they're based on the borrower's post-college income.

We got a pilot project to test IDEA loans included in the Higher Education Amendments that Congress passed earlier this year.

And, both Senator Simon and I would like to see an expansion of this "better way of paying for college" become part of what the Clinton Administration proposes to the Congress.

Perhaps like a lot of you, I have mixed feelings about the other half of the Clinton proposal—to make completing some period of community service a way to help pay the cost of going to college.

In fact, I've written a letter to the President-elect that identifies at least some of the issues raised by both parts of his proposal that I would ask be made a part of the record of this hearing (letter attached).

I'm looking forward to our discussion of these issues this morning and at future hearings in Washington—

Discussion about the wisdom of further complicating our already complex student aid system—

About the value of a centralized national service system or a decentralized national service program that builds on new or existing programs at the state or local level—

About whether participation in some type of service should be a requirement for high school graduation or be a condition of getting college student aid

About the fairness of a service option or mandate to low income and non-traditional students—students who have jobs and families and less time or financial flexibility to do some period of service in exchange for helping to pay the rising cost of going to college.

These are complex issues that deserve the kind of debate we're starting here this morning.

In beginning that debate, it helps me to ask two parallel questions—

"Is community service a different and better way to teach and learn?"

"Or, is community service a different and better way to pay for college?"

Nothing could really be that simple, of course. And, it's also probably not an "either/or" question.

But, much of what we hear today—and much of what we hear in the debate to come in Washington—will revolve around those two questions about "what" we're doing and "why."

I think I've already stated my personal bias that service learning can be a powerful force to both tap the enormous energies and contributions of young people and to improve the outcomes of teaching and learning in this country.

I also believe we'd be better off building on existing initiatives in states like Minnesota, rather than creating a huge new national program that's run entirely from Washington.

Today's hearing—and future hearings—will help explore these issues further. So, I'm looking forward to listening and learning everything I can.

Thank you all for coming.

DECEMBER 14, 1992.

Hon. BILL CLINTON,
Office of the Governor, Little Rock, AR.

DEAR MR. PRESIDENT-ELECT: During the course of this year's campaign, I was pleased to hear your repeated calls for fundamental changes in the way we pay for college. And, you have made it clear in your initial statements since the election that you intend to place a high priority on bringing specific proposals to the Congress to implement those changes early in your new administration.

As a member of the Senate Labor and Human Resources Committee—and one who shares your interest in fundamental change—I want to commend you for your leadership and make this offer to play a constructive role in turning good ideas into sound legislative policy.

As you know, the concepts of direct lending, income-contingent loan repayment, and stipended national service were all given extensive debate in Congress over the past three years.

In 1990, we authorized the National and Community Services Act, which sets up the framework for a more coordinated federal role in promoting a variety of youth and community service initiatives around the country. I was pleased to be the principal Republican co-sponsor of that legislation which comes up for reauthorization in the coming session of Congress.

And, earlier this year, the Congress included a new direct loan demonstration in legislation reauthorizing the Higher Education Act. That demonstration was based in part on a proposal that Senator Paul Simon and I introduced creating a new program called "IDEA" (for Income Dependent Education Assistance). IDEA is a direct loan program, available to all borrowers regardless of income, with income-contingent repayment made through the IRS.

According to the Congressional Budget Office, the Simon-Durenberger IDEA proposal could have saved $2.7 billion dollars a year through increased efficiencies, better targeted subsidies, and substantially fewer defaults.

Senator Simon and I proposed transferring most of that savings to the Pell program. Again using CBO estimates, the savings from IDEA would have paid for a $600 increase in every eligible student's Pell Grant.

The Simon-Durenberger proposal would also have financed a new program offering $1000 bonus scholarships to up to 500,000 Pell-eligible students based on academic merit. And, it would have paid for a new $100 million grant program to states to finance early intervention programs—to better prepare at-risk high school students for college.

Principles for changes in higher education financing

It's my understanding that your advisors are now working on details for a higher education financing proposal to be transmitted to the Congress early next year. As that process goes forward, I'd like to suggest three principles for change that I believe merit your consideration, and the consideration of my colleagues in the Congress.

Principle I—Fundamental Change

The first of those principles is that we must accept your premise that *fundamental change is needed if we're to guarantee access to college for present and future generations.*

We do have to make our current programs work better and more efficiently. Savings from fewer defaults and less overhead should be shifted into grants. And, we must work toward funding the larger Pell grants that Congress authorized this year.

But, there is also a clear message in this year's election that we must bring down the deficit. And, there's a clear message that the American people want fundamental change.

So, even if we are able to increase grants, we still won't assure access to higher education for every American.

And, without new and better ways of paying for college, a larger and larger share of the population will simply be priced out of an opportunity they can't afford to go without.

Principle II—Fairness and Individual Responsibility

A second principle for reform must be to *support your emphasis on fairness and individual responsibility.*

Both those goals were what attracted me to the IDEA proposal in the first place.

IDEA recognizes the direct correlation between education and income. Generally speaking, the more education you get, the more income you will earn over a lifetime of work.

But, IDEA also acknowledges that many of today's college graduates earn less, relative to the cost of their education, than did their predecessors. That's especially true for graduates who take jobs in fields like teaching, social work, and nursing.

And, IDEA recognizes that college graduates stepping into today's uncertain economy often face periods of unemployment or underemployment—either prior to settling into a permanent job in their field—or even *between* jobs in what might be an up and down career.

But, even with these ups and down, a college education is still a lifetime investment that pays off.

That's why IDEA supports the notion that individuals need to take responsibility for paying for something that contributes so much to their future.

At the same time, that responsibility needs to be assigned and accepted within the realities of today's economy . . . drawing on the fairness and flexibility that an income-contingent loan program like IDEA can allow.

This notion of individual responsibility is also at the root of your proposal to give college graduates the opportunity to work off tuition or student loans through some period of national or community service.

There are a lot of policy and operational issues that will need to be addressed in creating that kind of program. Some of those issues are identified below.

But, there's also a lot of appeal to offering students the opportunity to earn some part of the cost of going to college by tapping their own time and talents in ways that benefit the larger community.

Principle III—Do Reform Carefully and Do It Right

Finally, a third principle I would offer is that, *while we're doing big change, we must do it carefully, and we must do it right.*

I've learned over the past several years that there are about as many ways to do income-contingent loan repayment as there are smart people and computers. And, I've also learned that how we design who pays back how much can have a big impact on whether a loan program like IDEA will actually work.

There are thousands of differences in the fine print, but, the proposals I looked at prior to introducing IDEA had at least three big differences.

First, the proposals differ on where they get their initial source of capital.

Some of the proposals draw on surpluses in the Social Security Trust Fund. But, I personally concluded it wasn't wise to take on all the special interests who oppose direct lending *and* all those who are counting on Social Security.

I also couldn't buy into Bill Bradley's proposal to use a 10 percent surcharge on millionaires to launch a new student loan program. Last year at least, such a suggestion always triggered partisan gridlock.

So, Senator Simon and I relied on the upfront sale of government bonds to help launch IDEA. The bonds would be put in a revolving fund and paid back by loan payments . . . then loaned out again and again over time.

A second big difference in the various income-contingent loan plans is who does the collection.

I concluded it makes sense to do loan collection through the IRS because of its efficiency and because it is well equipped to make annual calculations of loan payments that are based on income.

But, I also learned that the IRS will need to become a whole lot more comfortable about taking on that new responsibility. And, beyond administrative concerns, some of my colleagues on the Finance and Ways and Means Committees also argued that getting the IRS involved in student loan collection would increase the current rate of tax fraud and tax avoidance—driving up the deficit.

My initial reaction to that concern was pretty simple. It's against the law to cheat on your taxes. And, if more people do it—in this case to avoid repaying their student

loans—we need to make sure they get caught!

The reality, of course, is that without real experience with IRS collection of student loans, it's hard to know what impact something like IDEA might actually have on the ability of the IRS to perform its traditional job and on the level of tax fraud and tax avoidance. That's one big reason we agreed to test the IDEA concept with a demonstration program run at a limited number of schools.

Finally, a third big difference in these proposals—and probably the most important—is exactly how the size of loan payments gets tied to income.

There's a lot of fine print in these different proposals, but the issue really comes down to two inter-related questions:

First, should the student loan program also become an income transfer program, with higher income college graduates subsidizing student borrowers who end up earning less?

And, second, if some students think they might have higher than average incomes, will they then decide not to participate, and—in the process—deny revenues to the program that are needed to help subsidize others?

In the health insurance business, of course, that's known as "the problem of adverse selection." Too many sick people—or too few healthy people—make a health insurance plan actuarially unsound.

The best advice I got was to design a plan under which nobody pays back more than they borrow, plus interest. IDEA does anticipate some losses from people who die or never generate enough income—even over 25 years—to pay back their loan.

But, the plan is set up to cover those losses out of the difference between what the government pays in interest on the bonds it sells and the interest the government charges to the student borrowers who end up taking out loans.

And, borrowers who end up with high incomes—and who don't need the full term of the loan—can pay off their loan early without having to pay a pre-payment penalty.

Same complexities need addressing on national service proposal

There are a lot of the same kinds of complexities on the other side of your higher education agenda—using national service as a way of paying tuition or working off student loans.

And, I personally believe there's a lot to be learned from people in Minnesota and other states about how to deal with those complexities. Some of the issues include:

How to make sure that non-profit agencies and state and local governments decide what community problems could benefit the most from an infusion of young volunteers.

How to make sure that a volunteer experience is also a learning experience—by linking community service to schools or colleges or some other source of more formal education.

How to make sure that volunteers don't displace people who are already employed.

In designing a new program for national service, you and your advisors will also have to decide how to build off a number of existing initiatives like:

Programs all around the country that are just getting started with grants from the new Commission on National Service.

All the existing programs that use loan forgiveness to encourage young people to take jobs in fields like teaching and medicine.

The service corps programs now being run by dozens of states and local governments all over the country.

The incentives now in place that encourage young people to serve in programs like the Peace Corps or the military.

As you stated in your first post-election news conference, integrating a national service option with our already complex system of student financial aid is also no simple task.

Deciding how large a stipend to offer, for example, and, deciding whether family income or the cost of instruction should make any difference in the size of the award will have a major impact on cost and on the level of interest the program will generate among students who qualify for other types of grants or scholarships.

There will also be the need to respond to some very serious questions about equity in using national service to finance higher education.

As you know, some supporters of stipended service would make a period of service a requirement for getting student aid.

But, that kind of mandate would immediately divide students into two classes—those who had to do service and those who could afford not to.

A service mandate—or even making national service a more attractive way of financing college—could also be less feasible for non-traditional students who are older, or who are working full or part-time . . . students who have family and other responsibilities and who can't take time off to do one or two years of service to their country or their community.

Finally, I, and others who strongly support non-stipended service learning initiatives at the K-12 and post-secondary levels, will need to be assured that a major new stipended national service program won't draw needed attention and resources away from those (largely local) initiatives.

Four quick suggestions for getting started

By raising all these issues and concerns, I'm certainly not intending to throw sand in the gears of your proposal to change the way we pay for college.

I support the general ideas for change that you have put forward. And, I welcome the leadership you seem prepared to offer those ideas as you and your advisors give them more depth.

Within that constructive spirit, I have four quick suggestions on initial steps to implement your ideas that could be taken early in the next session of Congress.

First, I would ask the Congress to accelerate and expand the direct loan demonstration we passed this year.

I would move up the starting date by twelve months—to the 1993-94 school year. And, I would increase the number of schools involved—especially the number of schools that offer income-contingent loan repayment.

Second, for all the reasons I've stated previously, I believe it would be wise to use the major features in the Simon-Durenberger IDEA proposal in those schools in the demonstration that offer income-contingent loan repayment.

All that would take is a directive to the Secretary of Education, who has the authority to decide how the size of the payments gets determined and who does the collection.

Third, I believe the best place to expand the role of community service in paying for college is to expand on the National and Community Service Act as it comes up for reauthorization next year.

There are sound models for testing a variety of stipended service options already being funded. We just need to evaluate those models carefully, and, where they work, make sure they get expanded and replicated elsewhere around the country.

And, finally, I believe you would be wise to keep national service as an option, not a mandate, and to use existing federal legislation to expand the links between community service and education that are being established in states like Minnesota.

The National and Community Service Act envisions a highly decentralized system of promoting and supporting service opportunities ranging from service learning projects in the K-12 and post-secondary education systems to full and part-time stipended service. I believe that current policy direction should not be replaced by a single national program run from Washington.

It's also important to note that both the Higher Education Act and Elementary and Secondary Education Act include opportunities to expand the link between community service and education. Several such provisions were expanded this year in the Higher Education Amendments of 1992. And, it may be that next year's reauthorization of the Elementary and Secondary Education Act represents another forum for firming up this link.

To summarize, I strongly agree with you that we need a new and better way of paying for college. And, I agree with your emphasis on individual responsibility and fiscal reality. But, I also believe we must do big change carefully, so we get the job done right.

I look forward to working closely with you, your advisors, and my colleagues in the Congress to implement the good ideas you have put forward in ways that work to the benefit of all Americans.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

STATEMENT ON THE NOMINATION OF MIKE ESPY

Mr. LUGAR. Mr. President, I rise today in support of the nomination of MIKE ESPY to serve as Secretary of Agriculture.

I have visited with Mr. ESPY both personally and as a member of the Agriculture Committee reviewing his credentials and qualifications to serve as Secretary, and have explored in some detail his views on rural development, nutrition and reform of the U.S. Department of Agriculture. Mr. ESPY has good credentials in these areas and is in a position to well serve rural America. Further, with regard to an area important to me—the restructuring and revitalization of USDA—I believe that Mr. ESPY will not be content to sit atop the heap at the U.S. Department of Agriculture and dabble in a handful of pet projects while the 42 nearly autonomous agencies beneath him continue on disparate courses, apparently oblivious to the Secretary and the larger mission of the Department.

The restructuring of USDA is a very important issue for U.S. agriculture and taxpayers in general and is one that I hope will become a priority for the new Secretary. Mr. ESPY seems to be interested. In his nomination hearing before the committee, he indicated that it will indeed be one of his priorities.

As many of you know, when I first started this streamlining effort, the Department could not even tell me how many regional, State and local USDA offices there were in the country or precisely where they were, quite apart from how many people were served or the dollar sums involved. Over the course of 1992 the beginnings of a near revolution in management at the Department of Agriculture—a revolution that has resulted the beginning of a top to bottom review of the mission and mechanisms of USDA. With that beginning, I hope that when the next Secretary's tenure at the Department ends, the USDA should have fewer offices, fewer employees, and should offer better service to farmers and consumers at much less expense to all taxpayers.

I hope that upon confirmation, Mr. ESPY, will actively involve himself in the business of managing the diverse facets of USDA. It will not be an easy task, nor one without controversy. Strong pressures will be brought to bear in attempts to deter or delay the departmental streamlining we all know must occur if U.S. agriculture is to remain strong.

Many other important issues will confront the new Secretary. During his confirmation hearing Mr. ESPY indicated a concern about the level of the Federal deficit and acknowledged the handicap that such a deficit placed on the effectiveness of government. Unfortunately it is that deficit that will produce one of the first problems for the new Secretary. The bumper crop of the last growing season has translated into new cost projections for USDA commodity programs, increasing 1993 projected costs to $17.1 billion from the $9.7 billion of last year.

In addition, the Secretary will have enormous responsibilities as manager of U.S. commodity and export programs. Sales to the former Soviet Union, concerns about the United States marketing order system, multilateral trading treaties are issues that are reaching critical stages.

Mr. President, in terms of the health of U.S. agriculture, there is simply no substitute for increasing exports of American farm goods. Even though some U.S. commodities do not fare as well as others under an export-oriented farm and trade policy, the fact is that 40 percent of our farm products are exported each year.

We have an occasional tendency to focus inordinately upon a few supposed problems associated with export-oriented farm policy, such as occasional price instability. But the alternative to exporting more is the acceptance of fewer total jobs and a dramatic reduction in farm population. Every Member of this body wants to keep as many farmers as possible actively employed on the farm, but in order to do this, we must have growing export markets.

I make this point because as an incoming Secretary of Agriculture in a new administration, Mr. ESPY will come under pressure to depart from export-oriented farm policy. The 1985 and 1990 farm bills were truly a product of bipartisan cooperation, and have resulted in record net income for American farmers. I believe that Congress legislated the correct farm policy directives in those two bills, and I would urge that that direction be continued. I urge that the Secretary resist arguments to alter the current programming and instead focus on those areas where reform is truly in order. Policy changes that result in reduced exports such as higher loan rates, the abandonment of meaningful GATT discussions, or failure to ratify NAFTA would in my opinion be a grave error.

Wetlands and environmental policy will also be at the forefront of important issues for U.S. farmers. As is the case with all of the aforementioned, I hope that the new Secretary actively and forcefully carries the banner for sound farm policy. U.S. agriculture is an industry that is too important to compromise.

Mr. President, I look forward to working with Mr. ESPY. I hope that his tenure will be one of unprecedented reform of USDA and of continued prosperity for American agriculture.

STATEMENT ON THE NOMINATION OF MIKE ESPY

Mr. DURENBERGER. Mr. President, I rise today to congratulate MIKE ESPY on his confirmation as Secretary of Agriculture. My State of Minnesota is the seventh largest agriculture State and I look forward to working closely with him in the months and years ahead.

Secretary ESPY'S record on the Agriculture Committee in the House of Representatives reflects his dedication to the protection of our Nation's family farmers. Minnesota is a diverse agricultural State, and I know that MIKE ESPY has the knowledge and concern to represent them well. We are the No. 1 producer of sugar beets; No. 2 producer of turkeys; No. 3 producer of soybeans, spring wheat, sunflowers, green peas, hogs, and mink; and No. 4 producer of corn, oats, barley, hay, and dairy. Minnesota also has significant honey, beef, and chicken operations.

I look forward to working with Secretary ESPY to reform the Federal milk marketing order system and the Federal crop insurance program. I will shortly reintroduce my legislation, the Midwest Dairy Equity Act and the Federal Crop Insurance Fairness Act, to accomplish these goals.

I also look forward to working with Secretary ESPY as well as Ambassador Kantor to negotiate a side agreement that will strengthen the provisions related to sugar in the North American Free-Trade Agreement.

Mr. President, the next 4 years will be critical to the future of American agriculture. The 1995 Food, Agriculture, Conservation, and Trade Act will have to provide a visionary framework to carry American agriculture into the 21st century. I am confident that Secretary ESPY will provide the leadership during this important period.

STATEMENT ON THE NOMINATION OF MIKE ESPY

Mr. GRASSLEY. Mr. President, I rise in support of MIKE ESPY, Secretary-designate for the U.S. Department of Agriculture.

At first glance, the Mississippi Delta that Secretary-designate ESPY represents could not be more different from my home State of Iowa. Constituencies, program crops and even the weather, give our respective districts very different priorities, problems and outlooks when it comes to agriculture.

But on deeper examination, we indeed have much in common.

For both of our regions, the past decade was not kind. In Iowa alone, the number of farms dropped by 15,000 between 1980 and 1990. During that same time period, Iowa's farm population declined by 135,000. I know Mississippi experienced a similar exodus. Whether it be Yazoo County, MS, or my own home county of Butler in Iowa we find fathers and mothers unable to pass the family farm on to their children because the barriers to entry are simply too high. We find small towns with large elderly populations and dwindling tax bases struggling to provide the barest of municipal services. We find family farms—long the backbone of this country's food production—constantly facing new threats.

Reflecting on these strong commonalities that transcend our few differences, I take solace in this nomination. I take solace in this nomination after receiving assurances in person that he will fight on behalf of the American farmer. Indeed, on his watch, there will be many battles here and abroad. Overseas, he recognizes that in light of flat domestic demand for agricultural exports, we need to fight for new markets, and for freer and fairer existing markets. Toward that end, he knows that he will have to ensure that American farmers have a seat at the table in all trade negotiations; that trade barriers must be removed and illegal subsidies curtailed. He cannot, and will not—in my view—lose sight of the fact that agriculture is, and always was, the linchpin to a successful conclusion of the Uruguay Round. He recognizes the enormous potential markets in a North American Free-Trade Agreement. His forceful advocacy on behalf of the catfish farmers in the lower Mississippi River Delta demonstrates that he understands that value-added products create not only domestic demand of agricultural products, but also jobs in agriculture, processing and transportation.

But the battles at home are just as formidable as those abroad. From the

Office of Management and Budget, he will have to fight the mounting pressure to balance the budget on the backs of the farmers. With the Environmental Protection Agency, he will have to be a forceful advocate for the interests of the farmers. And with the Secretary of State, he will have to argue that the United States should play hardball with our trading partners who have also been our traditional allies.

Mr. President, these are not tasks to be taken lightly, and I have received every assurance from Secretary-designate ESPY that he will champion the cause of the farmer.

MIKE ESPY once described America as a great chain of States, and stressed that like any chain, it is only as strong as its weakest link. Sadly, despite being the production envy of the agricultural world, many of our country's weakest links are found in rural America.

I know he shares my concern for the future of the family farm and the conditions in our rural communities. And I know he recognizes that expanded markets—domestic and abroad—are the lifeblood of rural America.

I look forward to working with Mr. ESPY and urge my colleagues to pass favorably on his nomination.

STATEMENT ON THE NOMINATION OF FEDERICO PEÑA

Mr. MITCHELL. Mr. President, I rise today in support of the nomination of Federico Peña to be Secretary of the Department of Transportation. Having worked with Mr. Peña on a variety of issues during consideration of the Clean Air Act, I personally believe he will be an excellent Secretary and I urge my colleagues in the Senate to confirm him.

Mr. Peña brings experience, enthusiasm, and intelligence to this demanding position. As the former mayor of Denver, he has taken a leadership role and worked closely with State and Federal transportation authorities on numerous major projects. As a former Colorado State house minority leader, he understands that competing priorities need to be balanced and minority views taken into consideration as well as the desires of the majority. And as the recent leader of President Clinton's transition transportation policy team, he has had the opportunity to become familiar with the many varied transportation issues of national importance.

Mr. Peña is a strong supporter of the 1991 Intermodal Surface Transportation Act and has promised to make implementation of ISTEA one of his top priorities. He realizes that transportation policy involves not just modes of transportation, but a myriad of interconnected issues, including economics, environmental concerns, safety, quality of life, mobility, and technological innovation.

I believe Mr. Peña will be a superior Transportation Secretary, and I look forward to working with him on improving and modernizing our Nation's transportation infrastructure.

STATEMENT ON THE NOMINATION OF RONALD H. BROWN

Mr. MITCHELL. Mr. President, I would like to express my strong support for the confirmation of Ronald H. Brown to be Secretary of Commerce. I have known and worked closely with Ron for years, and I am not aware of a more qualified nominee to lead the Department of Commerce into the 21st century.

Our Nation's prosperity relies upon an integrated and coordinated economic strategy to bolster the competitiveness of U.S. businesses in the global marketplace. The Department of Commerce must serve a central role in both formulating and coordinating policies to revitalize our economy. It must play a leadership role in strengthening Federal support for civilian technology and manufacturing. The Nation's industrial competitiveness relies on investment in the development of modern technology and the dissemination of current technologies to America's 350,000 small and medium-sized firms.

Also, in the years leading to the year 2000, issues concerning the prudent management and conservation of the Earth's sealife will demand the careful attention of our Secretary of Commerce.

I have known Ron through his many years of public service and I am confident that he has the experience, the qualifications and the knowledge necessary to address these critical issues. Ron Brown brings unique and diverse experience to the job of Secretary of Commerce. His experience ranges from social worker and civil rights advocate to international trade. Ron has wide knowledge and experience in the workings of Congress which will foster a sense of partnership between the Department of Commerce and the Congress in the development of our country's business and trade.

Clearly, President Clinton has made a great choice for Secretary of Commerce. I look forward to working with Ron in the years to come.

STATEMENT ON THE CONFIRMATION OF RICHARD RILEY

Mr. LEAHY. Mr. President, I want to express my strong support for Gov. Richard Riley who was confirmed by the Senate earlier today as Secretary of Education. Governor Riley is a leader in education who will bring fresh ideas and proven effectiveness to the job of revitalizing our educational system.

As Governor of South Carolina, Richard Riley paid special attention to education issues. He fought for a series of reforms in his State's schools. His efforts led to an increase in high school graduates, higher overall SAT scores and greater numbers of students passing basic skills tests.

Secretary Riley brings these successes and many more to the demanding job of overseeing national education reform. I am particularly pleased that he will have a strong and most capable Deputy Secretary in Madeleine Kunin, Vermont's former Governor and my close friend.

Mr. President, I congratulate Governor Riley on his confirmation and look forward to working with him to improve our schools and build a stronger, more educated America.

STATEMENT ON THE CONFIRMATION OF DR. DONNA E. SHALALA

Mr. LEAHY. Mr. President, the mission President Clinton has laid out for the Department of Health and Human Services [HHS] is formidable. Meeting it will require vision, leadership, and innovative thinking. I support President Clinton's selection of Donna Shalala who was confirmed by the Senate earlier today as Secretary of HHS.

With experience as a teacher, an urban policy analyst, a leader of two higher education institutions, and a public servant at the Department of Housing and Urban Development, Secretary Shalala has an acute understanding of a number of health and human service issues.

Foremost in her activities will be working to reform our health care system. President Clinton plans to introduce his landmark health care reform bill later this year and HHS will be called on to provide its input and expertise in developing it. Dr. Shalala has expressed her commitment to this important goal, and I look forward to working with her on it. I am further encouraged that Dr. Shalala believes strongly in helping rural communities shape health care delivery systems that meet their special needs. This is something that I care deeply about, and I believe it must be an important part of the debate on health care reform.

I also look forward to working with Secretary Shalala on strengthening our AIDS programs, giving women's health care the attention it deserves, strengthening our commitment to the Head Start Program, and immunizing our children against preventable diseases.

From health care reform to welfare reform, HHS faces many ambitious undertakings in the years ahead. I congratulate Secretary Shalala on her confirmation and wish her well in this challenging new role.

STATEMENT ON THE NOMINATION OF JESSE BROWN

Mr. BAUCUS. Mr. President, I am pleased to support the confirmation of Jesse Brown as Secretary of Veterans Affairs.

I have spent some time with Mr. Brown recently and have been very im-

pressed with his concern for our Nation's veterans. Specifically, we discussed a situation veterans are facing in Miles City, MT. Mr. Brown promised to review this situation and to make this review one of his first priorities upon confirmation.

The situation in Miles City is grave. The VA recently announced plans to downgrade the Miles City VA Medical Center. This decision, however, directly contradicts the recommendations from a recent comprehensive review by a VA clinical team. The VA's own internal report specifically states that, "A serious threat to the region's veterans would result from downgrading this surgical service."

Although the VA's press release announcing this decision claims it was made for quality of care reasons, the VA's internal report found no problems with the quality of care at the Miles City VAMC. In fact, the report states that, "the potential clearly exists for developing a sorely needed, good quality, primary surgical mission at VAMC Miles City."

The Miles City VAMC is desperately needed since it is the only VA surgical facility serving eastern Montana, the western half of the Dakotas, and northern Wyoming. This medical center serves an area of 77,000 square miles and includes 45,000 veterans. The average Miles City veteran travels 330 miles one way to reach that facility. Requiring that they travel even further, and often at their own expense, is unworkable and unacceptable. Many of the veterans that would be required to make such a trip lack the physical capability to drive their own vehicles, and the remainder could not endure a trip of that magnitude.

Mr. President, eastern Montana's veterans have served their country with honor and dignity. I believe that Jesse Brown will see that veterans are treated with the respect they have earned. I fully support this confirmation.

STATEMENT ON THE NOMINATION OF CAROL M. BROWNER

Mr. CHAFEE. Mr. President, it is a pleasure to support the confirmation of Carol M. Browner as Administrator of the Environmental Protection Agency. Ms. Browner's experience as the Commissioner of Florida's Department of Environmental Regulation, her experience here in the Senate as an aide to Vice President GORE and Senator Lawton Chiles, and her lifelong dedication to the cause of environmental protection are a solid foundation for success in her new endeavor.

Last week the Environment and Public Works Committee held its hearing on this nomination. Members of the committee asked questions across a broad spectrum of environmental issues. We were especially pleased that Governor Chiles of Florida, formerly a Member of this body, came to that hearing to introduce and speak for Ms. Browner in the confirmation process. Everything that the committee has learned indicates that Ms. Browner will be a fine Administrator of EPA.

I am especially impressed with her experience in the area of wetlands protection. It is one of the most difficult issues now facing EPA. I am sure that her success in resolving disputes related to the Florida Everglades will provide a useful model for many of the wetlands and natural resource questions occurring in other parts of the Nation.

So, I congratulate President Clinton on his choice of Carol Browner to head EPA. As Ms. Browner enters this new job, we also say farewell to Bill Reilly who has been the EPA Administrator for the last 4 years. Bill Reilly has done an excellent job. We are proud of his efforts and grateful for his public service.

He shaped the clean air bill that President Bush sent to Congress. The allowance trading system for sulfur dioxide emissions in that bill was truly innovative and broke the long deadlock on acid rain here in the Congress. Mr. Reilly continued U.S. leadership in the world community on the issue of ozone depletion. He pushed the administration to play a full role in the Rio summit and moved the United States along the road to international environmental cooperation.

As we make this transition, I have heard some disparage the environmental accomplishments of the last 12 years. Well, I believe that it has been a period of real accomplishment. Since 1981 when President Reagan took office, we have enacted several major pieces of environmental legislation. The Clean Air Act, Superfund, the Solid Waste Disposal Act, and the Safe Drinking Water Act have all been reauthorized and strengthened. We passed a coastal barriers protection law and reauthorized it during this period. The Clean Water Act was extended on two occasions. We passed an oilspill bill and legislation to protect children from lead, asbestos, and radon. We revamped the highway law so that it is more friendly to the environment and open to other modes of transportation. The world joined in the Montreal protocol to protect the ozone layer and strengthened the protocol with the London accord.

This is a very substantial record that we as a nation can be proud of. We wish the new administration every success. But we surely also say, "Well done," to those who have contributed much over the past 12 years.

Finally, Mr. President I want to pay tribute to all the hard-working folks in the trenches at EPA who served Mr. Reilly and his predecessors and who will be there tomorrow and in the days ahead as Ms. Browner leads the Agency. The permanent staff of the Environmental Protection Agency is an extraordinarily dedicated and highly talented group of people. Carrying out the environmental laws enacted by the Congress is not an easy duty. Expectations are high, resources are small, time pressures are great, and public rewards are few. The ability and dedication of these public servants who serve the American people at EPA is the most important ingredient for a successful EPA.

Mr. President, we extend to Carol Browner our best wishes for success as she enters into her new duties as Administrator of the Environmental Protection Agency.

STATEMENT ON THE NOMINATION OF CONGRESSMAN LEON PANETTA

Mr. ROTH. Mr. President, I would like to congratulate Congressman LEON PANETTA on his designation by President Clinton to be the new Director of the Office of Management and Budget. As the chairman of the House Budget Committee during the 101st and 102d Congress, LEON PANETTA will bring to OMB a wealth of knowledge about the budget, and about the kinds of difficult choices we will have to make if we are to reduce, and then eliminate the deficit.

Congressman PANETTA has also shown a real interest in the organization and management of the executive branch. This is vital, because how the Government is structured and operates will determine whether it spends money efficiently and effectively. These issues comprise the types of fundamental reforms that have come to be known as reinventing government.

Unfortunately, while management is named first in OMB's title, it is often thought of last. This is because in the Federal Government, it is generally seen as largely unrelated to the budget. But well-run governments elsewhere more properly view management and budget as two sides of the same coin. Management's program performance goals are incorporated into the budget, showing what results each budgeted amount is to achieve.

Good management is fundamental to deficit reduction, because it will help us do more with less. Also, program performance goals will help us better shape our budget debates. When we ask how much we should spend on a program, we should also ask what that money will achieve.

This is why I introduced S. 20—the Government Performance and Results Act—2 years ago. It would require agencies to specify goals and report results. When enacted and fully implemented, it will enable us to develop a performance-based budget. This legislation passed the Senate in October, and I will be reintroducing it today.

From what I know of Congressman PANETTA's interest in improving management—and of President Clinton's interest in reinventing government—I

believe the new administration might find this proposal very appealing. During his confirmation hearing, Congressman PANETTA stated his support for establishing program goals and the reporting of actual results: "You have got to have a system of being able to determine whether or not an agency is doing the job." I look forward to working with him and the new administration to enact program performance goals and budgeting based on actual results.

With respect to government reorganization, I note that both Congressman PANETTA and I introduced legislation creating commissions to accomplish this. During his confirmation hearing, I was pleased to hear him reaffirm his conviction that Federal agencies should be streamlined, downsized, and refocused, and that this needs to be done wholesale, and not just with a little tinkering here and there. And if I read the tea leaves right, President Clinton may be of like mind. He has a history of preferring the commission approach to achieving a consensus in addressing these kinds of issues.

I hope the new administration will consider a commission with a broad scope, to cover not only structural reforms, but also operational issues like civil service reform and greater managerial flexibility. My own commission bill, which I will be reintroducing today as S. 15, provides for a broad mandate. These issues are central to reinventing government, and maximizing performance for the tax dollar.

As the future Director of OMB, Congressman PANETTA understands OMB's central role in making the executive branch work rationally, effectively, and efficiently through its review of regulations. OMB is the hub of the wheel of government. It alone can undertake the ongoing function of unifying various government directives into a coherent whole. It alone can insure that the President's team is executing his policies. It alone can insure that well-intended regulations in one area do not have unintended consequences in another. In a Government as large as ours, this function is indispensable. The problem is that it is not authorized by law. Special interests, who believe that they can control their relevant agency, do not want it authorized.

Ultimately, my concern in this area is that Government regulations will continue to strangle the creation of new small businesses, the true engine of job growth in our economy. If the new administration is going to succeed in their top priority to create new jobs, they must understand the difficulty new businesses face in setting up shop. In response to a question from Senator COHEN regarding the burdens placed on business by the lack of a responsible timeframe in formulating Government regulations, the Director-designate responded:

> I just want to assure you that the President-elect has this at the top of his agenda, because from the State level, he has experienced the kind of regulations and requirements that the Federal Government has handed down, and he has said that there has to be a better way to expedite these things.

Yet, it requires more than expediting regulations. It requires that the social or environmental goals we have enacted are properly balanced against the economic progress we must seek to achieve in order to remain competitive. I hope the new administration understands this and I am interested in working with the new OMB Director to achieve this goal through statute.

Turning to the budget, during the campaign, the American people were presented with putting people first, President Clinton's plan for the economy and budget. As we consider our economic future, we must examine whether the current recovery can afford $150 billion in new taxes as the President has proposed. Can our Nation afford $220 billion in new spending at a time when we have these tremendous deficits as far as the eye can see? From looking at the numbers, it seems this is simple more tax and spend.

Today, on his first full day in office, President Clinton faces his first true test on deficit reduction. The 1990 budget agreement provides that on January 21, 1993, the President shall decide whether to adjust the maximum deficit amounts allowable under the law. This may appear to be a technical matter, but it sends a very important message. The decision on whether to adjust the maximum deficit amounts for 1994 and 1995 provides President Clinton with his first opportunity to demonstrate his commitment to deficit reduction. He will have to decide: between higher targets and lower targets, that is, between higher deficits and lower deficits. Today, the American people and the financial markets will see how serious this new administration will be about the deficit.

The new President's second test on deficit reduction will come soon: whether to combine his short-term economic package with a long-term deficit reduction package. At the 2-day economic summit in Little Rock, Congressman PANETTA stated something that all of us in this Chamber know to be true:

> If you do a stimulus package, let me assure you, Congress loves to pass the sugar, but hates to deal with the vinegar, which is the deficit part of it. So it does have to be locked into a single package if you're going to be able to get it through.

In response to a question during his confirmation hearing, he reaffirmed this belief:

> You have got to have both working in conjunction. Obviously you may want to move some of the investments up front, but you have to show the American public that it is tied to a long term, credible deficit reduction plan. Because if you simply throw money out there, I think it could do incredible harm in terms of the markets and people's trust in our ability to again get the deficit down. So the two have to be tied together.

I hope President Clinton will take this advice. Without a long-term deficit reduction package, the financial markets will respond to a short-term economic package with an increase in long-term interest rates. This will make it more expensive for businesses to invest in long-term projects, as well as swell the Government's cost of borrowing money long term—directly adverse to our mutual goal of reducing the deficit.

During the past 2 weeks, there has been much discussion, including major stories in the Washington Post and the New York Times, as to whether President Clinton will abide by his pledge that his budget plan will reduce the Federal deficit in half.

Some have suggested that the budget numbers released by the OMB 2 weeks ago present a budget situation unforeseen. But one only has to look at the CBO baseline numbers presented last August, during the height of the campaign, to realize that the latest OMB projections are really no surprise. Congressman PANETTA acknowledged that he was aware of the CBO deficit projections last August, and that those numbers, taken alone, are not a reason to do away with the pledge to meet the deficit reduction proposed.

What exactly is the President's pledge? That his plan would reduce the deficit in half in 4 years. In 1992, the budget deficit reached a record high $290 billion. To reduce the deficit in half, the budget deficit in 1996 would have to be less than $145 billion. During his confirmation hearing, Congressman PANETTA went even further, telling the committee that "we need to grind this deficit down, and we need to try to get it below 1 percent of GDP." This would result in a deficit of less than $60 billion, and if that is the administration's new goal, it is definitely worth striving toward.

During his confirmation hearing, Congressman PANETTA expressed his strong preference for deficit reduction goals rather than fixed deficit targets. While there may not appear to be any difference between the two, there is, in fact, a subtle, yet critical difference between them.

A deficit reduction goal commits one to a series of changes designed to achieve a specific amount of deficit reduction, such as the 1990 budget agreement which purported to save $500 billion. A fixed deficit target, on the other hand, commits one to a specific deficit amount at the end of a year, such as zero by a 1997.

The difference is fundamental in terms of the approach one takes toward deficit reduction. Even with a deficit reduction goal, the actual deficit

can continue to rise. In fact, that is what has happened during the past 2 years. Even with the 1990 budget agreement and its $500 billion deficit reduction, the 1991 and 1992 budget deficits reached all time records. And that is because spending cuts do not reflect actual reductions in spending, but simply reductions in projected spending levels in the future.

Only in Washington does a budget cut result in an increase in spending. With our family budgets, if we reduce spending for a certain expense, we mean an actual reduction. But within the Federal budget, so-called budget cuts occur from an inflated baseline. Before spending cuts occur, current year spending is adjusted upward based on inflation projections. From these inflated numbers flow any cuts that are agreed upon by the Congress and the President. Thus, a program funded at $100 million in 1992 could be funded at $101 million the following year, yet under the budget rules by which we play, receive a 2-percent cut. Thus, spending continues to rise despite the cuts which are made.

Congressman PANETTA made a commitment to practice truth in budgeting. I urge him to have the resolve to meet this commitment. I am concerned that the baseline budget will be inflated during the next round of budget forecasts. Not only will this offer another excuse for moving away for the President's promise because the projected deficit will appear even larger, but inflating the baseline will make it easier for the new administration to claim that their deficit reduction goal of $145 billion has been met.

There is a tremendous amount of difference between reducing projected deficits by $145 billion in 1996, and getting the deficit down to $145 billion in that year. According to the Director-designate, everything is on the table: this includes defense spending, domestic discretionary spending, international aid, entitlements, and new taxes. I am concerned that the new administration is going to feel much more comfortable raising taxes relative to reducing spending. I am concerned that we will end up with a package of phantom cuts and real tax increases.

Throughout his confirmation hearing, Congressman PANETTA reiterated his belief that increased taxes had to be part of the solution. At one point, he stated:

> You have to look at revenues * * * you cannot fashion a package, a credible package on deficit reduction, and take revenues off the table. You just can't.

Yet, that was the theory of the 1990 budget agreement—that there would be a certain amount of revenue raising and a certain amount of budget cutting. But what did it do? It simply helped worsen the recession, which of course had a very negative impact on the deficit.

During the confirmation hearing, Congressman PANETTA and I discussed legislation he introduced last year which included an automatic tax increase in the event Congress failed to enact new taxes to meet the goals that it had previously established. I must say, Mr. President, this concerns me greatly. Surely we must focus first on the bloated Federal budget before seeking to raise $150 billion in new taxes. Federal revenues have more than doubled since 1980. The problem is, Federal spending has grown even faster. We do not need automatic tax increases. What we need is a serious effort to hold down levels of spending.

Which brings me to my last area of concern. Throughout the campaign, President Clinton stressed time and again that one can not achieve real deficit reduction without getting a handle on health care expenses. This was reiterated by Congressman PANETTA. At the same time, President Clinton has promised to improve access to affordable health care to the tens of million of Americans currently without health insurance. How does the administration plan to trim health care expenses to reduce the deficit, yet increase access for 35 million more Americans? Congressman PANETTA responded that this would be one of the new administration's greatest challenges. Indeed, it will be. He stated that at the very least, any health care reform should be deficit neutral. If that is that case, then other entitlement programs are going to have to take major cuts to meet the President's deficit reduction goals.

Four years from now, what will matter will be President Clinton's promises and the results that have been achieved. LEON PANETTA understands the tough choices that face the new administration. I would like to end with a quote from him from the confirmation hearing:

> Are there constituencies out there that will take it out on us? You bet there are. Are there people who will say you don't have to do this kind of pain? You bet there are. But in the end, if we do the job, and we take the steps, and we put this country on the right track, then I think all of us, at least from an historical point of view, will be regarded as having been good public servants. That is, I think, the challenge that confronts us.

I am confident that Congressman PANETTA is fully aware of the tough choices ahead. I am not so confident that any single adviser, no matter how wise, can control the appetites whetted for greater spending by the last election. But I hope he can.

STATEMENT ON THE NOMINATION OF ROGER ALTMAN

Mr. BAUCUS. Mr. President, I am very pleased to vote in favor of the confirmation of Roger Altman as Deputy Treasury Secretary of the United States. Mr. Altman's prior experience at the Treasury, as well as his long and distinguished career as an investment banker, testify to his readiness for the responsibilities that await him.

Those responsibilities will be heavy. The economic revitalization of this country has finally made it to the very top of our Government's agenda. We have seen a lot of speeches and reports on competitiveness, economic decline, the budget and trade deficits, and the like. Secretary Bentsen and Mr. Altman will provide the Treasury Department leadership required to take action.

To put America back on the road to healthy, long-term economic growth, we need to address some simple but large problems. We have all seen the statistics. Our national savings rate is half that of Japan. Investment lags by almost as much.

As a result, productivity growth has hovered at one-quarter the Japanese rate for more than three decades. This is what lies behind stagnating living standards and the dimming of America's future.

Tackling this problem means the formulation of a long-term strategy to increase savings and investment in the American economy. We have heard plenty about the direct problem already. The Federal budget deficit effectively lowers our national savings rate by several percentage points of GDP. We cannot tolerate that any longer.

The tax policy reflected in the Internal Revenue Code results in incentives that reward consumption and penalize savings and investment. It is time to shift those priorities. There are a number of proposals on the table. Right now I wish only to point out that the United States is the only OECD country without a broad-based national consumption tax.

I am encouraged by what I hear from the new administration. I think they are taking a hard look at what we need to do to get our House in order, and I look forward to supporting Secretary Bentsen, Mr. Altman, and the rest of the economic team over the coming months and years.

STATEMENT ON THE NOMINATION OF DR. ALICE RIVLIN

Mr. ROTH. Mr. President, I would like to congratulate Dr. Alice Rivlin on her designation by President Clinton to be the new Deputy Director of OMB. As the first Director of the Congressional Budget Office and currently a senior fellow at the Brookings Institution, she will bring to OMB a wealth of knowledge about the budget and the kinds of difficult choices we will have to make if we are to reduce, and then eliminate the deficit.

Dr. Rivlin's recent book, "Reviving the American Dream," presents three different scenarios for the future of our Nation—"The Eighties Continued," which means a continuation of the status quo and large budget deficits, "Back to the Sixties," which includes a return to a very activist Federal Gov-

ernment, or "Dividing the Job," which suggests that the Federal Government return to the States the central authority for many programs currently performed at the Federal level.

Reading over the President's program, Putting People First, there is reason for concern that the Nation is headed toward scenario No. 2. Writing before the recent Presidential election, Dr. Rivlin described the second of her three scenarios:

With the energy of a Franklin D. Roosevelt or a Lyndon B. Johnson, the new President puts together an aggressive program of Federal spending and tax increases and steers it through Congress. The Federal Government launches major new grants to both State and local governments—to improve skills, subsidize low- and middle-income housing, modernize infrastructure, and reform the schools.

I hope that the new administration will take a good look at Dr. Rivlin's new book and the concerns that she raises with the Federal Government assuming more responsibilities.

One of the strongest arguments for clarifying the role of the Federal Government versus State and local governments is that it fixes accountability for performance. If all levels of Government are responsible for solving a particular problem, then no level of Government is ultimately accountable when the problem remains. The public does not really know who to hold accountable. To me, this raises several questions: Doesn't the inclination for the Federal Government to solve every societal problem result in a never-ending drain on the Federal Treasury? Don't we need to better define the limits on the Federal Government's responsibility?

Whether or not we are able to better define the limits of Federal responsibility, we need another step to strengthen the accountability of the Federal Government. We must do a much better job of focusing on the performance of Federal programs. And to do that, we have to begin defining what each program is supposed to accomplish, by requiring agencies to state specific, measurable performance goals.

This is key to improving the management side—the often overlooked "M" in OMB. But it is also key to improving the budget process—because it then allows us to develop a performance-based budget. This is the incorporation of program management goals into a program's budget—something that would tell us and the American people a lot more about what the money is supposed to buy. Directly linking program resources with program performance is a commonsense reform, long overdue in the Federal Government.

During the campaign, the American people were presented with putting people first, President Clinton's plan for the economy and budget. As we consider our economic future, we must examine whether the current recovery can afford $150 billion in new taxes. Can our Nation afford $220 billion in new spending at a time when we have these tremendous deficits as far as the eye can see?

Today, the new President will face his first true test on deficit reduction. The decision on whether to adjust the maximum deficit amounts for 1994 and 1995 provides President Clinton with his first opportunity to demonstrate his commitment to deficit reduction. He will have to decide between higher targets and lower targets, that is, between higher deficits and lower deficits. Today, the American people and the financial markets will see how serious this new administration will be about the deficit.

I am confident that both Dr. Rivlin and LEON PANETTA, President Clinton's pick to lead the Office of Management and Budget, understand the difficult choices which confront our Nation. But as I stated to Congressman PANETTA, I am not so confident that any single adviser, or any two for that matter, no matter how wise, can control the appetites whetted for greater spending by the last election. But working as a team, I hope that Dr. Rivlin and Congressman PANETTA can meet the challenges ahead.

ANNOUNCEMENT OF POSITION ON A VOTE—DONNA SHALALA TO BE SECRETARY OF HEALTH AND HUMAN SERVICES

Mr. DOLE. Mr. President, on the voice vote just taken on the nomination of Donna Shalala to be Secretary of Health and Human Services, Senators HELMS and SMITH have requested that they be recorded as having voted in the negative.

Mr. President, I just say additionally I am pleased to cooperate with the majority leader and the incoming administration. We think we have done a good job in scrutinizing the nominees. We believe they have met the test. As I have said many times before, I believe we should act as quickly as possible and we have done that. And we will be following that policy from here on wherever we can.

The PRESIDENT pro tempore. The majority leader.

Mr. MITCHELL. I wish to thank the distinguished Republican leader for his cooperation in this matter. We have worked closely on these and he has been fully cooperative and supportive. And I believe that the President and members of his administration will be pleased at the prompt action taken by the Senate with respect to these many nominations.

Others remain outstanding. As all Senators know, the hearings on the Attorney General designee are continuing in the Judiciary Committee today.

The hearings have been completed on the nomination for the Secretary of Commerce, Ronald Brown. I inquire of the Republican leader whether, in his view, it will be possible to reach an agreement to take up and dispose of that matter later in the day today?

Mr. DOLE. Mr. President, I say in response to the majority leader's question, I hope that can be done. I understand the majority has a policy meeting. Following that meeting, we hope to be in a position to approve that nomination. There may be requests for a rollcall. If that happens, we will have a rollcall. Otherwise, there will be statements made. I hope we can clear the nomination for action.

Mr. MITCHELL. Mr. President, I thank my colleague. I say, of course, we will be pleased to have such time for debate as any Senator wishes and, if a rollcall is requested, to accommodate that request as well, of course.

Mr. President, I thank my colleague.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. The Senate returns to legislative session.

REGARDING THE FINAL REPORT OF THE SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS: CYNICISM, CREDIBILITY, AND CONCLUSIONS

Mr. KOHL. Mr. President, one of the central problems which faced the Senate Select Committee on POW/MIA Affairs, and one of the central problems which faces this country, is how to overcome the cynicism which surrounds almost any statement made by Government.

When I was growing up, in an earlier and perhaps more innocent age, people took comfort from Government: The fireside chats gave us hope; the Truman walks gave us confidence; the Eisenhower smile gave us a peaceful feeling.

But those feelings have faded. The credibility gap created in the Johnson administration became a chasm under Nixon; the malaise of Carter surrendered briefly to the charm of Reagan but reappeared as deficits mounted, arms and money were diverted, and divided Government flourished; and while the Bush administration strengthened our standing in the world, last year's campaign enshrined running against Washington as a major part of our political liturgy.

It is in that more cynical environment which this committee operated. And in that environment, conspiracy theories—even if they are based on minimal and marginal evidence—flourish. From the space aliens which the Government is keeping in deep storage somewhere out West to the CIA's role in killing Elvis—if you have a conspiracy theory which involves the Government, someone will believe it.

But this committee, Mr. President, did not operate in a realm of speculation and fantasy. In this case, conspiracy theories—while dubious and incom-

plete—at least have some substance to them.

As I evaluated the testimony presented to us and looked at the records made available to us, I concluded that when our Government said that all American POW's had returned, it had reason to believe that was not the case. That is not to say that our Government "lied"; it is to say that it did not tell us the whole truth. I am making more than a semantic distinction here: "lying" implies some intention to deceive; "not telling the whole truth" suggests that a statement does not fully describe a complex reality.

Whatever the difference in actual meaning, it is clear that our Government did not reveal everything that was known and was less than truthful when it talked publicly about POW's and MIA's at the end of the Vietnam war. As a result, when people charge that there was "a Government conspiracy to hide the truth from the American people," there is at least some factual basis for their belief.

The problem that creates is obvious. This committee, as a part of the Government, is asking people to believe that we are telling the truth. But it is the very Government which the committee represents which did not give its citizens all the facts in the beginning. Based on the overall credibility of Government, why should people believe we are telling the truth now about how we misled people in the past?

There are, in my judgment, several reasons. But, Mr. President, the most important is simply this: We are making virtually all the information upon which we relied available to the American people. They do not have to believe us: they can read the same records we did, evaluate the same testimony we heard, go through the same investigation and evaluation that we are engaged in—and they can reach their own conclusions. We are not asking anyone to take anything on faith; we are giving everything we received to every one and allowing them to draw their own conclusions.

But the issue here, Mr. President, is broader than the credibility of the committee's work. In truth, I feel no need to defend the committee and no sympathy for those who doubt the sincerity of our efforts. Personally, I believe that Chairman KERRY and Vice Chairman SMITH, along with the other members of the committee and the superb staff they assembled, have done a magnificent job. They have been fair. They have been thorough. And they have been able to disagree about what conclusions the evidence supports without in any way demeaning each other's intelligence or patriotism or dedication to finding out every thing that we can.

The issue is not the credibility of the committee. But an issue of credibility is at the heart of the POW issue. Indeed, it is at the very heart of a Government's moral right to ask men and women to risk their lives for our country.

Our military might is based on our ability to persuade young men and women to risk their lives for this country. That willingness to face death is based on many factors: love of country, courage, comradeship. But perhaps most importantly, service is based on a belief in, and trust of, their Government: That it will train them well, equip them superbly, and do everything it reasonably can to protect them and care for them.

It is the credibility of those promises which the POW/MIA issue strains. For if, after all, the Government does not keep its promises, then why should our soldiers honor their pledge to follow orders even at the risk of their own lives?

This report demonstrates that the Government has not kept its promises to those who served in Vietnam. Even more disturbing is the evidence which suggests—strongly suggests—that the Government failed to keep its promises to those who served in World War II, the Korean war, and the cold war as well.

This trail of failure suggests that Vietnam may not have been a unique situation. It was not just the nature of that dirty war which led the Government to act in less than full faith. The continuing controversy about the fate of POW's and MIA's could have raged after other conflicts—but in the less cynical environment of those times, even the suspicion that the Government would do anything less than everything possible was so incredible that it was not entertained.

The saving grace in all of this is that the American people now know more of the facts. Knowing the facts can help us establish more of the truth. And that can prevent us from repeating the mistakes of the past.

The committee report contains suggestions to help the families of our POW's and MIA's—structural reforms which should make more information and more help available to them. Even with those reforms, however, we have to recognize that the fog of war makes it impossible to provide exact answers to every question. We cannot account for every MIA, we may never be able to know the exact fate of those who once were held as POW's. Even under the best of circumstances—and these are far from the best of circumstances—"truth," in any absolute sense, is difficult to come by. Some level of uncertainty is inherent to the human condition.

The report also makes suggestions for ways to minimize the forces which lead to uncertainty about the fate of POW's and MIA's in the future. Without impugning the integrity or efforts or motives of anyone, the report makes it clear that if we had done some things differently during negotiations to end the Vietnam war, some of the problems and questions we now face would have been resolved then. The report does not simply point out those mistakes: It makes specific suggestions for changes in negotiating strategy and tactics which should be adopted in the future. In that sense, the report attempts to help prevent the past from being repeated in the future.

The report does not answer every question. In many ways, our investigation simply opened the door to further inquiry. And that inquiry will be made. The executive and legislative branches of our Government cannot turn back now. We have come so far and done so much in terms of declassifying information and becoming more open, that it will be impossible to return to the days when top secret was used as a way to extinguish legitimate criticism and questions.

I would like to add one final word of a more personal nature. Service on this committee has been difficult. I have seen my colleagues struggle to resolve doubts and differences; I have been touched by the bravery, the love, the loneliness, and the frustration of the POW and MIA families I have met, many from my own State; I have been appalled by what I have learned about our own Government's behavior. But at the same time, I have experienced a sense of liberation as the ghosts of the past have been exposed. The willingness of the committee—and ultimately of the executive branch—to uncover the mistakes that were made and bring them to light has vindicated the validity of the democratic process. Though some may believe that our Government tried to create a form of Orwell's "Newspeak," this report proves that in a free society such distortions cannot be sustained. We have dug through the mud and muck; we have had our hands in the dirt of distortion; and we have emerged cleaner, and healthier, and freer for the effort.

STATEMENT ON THE REPORT OF THE SENATE SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. KERREY. Mr. President, the work of the Senate Select Committee on America's prisoners and missing from the war in Vietnam is finished. In the beginning I was deeply skeptical of the value of this effort; in the end I was convinced—thanks in particular to the work of Senator JOHN KERRY—the committee had measurably advanced the cause of knowing more about the tragedy of this war's ending.

In the end we reached a conclusion which is supported by exhaustive investigation: There is no compelling evidence to reach a judgment of proof that American prisoners are being held against their will in Vietnam or any other foreign locations.

There is compelling evidence that our Federal Government did not do all it should have done to make certain we did not leave our men behind. We expect and are not disappointed when Vietnam's Government lies to us, but we cannot excuse and should not be surprised when the lies of our Government anger those who have the greatest right to know—the families of the missing. For there is compelling evidence that our Government withheld information from family members which had the perverse effect of increasing their pain and suffering.

Further, there is compelling evidence that much more needs to be done before we are through with this issue. This report makes it clear that the failure to obtain evidence sufficient to stand the tests and burdens of proof does not mean we have eliminated all doubt and ambiguity. This report makes clear our belief that much more work must be done by the American and the Vietnamese Government before we have removed this stain from our consciences.

In the beginning, I was concerned about the work of this committee because I have grown weary with the self-indulgent moaning which often accompany Vietnam post mortems. In spite of having wounds which provide a daily reminder of how the war changed me; in spite of the uncontrollable sadness and longing which builds inside when I stand at the Vietnam Memorial and consider what might have been; in spite of the anger I feel toward policymakers who were too blind or too frightened to see and tell the truth; in spite of the heart-breaking passion I feel for those veterans whose spirits were shattered in the war. In spite of all of the negatives, I still feel I was lucky to have had the experience.

Money could not buy the lessons I learned in service to my country. In short, the debt is still on my side. That I consider it important to make this declaration reinforces the uniqueness of the Vietnam war in American history. Having served on this committee, and having faced the angry accusations of my fellow citizens, I am reminded again how terribly divisive and destructive this war was. Thus, I know it is unlikely this report will heal the wounds of Vietnam.

However, the fate of missing Americans and the larger questions arising from America's participation in the war dictate that we risk the emotional fire arising from legitimate differences of opinion. As I have listened to testimony and reviewed documents over the past year, my feelings about the war and about our efforts to account for POW/MIA's have shifted between anger and sadness. Despite the disagreements that have sometimes arisen, I believe, in the end, the committee has always managed to retain its focus on the most important objective: Obtaining the fullest possible accounting for missing Americans.

Over the past year, the committee has examined information from every available source, from refugee live-sighting reports to satellite imagery, in the hope that some Americans might still be found alive. In addition, the committee has been able to draw on substantial resources on the ground in Vietnam, Laos, and the republics of the former Soviet Union to investigate reports and gather information.

Our conclusion does not change our commitment to achieving the fullest possible accounting for missing Americans. The United States has expanded its presence on the ground in Vietnam and as a result of the recent cooperation by the Vietnamese Government has considerable opportunity to pursue information relating to missing Americans. Coordination between the Federal agencies that are responsible for accounting for POW/MIA's has improved and more resources have been devoted to intelligence analysis. Finally, with the ongoing declassification process, all the information that the committee has reviewed will be available to the American people to decide the quality of the evidence for themselves. After too many years, the U.S. Government finally seems to be pursuing POW/MIA issues as a matter of the "highest national priority."

The movement toward resolving this issue will affect the present direction of United States policy toward Vietnam. Some in the United States seem to believe that we can achieve the goal of obtaining a full accounting in isolation of the goals of political and economic freedom for the people of Vietnam. I believe the issue of accounting for missing Americans is inseparable from the larger context of American objectives in the war and relations with Vietnam today.

At its best, the Vietnam war was a struggle against communism for the principles of self-determination and political freedom for the people of Vietnam. At worst, the war was a misguided exercise in balance of power politics. For myself and many other Americans who went to Vietnam, and who believed that we were fighting for democracy and for freedom, the reality of the war and its outcome were profoundly disillusioning experiences.

I believe that sometime during the war we lost our resolve. Reading the too heavily classified documents of the negotiations over the Paris peace accords and Operation Homecoming, this loss of resolve to fight for the principles that were at the heart of its most noble aspirations for the people of Vietnam is painfully clear. Vietnam had become a political liability to be shed like an old set of clothes. We, as a nation, wanted out of a continuing war that was threatening our society and our economy, and we were willing to accept what was expedient to accomplish that purpose. Rather than self-determination for the people of Vietnam, or even "peace with honor," we got a decent interval between our withdrawal and the fall of Saigon. Rather than pursue every means that we might have to resolve POW/MIA questions, we settled for less.

The record of the negotiation and implementation of the Paris peace accords makes it clear that the principles of self-determination for the South Vietnamese and obtaining a full accounting for missing Americans were subordinated to the dominant American concern: to end United States involvement in the war. The compromises in the Paris peace accords set the stage for the failure of the United States to secure either freedom for the South Vietnamese or a full accounting for missing Americans.

We are all familiar with the outcome. Two years after the Paris peace accords, the North Vietnamese made a mockery of the agreement by invading South Vietnam and imposing a totalitarian Communist government. The North Vietnamese were not cooperative in returning United States prisoners and after 20 years there has still not been a satisfactory accounting for missing Americans. Americans lost sight of the principles that were the basis for our involvement in Vietnam and we were willing to make compromises for what was expedient at the time. We must not make the same mistake again.

For 20 years the United States has maintained a trade embargo and refused to establish diplomatic relations with the Socialist Republic of Vietnam. This policy is consistent with the United States treatment of other hardline Communist states, notably North Korea and Cuba. Current United States policy toward Vietnam is based on two considerations: Cooperation in accounting for missing Americans; and the removal of Vietnamese troops from Cambodia. The United States has established a road map that matches progress by the Vietnamese in these areas with improved trade and diplomatic relations with the United States.

The most noticeable aspect of the current road map is the conspicuous absence of mention of human rights or political freedom for the people of Vietnam. For North Korea, progress in human rights is one of the central conditions for improving relations. It must also be for Vietnam. The United States was willing to fight for political freedom and human rights for the people of Vietnam; 58,183 Americans died there, countless billions were spent, and since that time the United States has refused to establish relations in part because of the repressive nature of the Vietnamese regime.

It is ironic that after 20 years we appear willing to sacrifice these prin-

ciples for the people of Vietnam just as democracy is triumphing around the world, and perhaps once again subjugate, this time probably forever, the question of a full accounting for those missing in Vietnam. One of the key factors in the democratic revolution in the former Soviet Union and throughout Eastern Europe was the hard line that the United States took against the repressive Communist regimes that dominated those societies. Today the leaders of those nations thank us for our tough stand, even though that stand meant economic hardship and isolation for their people.

What is missing our discussions today is a vision of 70 million Vietnamese with the freedoms for which we fought and for which our Nation stands—freedom of religion, speech, travel, due process under the law, and the right to protest the policies of their government. God help us if we come back to Vietnam just to make a little money.

A free Vietnam is the best way to honor the sacrifice of Americans and to help the Vietnamese people. We do not need to go to war to win this battle, nor do we need to stop moving toward normal relations. We need to believe it is desirable and we need to believe it is possible. We need at least to say the words.

The United States should be willing to take a stand for the people of Southeast Asia. Obtaining a full accounting for our missing soldiers will never happen as long as Vietnam remains a closed society. Before opening the door to Vietnam, the United States should demonstrate its support for democracy and human rights by raising these issues with the Vietnamese Government.

AMBASSADOR ARMITAGE AND HIS STAFF

Mr. LUGAR. Mr. President, I rise to commend Ambassador Richard L. Armitage, his chief associate—Frederic Hof and Richard Nelson—and the rest of his staff for an outstanding job working directly for Secretary Eagleburger coordinating United States assistance to the 12 new independent States of the former Soviet Union.

Rich Armitage has accomplished in the past year what no one believed could be done: he conceived and spearheaded a multifaceted program of technical and humanitarian assistance that got a show of concern and a message of hope through to the people of Russia, Ukraine, Armenia, and the other new independent states. This effort started last January with a massive airlift of humanitarian aid to 11 of the 12 new states—organized on two weeks notice, with a borrowed staff of five, delivering 2,000 tons of food and 490 tons of medicine in 16 days to 24 locations in the former Soviet Union.

Rich Armitage and his staff continued through the rest of the year generating and learning the administration's efforts to reprogram existing funds, push through the Freedom Support Act, and organize and coordinate the assistance activities of over 15 Government departments and agencies. In addition, he followed up on Secretary Baker's initiative to host the first of three international conferences to coordinate the assistance efforts of all donor nations and organizations.

He and his staff guided the process through the follow-on meetings in Lisbon and Tokyo, firmly establishing the United States as the world's leader in organizing and delivering assistance to the peoples of the 12 nations of the former Soviet Union. This has been a gargantuan effort that could only have been done by someone with the energy, experience, personality, ability to cut across interagency turf, and leadership of a Rich Armitage. The Nation owes him a debt of thanks.

His staff, gathered mostly from—and in some cases dispersed back to—various agencies and the private sector, deserves recognition and thanks as well. They are Kevin Aanestad, Healther Bomberger, Theodor Bradtrud, Elizabeth Cheney, Katherine Devera, John Donohue, Fred Fox, Keith Gilgore, David Hatcher, Nina Haulst, Brenda Heaster, Ann Hogan, James Johnson, Zana Kizzee, Harry Klein, Janice Langley, Charles Lawson, James Leahy, Tara Mayo, Andrew Messing, Cheryl, McCan, Thomas McKay, Thomas Michaels, Gerald Oberndorfer, John Post, Daniel Puzon, Priscilla Rabb-Ayers, Christina Rufenacht, Barbra Shupe, Charles Slagel, Julia Taft, William Taylor, Jerry Tighe, Karen Volker, Robert Watters, and Deatrice Womack.

ROBERT H. ATWELL: HIGHER EDUCATION'S TOP LOBBYIST

Mr. KENNEDY. Mr. President, the Washington Post recently carried a profile of Robert H. Atwell, the president of the American Council on Education [ACE].

As all of the Members of this body know, postsecondary education in the United States is incredibly diverse. There are thousands of institutions, each with a slightly different set of interests and needs. While there are many interest groups representing various segments of the postsecondary education universe, there is only one organization—the American Council on Education—that represents all of these institutions.

Robert Atwell has been president of ACE for the last 7 years. By all accounts, this has been a turbulent time for higher education. Throughout this period, Mr. Atwell has provided steady, thoughtful leadership on a wide variety of complex issues—from athletics to college prices to increasing minority participation in higher education. The members of the Labor Committee have learned that Bob Atwell's insight and judgment on higher education issues is superb.

One area where I have benefited from Bob's leadership is on the issues surrounding college athletics. Even before he assumed the presidency at ACE, he was a champion of reform and improvement in college athletics. Largely through his herculean efforts, the higher education community began—however tentatively—an effort to reform some of the abuses in intercollegiate athletics long before the public became aware of the extent of the problems. Last year, the Labor Committee worked closely with him as we wrote the Student Right to Know and Campus Security Act. With Bob's help, we wrote a law that, I believe, assures that students and their families have easy access to vitally important consumer information without creating an excessive paperwork burden on the institutions.

Thanks to Bob Atwell's leadership, higher education is well represented in Washington. Given the wide range of complex public policy issues facing higher education these days, America's colleges and universities are fortunate to have him in this position. I hope that, as a result of the Post article, the vitally important role that he plays will be more widely appreciated.

Mr. President, I would like to have a copy of this article printed in the RECORD so that all of my colleagues will be sure to see it.

TRIBUTE TO ROD FASONE

Mr. LUGAR. Mr. President, on behalf of Mr. COATS and myself, we inform the Senate that a truly remarkable young man who served Hoosiers in so many ways passed away on December 10, 1992. Rod Fasone was only 21 years old, but he accomplished more in his lifetime than many people two and three times his age. To honor Rod, we submit our eulogy for the RECORD.

In high school and college, Rod excelled both academically and in competitive sports. At North Central High School, he was captain of his swim team, served in student government, and captured first-place honors in the 1984 Indiana Spanish competition. Rod graduated from Indiana University earlier this year. While studying criminal justice and Spanish in Bloomington, Rod was both a participant and coach in the renowned "Little 500" annual bicycle race. He also served on the student athletic board and was chairman of the Beta Theta Pi Philanthropy.

Rod spent his young adult life participating in community and philanthropic activities. He worked diligently on behalf of the United Way and the Arthritis Foundation. He served ac-

tively as a youth deacon at the First Meridian Heights Presbyterian Church. His strong faith and desire to help others led Rod to work with many young people in other States and in Mexico.

While maintaining his studies and serving his community, Rod also found time to hold positions of responsibility in both the public and private sector. We are sure that everyone who had the pleasure to work with him will attest to his dedicated work ethic and desire to give everything of himself to the tasks at hand.

Rod completed an internship in Senator LUGAR's Capitol Hill office 2 years ago, and, earlier this year, joined our joint constituent services staff in Indianapolis. He was assigned the task of assisting constituents who came to our office for help with income and health care problems. Despite facing tremendous personal adversity, Rod always put aside his personal situation and vigorously helped those in need of assistance. He truly embodied the spirit and commitment of public service.

Rod's many personal and professional achievements will serve as lasting tributes to his meaningful and rewarding life. His leadership, his sense of humor, and his inner strength touched so many lives in positive and constructive ways. Those of us who had the honor of knowing him are much richer because of it.

Rod was the kind of son all parents strive to rear. He was loving, caring, filled with happiness, and above all else, optimistic. His family should be so proud of him for everything he was. Our hearts and prayers go out to his parents, brothers, sisters, and grandparents. They suffered emotionally with him, and yet they remained strong, persevered, and provided the comfort and love that carried him through his ordeal.

All of us who knew Rod owe his family a great debt of gratitude for making it possible for him to share his life with us and for serving his fellow man so honorably. Their support and guidance allowed him to live his life to its fullest and to improve the lives of others less fortunate than him.

Rod's absence creates a void that no one will ever fill; however, we must remember that his legacy of love, leadership, and service will live on. We celebrate his memory as a reminder of how well a life can be lived. May God's blessings be upon his family.

(At the request of Mr. MITCHELL the following statement of former Senator Lloyd Bentsen was ordered to be printed in the RECORD at this point:)

Mr. BENTSEN. Mr. President, 22 years ago on this date, near this very hour, I swore my first oath of office as a U.S. Senator. So I find an interesting symmetry in resigning from the Senate at this day and hour to join America's new President in his Cabinet.

After 22 years, there are not adequate words to relate my feeling for this Chamber, for the honor of serving here, and for the privilege of having two decades of distinguished Members as colleagues. So rather than try my own words, I fall back on those I read long ago.

I remember them from a letter a young career soldier had written, one I'm sure he thought wouldn't be opened for years. His final words were: "I wish you could have known my life and how much I enjoyed living it."

That is what I wish to say about my 22 years in this Chamber. May each of you know the satisfactions I have known. And I particularly hope that is the case for my friend who follows me in this Chamber and the distinguished friend who succeeds me as chairman of the Finance Committee.

My service here has given me an immense respect for the uniqueness of the Government our Founders created.

You and I have seen our government act quickly in crisis, just as we have seen our balance of powers, our system of checks and balances, sometimes spread delays. Those delays assure America a measured response to change. They avoid the whiplash and backlash of systems bound by party discipline or the iron whims of factions or strongmen.

A trend doesn't have to bring dislocation in America. We can renew ourselves as a nation because we need not continually re-erect our Government. We can be a vibrant country and a stable republic at the same time.

In spite of America's problems—and I don't downplay them—our system works.

It works because the diversity of the American people and the American economy are represented in this Capitol. In larger part, it works because the elected have reason to react when constituents relate their ideas, their concerns, and their problems—especially their problems with agencies of Government. The American people can petition their representatives to remedy the shortcomings of their government: That is a grand right, one that deserves to be more noticed and remarked on more often.

The quality of America's legislators also should be remarked on more often. For I have known them—the vast, overwhelming majority of them—as able colleagues committed to making a difference.

The rewards of public service are many and gratifying. Descriptions of Congress as removed, distant, and divorced from concerns of everyday Americans are astonishingly off the beam. The relationship between Congressman and constituent can be personal, sometimes almost intimate. Ask anyone who's received a thank-you from a teenager bound for West Point or Annapolis or a letter from a retiree whose Social Security check has been found.

The rewards of public service are high, but the price also can be high—often far higher than for careers offering more money, more privacy, more personal and family life. We who serve accept that price willingly, and from time to time we should be willing to remind those who demand we pay it.

As one who knows the satisfactions and sacrifices, I close my Senate career by sharing with you a remark from a newcomer to public service. He said this:

> I've seen America's hay fields and corn fields, so I know our Nation will grow. I've seen the skyline in Seattle and Chicago and New York, and I know our country will stand. I've seen the Capitol dome, brilliant and dazzling at midnight, and I know it's lighted so people with integrity and purpose can find their way to it.

Thank you, Mr. President. Thank you.

SALUTE TO BILL FARMER

Mr. DOLE. Mr. President, I join Senator MITCHELL in congratulating Bill Farmer on his retirement from the Senate family after 28 years of distinguished service, including more than 21 years at the rostrum in the Senate Chamber.

Many people may only recognize his Kentucky-bred voice, but anyone who has served in this body in the past two decades knows the man well, and respects him tremendously for his dedication. No doubt about it, there is no such thing as 9 to 5 around this place. Bill may have served 38 years, but if you added up the hours it might come out to 48—that is based on official Senate time. In his more than 12 years as chief legislative clerk, Bill has also probably read more legislation than he cares to remember, especially those enjoyable filibusters.

Bill, thanks for your years of hard work. It is much appreciated. I know all my colleagues join me in wishing Bill all the best in his retirement and in extending our thanks and appreciation for his service to the U.S. Senate.

OPENING OF THE 103D CONGRESS

Mr. D'AMATO. Mr. President, today as we begin anew in the 103d Congress, I plan to address the needs, cries and, and yes the hopes of the American people. I come here today representing a State that chose its new leaders with a spirit of bipartisan cooperation in mind. New Yorkers, independently minded as they are, chose Bill Clinton as their President and AL D'AMATO as their U.S. Senator. Together they believe our cooperation can make a difference in their lives. Mr. President, I intend to honor my commitment to make that happen.

President Clinton and I agree, without a doubt, that the growth of the economy and the preservation and cre-

ation of jobs for Americans are the most important issues facing our country today. Consumer confidence has turned around reflecting a positive feeling toward the economy. It is imperative that we build upon this momentum and move forward to strengthen that confidence which has been instilled in the American people.

I say this to our new President, I will stand shoulder to shoulder with you on your pledges to revive the economy, cap Federal spending, reduce the deficit and lower taxes. We must face up to these tasks in order to keep working, middle-class citizens from being forced to carry an increasingly heavier burden. It is not just about getting control of the current tax and spend policies for today. It is about providing a productive, stable environment for our children and grandchildren and creating a foundation for economic growth into the future.

Mr. President, today I join my colleague Senator MACK in introducing a legislative package that incorporates the key pledges made by President Clinton. They include President Clinton's promise to control spending and invigorate the economy. Beginning with a line-item veto, a capital gains tax cut, a lifting of the limits on the Social Security earnings test down to the creation of enterprise zones and the President's commitment to workfare, not welfare.

We, as public officials, must keep our commitments and pledges to the American people. As we work to meet these goals, we will restore the people's faith in the economy and in our commitment to public service. I look forward to working with President Clinton to accomplish these goals through swift action on his key campaign pledges.

A NEW BEGINNING

Mr. METZENBAUM. Mr. President, today we undertake a new beginning. With a new Congress and a new administration we are going to make America a better place for our children and our children's children.

I wish today to introduce a number of bills on many subjects including civil rights, the environment, business competitiveness, child safety, labor fairness, and others. My plan is to see them all enacted during the 103d Congress.

Yesterday, President Clinton took office with a mandate to bring Government back to the people.

Last summer, the Supreme Court handed down a decision denying an important right of citizens—to sue their Government when it refuses to enforce provisions of the Endangered Species Act.

In that decision, the court said citizens could no longer challenge the Government's policy of funding projects overseas that threaten endangered species and their habitats.

Today, I am introducing legislation to restore the original intent of Congress, which was to ensure that the people have the right to bring suit against their Government pursuant to the Endangered Species Act.

President Clinton also has a mandate to revitalize the American workplace, to increase productivity, and to expand opportunities for growth. These are important goals, but without an independent labor movement they cannot be achieved and without the right to strike there can be no labor movement.

Accordingly, I am today introducing the Workplace Fairness Act.

This legislation, which passed the House and received 57 votes in the Senate last year, prohibits the hiring of permanent striker replacements.

The American people support this bill, President Clinton supports it. This year we are going to get it enacted.

I am also introducing legislation to close serious loopholes that exist in the Child Labor Act enacted 50 years ago.

Recent child labor law violations against Burger King and Food Lion have shown that exploitative labor practices involving children still occur.

The bill will permit imprisonment for child labor law violators, and will bar willful and repeat offenders from receiving Federal grants, loans, or contracts.

I believe it is an appropriate step against unscrupulous companies that exploit children.

Fourth, I am reintroducing my bill from last year to overturn the Pentagon's ban on homosexuals serving in the military.

The time has come to overturn this last bastion of government sponsored discrimination.

President Clinton agrees. He is committed to overturning the ban, and may do so as early as today.

Nothing would please me more than seeing this issue resolved without the need for legislation.

Eight in 10 Americans believe homosexuals should have the right to serve in the military. With this bill, we show our solidarity with those Americans and with our new President on this important civil rights matter.

Fifth, I am reintroducing legislation granting the Food and Drug Administration explicit jurisdiction over health claims companies make in food advertising.

In 1990, Congress enacted the Nutrition Labeling and Education Act, the most extensive food labeling reform in this country's history.

Unfortunately, the intent of this landmark bill—to reduce coronary heart disease and death through better information about diet and nutrition—is being thwarted because the Federal Trade Commission is failing to take enforcement action against companies that continue to mislead consumers through advertising.

This legislation gives the Food and Drug Administration authority to go after companies that engage in such false and/or misleading food advertising.

Sixth, I am reintroducing the International Fair Competition Act of 1993.

Mr. President, our antitrust laws do not protect American consumers or companies from the devastating effects of foreign cartels—closed business organizations that compete successfully here in the United States because they fix prices and engage in other monopoly practices at home.

This bill will safeguard our free markets by permitting lawsuits against foreign manufacturers that sell goods here at below cost who then turn around and prevent our products from being sold in their markets.

This bill will keep American workers on the job, and American companies competing on an even playing field.

The measure enjoyed wide, bipartisan support last year, and was reported by the Judiciary Committee unanimously.

Once again, Mr. President, I am introducing legislation to amend the McCarran-Ferguson Act to prohibit anticompetitive conduct by the insurance industry.

This bill would repeal the insurance industry's blanket exemption from the Federal antitrust laws. Very simply, the McCarran-Ferguson antitrust exemption has outlived any useful purpose that it may once have had.

Eighth, I am reintroducing legislation, to provide low cost banking services to the general public. This bill represents a very careful compromise worked out during the last session of Congress between the American Association of Retired Persons and the Independent Bankers Association of America.

It requires banks to offer low-income and elderly Americans low-cost checking accounts or Government check cashing services. Neither service would be free.

It is an extremely reasonable bill. If not for the intransigence of the big banks and the Bush administration, we would have enacted it long ago.

In the area of environment, I am reintroducing my Great Lakes water quality legislation from last year.

This bill would enable the Government to protect Great Lakes water by better managing the disposal of sediments dredged from the bottom of the lakes. I am confident that we will be able to enact the bill this year.

On another subject, Mr. President, it has been 12 long years since the 11,400 FAA air traffic controllers walked off the job and were summarily fired by President Reagan.

Since that time, there has been no redemption and no forgiveness. Many of these controllers found work with the military and our allies during Desert Shield and Desert Storm. Many

were commended, yet the Government still prohibits them from returning to their old jobs.

Enough is enough. It is a fact that violent criminals are punished less severely than these controllers have been.

My bill would enable these men and women back on the job, provided they are still qualified. It is the fair and decent thing to do.

Finally, Mr. President, I am reintroducing legislation encouraging the use of bicycle helmets by children.

In 1990, 400 children died as a result of head injuries caused in bicycle accidents. Two-thirds of all bicycle-related head injuries occurred among children under age 14.

This bill passed the Senate last year. This year, I intend to see it enacted into law.

That is it for now, Mr. President. During the weeks ahead, I am sure I will have additional bills, including the 7-day waiting period for gun purchases legislation, and a bill on the subject of the major league baseball antitrust exemption.

I yield the floor.

TRIBUTE TO MUHAMMAD ALI

Mr. SPECTER. Mr. President, I wish to pay tribute to a great athlete and American who is being recognized tomorrow evening in Atlantic City as the "Legend of Boxing."

Certainly all of my colleagues would agree that the "Legend of Boxing" is none other but Muhammad Ali. In recognition of this event, I ask that the Senate join me in this tribute that I am presenting to the "Champ."

Mr. President, I ask unanimous consent that the following tribute be placed in the RECORD.

The tribute follows:

RESOLUTION

Whereas the World Boxing Association will honor Muhammad Ali as a "Legend of Boxing" on January 22, 1993, at a dinner at Resorts International in Atlantic City, and

Whereas Muhammad Ali has been a great heavyweight boxing champion who brought excitement, flamboyance and enormous skill to an always difficult and often dangerous profession; and

Whereas Muhammad Ali showed great courage outside the ring in refusing to sacrifice principle for pelf and in adhering to his beliefs in the face of considerable public opprobrium, and

Whereas Muhammad Ali displayed wit, charm and bonhomie in his world travels, ingratiating himself with young and old, rich and poor, persons of all races, religions and ethnic origins; and

Whereas Muhammad Ali, despite his precision, prowess and power inside the ring which wrought havoc on his opponents, has given evidence of gentleness, altruism and love of his fellow man in his daily living; and

Whereas Muhammad Ali has truly been a "Legend of Boxing," one whom many experts believe may have been the greatest heavyweight boxing champion of all time, a pugilist who combined speed with power and who could take a punch with the best of all time: Now, therefore, be it

Resolved, That all lovers of prize fighting take note of this honor bestowed upon Muhammad Ali, truly a singular man, congratulate him for his great boxing career, and thank him for the innumerable thrills he has brought to boxing fans around the world.

STATEMENT ON THE NOMINATION OF LES ASPIN

Mr. LEAHY. Mr. President, I wish to express my congratulations to Representative Aspin on his confirmation as Secretary of Defense. President Clinton could not have selected a stronger candidate.

Les Aspin has few peers when it comes to defense policy. It is hard to think of more than a handful of individuals in Government, whether serving in Congress, the military or the executive branch, who can match Les Aspin's knowledge of our national defense. His entire public career has prepared him for this prestigious position. He and I have not always agreed on what our policy should be on defense affairs, but I honestly cannot think of anyone who I respect more for his understanding of our Armed Forces and the inner workings of the Pentagon. I will remember our first meeting at then-Congressman Don Riegle's home 18 years ago when I was a Senator-elect and how impressed I was by Secretary Aspin.

Since President Clinton is taking away such an impressive legislator, many comments have been made about the future leadership of the House Armed Services Committee. RON DELLUMS and I have worked closely together on defense and arms control issues in the past. I have the utmost confidence that his critics will soon be silenced by his impressive stewardship of the Committee.

Mr. President, I once again voice my strong support for Les Aspin as Secretary of Defense and I congratulate RON DELLUMS on his new position as chairman of the House Armed Services Committee.

STATEMENT ON THE NOMINATION OF WARREN CHRISTOPHER

Mr. LEAHY. Mr. President, I rise to commend President Clinton for his choice of Warren Christopher to be Secretary of State, and am pleased that he was confirmed by unanimous vote of the Senate. Let us use this opportunity to demonstrate once again that partisanship has no place in foreign policy. The President has chosen well. Mr. Christopher is superbly qualified for this critical post, and I confidently anticipate that he will be an outstanding Secretary of State.

Warren Christopher began public service in 1949 as a clerk for Justice William O. Douglas at the Supreme Court. He rapidly demonstrated his excellent legal and diplomatic skills. In 1965 he was appointed as vice chairman of the McCone Commission that investigated the 1965 Watts riots in Los Angeles and he coordinated the Federal response to racial turmoil in Chicago and Detroit as Deputy Attorney General during the Johnson administration.

Mr. Christopher's adroitness and resolve while handling these racial incidents established his reputation as a troubleshooter of the first rank. Mayor Tom Bradley asked him to head the commission that examined the Los Angeles Police Department after the crisis there last year. Once again, he performed a difficult and sensitive task admirably and with consummate skill.

Mr. Christopher is best known for his distinguished service as Deputy Secretary of State during the Carter administration. Always discreet, measured, deliberate, and dignified, Mr. Christopher adeptly negotiated treaties and championed human rights abroad. His mastery of negotiation culminated with his successful diplomacy that resulted in the release of American hostages from Iran in 1981.

At his confirmation hearing, Mr. Christopher laid out his views on the basis of U.S. foreign policy under the Clinton administration. I was particularly impressed with two aspects of his policy objectives:

First, Mr. Christopher believes in diplomacy and negotiation as the preferred means of resolving international disputes. He stated that the United States "must apply new dispute resolution techniques and forms of international arbitration to the conflicts that plague the world." With Warren Christopher as our chief negotiator, I believe we will see diplomacy become the primary method of resolving international conflict.

The United Nations will continue to play a major role in deterring aggression, relieving suffering and keeping the peace. Mr. Christopher has pledged to work with the United Nations to ensure that it has the means to carry out the formidable tasks confronting it, including ensuring that the United States pays its obligations.

Second, Mr. Christopher recognizes that our foreign aid program must coordinate with other aspects of our foreign policy to reflect our commitment to the spread of democracy and human rights and to serve more effectively as an instrument of our international economic and commercial interests. To help accomplish this, Mr. Christopher has advocated an overhaul of the Agency for International Development and streamlining the State Department. As hearings in my Foreign Operations Subcommittee and in other committees have amply demonstrated, a top-to-bottom overhaul of foreign aid is urgently needed.

I applaud Mr. Christopher for his commitment to aligning our foreign

aid program with the realities of the post-cold-war era. I look forward to working with him to examine the rationale and structure of our foreign aid program so that it responds to the challenges of the 21st century.

Warren Christopher brings exemplary skills in diplomacy, negotiation, management, and problem solving to the position of Secretary of State. These skills and his philosophies on U.S. foreign policy make him the right person for this difficult job during what will certainly be challenging times.

As chairman of the Foreign Operations Subcommittee, I look forward to working with him as Secretary of State.

STATEMENT ON THE NOMINATION OF LLOYD BENTSEN

Mr. LEAHY. In selecting Senator Bentsen for his Treasury Secretary, President Clinton has tapped one of the most esteemed and distinguished Members of the U.S. Senate. The Nation is gaining a statesman with great vision in the area of economic policy. This vision will be sorely missed in the Senate.

As chairman of the Finance Committee, Senator Bentsen has been a leader and innovator in tax policy, health care reform, and trade issues. Senator Bentsen receives praise from both sides of the aisle for his efforts to form coalitions that result in action. He was the driving force behind the United States-Canada Free-Trade Agreement which has been so important to Vermont and the Nation, and the Trade and Competitiveness Act of 1988. Acting as a moderating influence, he played a major role in crafting the 1990 budget compromise. On the complex issue of health care reform, I have worked with Senator Bentsen. He has worked tirelessly to form a consensus on this issue so that all Americans have access to affordable health care.

Facing the collosal problems of a $4 trillion Federal debt and anemic economic growth, Secretary Bentsen will have to call on his most masterful coalition-building skills. Certainly no one is more experienced at shepherding controversial legislation through the minefield of Congress than Senator Bentsen.

Senator Bentsen understands how to get the American economy going again. He understands the necessity of rebuilding America through investment in people and infrastructure. He understands the need for Americans to improve their savings habits and abilities. He understands the importance of opening foreign markets for American goods and of coordinating monetary policy with other industrialized nations. I am confident in his leadership to steer us away from the regressive tax policies of the last 12 years.

I want to thank my friend Lloyd Bentsen for his superior service in this body and for the people of Texas. I look forward to working with him in his new capacity as Treasury Secretary and also to the results of that labor.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, about 11 months ago, February 25, 1992, I called the Senate's attention to the fact that on February 21, 1992, the U.S. Federal debt stood at $3,823,909,309,474.57.

Every day the Senate has been in session since, I have presented updated boxscores of the exact Federal debt, down to the penny. A great many citizens have been astonished to learn of the enormity of the debt which Congress has run up, and which is a burden to be passed along to their children, and their grandchildren. There was a period last summer when Senator CRAIG made this daily report on my behalf during my absence.

I intend to continue these reports into the 103d Congress—and longer, as may be necessary, until our Nation's debt is brought under control.

Mr. President, during the past 11 months since February 25, 1992, the Federal debt has increased by $363,897,300,894.59 to its present total of $4,187,806,610,369.16 as of Tuesday, January 19, 1993.

All of us know that anyone familiar with the U.S. Constitution is aware that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child in America owes $16,303.91—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

Which brings up the question: What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

TRIBUTE TO BOB STRAUSS

Mr. DECONCINI. Mr. President, on December 11, 1992, in Tucson, AZ, Robert A. Strauss was honored by his friends and colleagues at the Tucson Unified School District [TUSD] for his 8 years of leadership and service to the students of this school district. I want to take a moment of the Senate's time to join Tucsonans in recognizing Bob's achievements during his tenure as a member of TUSD's board.

Bob was first elected to the board in 1984 and was reelected again in 1988. While on the board, he served in a variety of positions including board president. The one thing that characterized his service on the board is his concern for the student, first and foremost. This is demonstrated by his efforts to secure the passage of bond issues in both 1985 and 1989. As a leader in the Tucson community, he was able to use his extensive contacts to mobilize support for these bond issues. it has been recently said of Bob's efforts concerning the 1989 bond issue:

> The passage of the bonds in 1989 has already funded dozens of badly needed renovations and transformed learning environments for thousands of children. These upgrades have made possible new and enhanced libraries, science labs, classrooms, fine arts studios and many other facilities serving students. This broad array of citywide improvements will always be remembered as part of the Strauss legacy.

Mr. President, TUSD has almost 58,000 students and 8,000 employees. In order to govern an enterprise this large and diverse, one must devote themselves to learning all aspects of it. Bob did just that. He traveled extensively throughout the district participating in many programs. For example, he spent a great deal of time reading to elementary schoolchildren during the "love of reading" week. Bob also made extraordinary efforts to attend graduation ceremonies and other events to recognize the achievements of the district's students.

Bob was also extensively involved in expanding programs to increase graduation rates among distressed students, promoting fine arts, math, and science programs at the Tucson high magnet school and creating opportunities for the involvement of parents.

But, probably the crowning achievement of Bob's service on the board is his efforts to reduce the extracurricular participation fees in order to make it more affordable for all students to participate in these activities. In leading this effort, he recognized the importance of these programs to the total development of the student. His efforts enabled many students to participate in sports and arts programs who had otherwise been prevented from doing so. As the Tucson Citizen stated:

> If Bob Strauss is remembered for nothing else during his tenure as a school board member, he will be remembered—and quite fondly—for the pressure he applied to have the extracurricular participation fees slashed in the Tucson Unified School District.

Mr. President, in addition to his service on the TUSD board, Bob is active in many other civic activities, too numer-

ous to name, that primarily focus on the young people in southern Arizona. He recognizes the importance of ensuring that our young people are given the necessary tools and foundation so that they may become the leaders of tomorrow.

I know Bob's service on the TUSD board will be sorely missed, but I am sure he will remain involved. This Senator is honored to consider Bob Strauss a friend and I ask that my colleagues join me in saluting him.

HUMAN RIGHTS VIOLATIONS IN UZBEKISTAN

Mr. DECONCINI. Mr. President, as Chairman of the Helsinki Commission, I would like to speak out about the deteriorating situation for human rights and democratic reform in the newly independent country of Uzbekistan. I visited Uzbekistan last April and had great hopes for the new country. I supported that country's right to come out from under the clutches of Moscow and welcomed it into the community of independent nations. I was especially heartened by Uzbekistan's membership in the CSCE process, which I felt would be an excellent guide, as the country embarked on the difficult road to democratization. In April, Uzbek officials, including the Foreign Minister Ubaidulla Abdurazzakov, assured me of their government's commitment to the implementation of Helsinki principles in Uzbekistan and to developing a respect for human rights that was so sorely lacking during the long years of Russian colonization and Soviet domination.

I regret to report that recent events have made a folly of the Foreign Minister's pledge. It has become increasingly clear that the Uzbek Government apparently has no intention of respecting human rights and implementing democratic reforms in that country. Though 1992 began hopefully with a presidential election in which for the first time in Uzbek history there were two candidates for the office, the ensuing months provide that the government of President Islam Karimov has no regard for democracy or human rights. The Helsinki Commission began to receive reports of harassment of opposition members, which included arbitrary arrests and detentions, the ransacking of homes and offices, the unexplained closure of meeting halls, and the confiscation of all publications which did not support the government. The actions against opposition groups culminated in the harsh attack on June 30 against Abdurrahim Pulatov, chairman of Birlik, which is the largest opposition group in Uzbekistan. Mr. Pulatov and his colleague, Miralim Adylov, were brutally beaten with steel rods and barely escaped with their lives. In a gross display of cruelty, Uzbek doctors, under government threat, refused to treat the two men, who were forced to seek treatment in Moscow.

Unfortunately, Mr. President, the brutal crackdown on all those who speak out against the government has continued to this very day. Just last month, several human rights and democratic activists from Uzbekistan were detained and prevented from attending a groundbreaking human rights conference for the Central Asian countries held in neighboring Kyrgyzstan. And in the most flagrant disregard for all standards of justice, on the day after the conference ended, one of its chief organizers, Abdumannob Pulatov, an Uzbek and brother to the Birlik chairman who was so brutally attacked in June, was abducted from Kyrgyzstan by Uzbek KGB agents and forcibly returned to Tashkent where he is in prison. Uzbek authorities have refused to allow representatives of the United States Embassy, and international human rights groups, to see Mr. Pulatov and his whereabouts, and even the state of his health, are unknown.

Mr. Pulatov, and other Uzbeks who did manage to attend the conference, are charged with the crimes of insulting the dignity and honor of the president and attending an unauthorized meeting. In fact, the Kyrgyzstan conference, which was attended by a staffer from the Helsinki Commission, was a courageous first step of democratic and human rights activists from all the Central Asian countries on behalf of freedom and democracy. I, myself, met with Abdumannob Pulatov last April in Tashkent and was impressed with his thoughtful and genuine commitment to peaceful democratic reform in his country.

I hereby call on the Uzbek authorities to release Abdumannob Pulatov immediately and to cease all its brutal actions against groups in Uzbekistan whose only crime is to hold opinions which are different from the government's. I call on President Karimov to respect the principles of democracy and human rights as embodied in the Helsinki Final Act, which he, himself, signed in Helsinki in February 1992. I say to President Karimov, the goal of political stability to which you claim to adhere, dose not justify the brutal repression of other human beings.

Mr. President, the events in Uzbekistan provoke both outrage and sadness. During my visit there last April, I visited the beautiful city of Samarkand, and it became clear the extent to which the rich and remarkable culture of the Uzbek people had been smothered for so many years under Soviet repression and the lies of Soviet ideology. I understand very well that Uzbekistan, a brand new country, now faces many economic, social and political hardships as it gropes its way out of the darkness of colonization and repression. Unfortunately, the repressive practices of the current leaders of Uzbekistan have shown that Uzbek leaders intend not to bring in the light to democracy, but to continue those dark days of totalitarian repression.

S. 1, NATIONAL INSTITUTES OF HEALTH REVITALIZATION

Mr. HATCH. Mr. President, I deeply regret that I am unable to cosponsor the NIH reauthorization bill (S. 1) today due to my continuing concerns regarding its fetal tissue research provisions. It is regrettable that these provisions are included in this bill, particularly since President Clinton has made it clear that he will override the fetal tissue moratorium. In all probability, by the time the bill is marked up in committee next week, it will be a fait accompli.

I am gratified, however, that the bill does not repeal the fetal tissue banks that were begun last year. I am firmly convinced that if these research banks are allowed to flourish they will provide an alternative source of fetal tissue than that from induced abortions.

With a few exceptions, I believe the bill's provisions merit support. In particular, I wish to emphasize my continuing support for the concept of reforming the NIH AIDS research program.

I have long supported AIDS research. Few areas or demographic groups have been left untouched by this tragic disease. This NIH bill contains a provision for essential AIDS vaccine trials for women and children that I requested be included.

The AIDS research program has grown over the years and through the tireless effort of those like Anthony Fauci, M.D., has been successful. The AIDS research budget is spread out across the 13 institutes, and the tiny office of AIDS research has struggled in its attempt to coordinate the far flung research efforts. The current AIDS research budget is over $1 billion—larger than many institutes. There is unnecessary duplication and the program is without focus.

The provisions contained in this bill, while not perfect, provide AIDS research with the leadership, strategic planning, and coordination that are so essential into other life-threatening diseases. Specifically, I support the concept of a unified program focus through the development of a strategic plan and budget for AIDS research and the authority for the allocation of the research funds to the Office of AIDS Research, Moreover, the proposed changes will not cost additional monetary or personnel resources.

I believe that it is imperative to enhance the position of Director of the Office of AIDS Research to that of a full-time, Presidential appointee who will: First, report directly to the Direc-

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tor of the NIH; and second, sit on relevant executive branch AIDS task forces.

It is my sincere hope that these provisions will be included in the NIH reauthorization bill (S. 1). I believe them to be a critical component of our continuing search for treatments and, ultimately, a cure for AIDS and HIV disease. I remain committed to working with the distinguished chairman and ranking member of the Labor and Human Resources Committee to further refine these provisions as this bill moves forward.

THE SELECT COMMITTEE ON POW/MIA'S

Mrs. KASSEBAUM. Mr. President, the Senate Select Committee on POW/MIA Affairs has culminated its work with the release of its report, which provides a very extensive review of the issue.

I would like to join my colleagues in commending the chairman, Senator JOHN KERRY for his leadership on this committee. Senator KERRY, despite the committee's differences on various aspects of this issue, kept the committee nonpartisan and kept our eye on the central fact that we were all working for the families. In this same regard, Senator BOB SMITH, our vice chairman also deserves our commendation.

The members of this committee started with a wide range of views on this issue, but every Member shared the determination to find answers and provide recommendations on how our Government could better serve the families whose sons and daughters had made the greatest sacrifice for our Nation. It was this shared spirit that the chairman and the vice chairman tapped and were successfully able to mold into a productive force.

As someone who had not had an extensive knowledge of this issue when this process began, I have come to know firsthand the pain this tragedy has caused for countless families. This experience has only served to reinforce my own commitment to ensuring that our Government is responsive to its citizenry, particularly in areas as important as this one.

In my view, the most important accomplishment for the committee has been the release of an unprecedented amount of information that will help ultimately resolve the questions about U.S. servicemen still unaccounted for in Southeast Asia. While the committee was not able to resolve all of the questions surrounding this issue, its main success was to put in place a process in which questions can be answered about missing Americans and that over time this process will provide additional answers.

This process includes the most rapid and extensive declassification of public files and documents on a single issue in American history. The release of these documents, combined with our hearing record and with this report will now provide an unprecedented amount of resources which can help resolve this issue.

The report is a unanimous report supported by all 12 members of the committee. It is a very honest and direct report. Where there are differences among the members, these differences are noted. While it provides a review of the background of this issue, including an analysis of the Paris peace accords, it would be beyond the scope of this report to give a complete history of the more than 20 years covered. What we tried to do was highlight those areas and factors over the years which had an important impact on this issue. I believe the result of this effort is the most comprehensive review of the POW/MIA issue that has ever been provided.

The committee's main conclusion was that there is no compelling evidence that any American POW's are alive today in Southeast Asia. Nevertheless, the committee also determined that despite official statements to the contrary, our Government expected over 100 more Americans home at Operation Homecoming. While we do not believe that American officials had certain knowledge that any specific prisoner or prisoners were left behind after Operation Homecoming, the fact that these individuals were not accounted for began the 20 year agony on this issue.

Ultimately we are still dependent on the Southeast Asian countries, particularly Vietnam and Laos, for cooperation on this issue. But, a more effective and responsive policy on the part of our Government can help heal the wounds and answer remaining questions.

It is in this regard, that I would strongly recommend the implementation of the committee's recommendations for the executive branch on how to improve its handling of the POW/MIA issue.

By far the greatest obstacle to a successful accounting effort over the years has been the refusal of the foreign governments involved, until recently, to allow the United States access to key files or to carry out in-country, onsite investigations. But, I would like to underscore the committee's conclusion that the U.S. Government's process for accounting for Americans missing in Southeast Asia has been flawed by a lack of resources, organizational clarity, coordination and consistency. These problems had their roots during the war and worsened after the war as frustration about the ability to gain access and answers from Southeast Asian governments increased.

The committee's recommendations include encouraging the executive branch to establish a process of live sighting response, investigation and evaluation that is more extensive and professional than ever before. They also include:

Accounting for missing Americans from the war in Southeast Asia should continue to be treated as a matter of highest national priority by our diplomats, by those participating in the accounting process, by all elements of our intelligence community and by the Nation, as a whole.

Continued, best efforts should be made to investigate the remaining, unresolved discrepancy cases in Vietnam, Laos, and Cambodia.

The United States should make a continuing effort, at a high level, to arrange regular tripartite meetings with the Governments of Laos and Vietnam to seek information on the possible control and movement of unaccounted for United States personnel by Pathet Lao and North Vietnamese forces in Laos during the Southeast Asia war.

The President and Secretary of Defense should order regular, independent reviews of the efficiency and professionalism of the DOD's POW/MIA accounting process for Americans still listed as missing from the war in Southeast Asia.

A clear hierarchy of responsibility for handling POW/MIA related issues that may regrettably arise as a result of future conflicts must be established. This requires full and rapid coordination between and among the intelligence agencies involved and the military services. It requires the integration of missing civilians and suspected deserters into the overall accounting process. It requires a clear liaison between those responsible for the accounting—and related intelligence—and those responsible for negotiating with our adversaries about the terms for peace. It requires procedures for the full, honest, and prompt disclosure of information to next of kin, at the time of incident and as other information becomes available. And it requires, above all, the designation within the executive branch of an individual who is clearly responsible and fully accountable for making certain that the process works as it should.

In the future, clear categories should be established and consistently maintained in accounting for Americans missing during time of war. At one end of the listings should be Americans known with certainty to have been taken prisoner; at the other should be Americans known dead with bodies not recovered. The categories should be carefully separated in official summaries and discussions of the accounting process and should be applied consistently and uniformly.

Present law needs to be reviewed to minimize distortions in the status determination process that may result from the financial considerations of the families involved.

Wartime search and rescue [SAR] missions have an urgent operational value, but they are also crucial for the purposes of accounting for POW/MIA's. The records concerning many Vietnam era SAR missions have been lost or destroyed. In the future, all information obtained during any unsuccessful or partially successful military search and rescue mission should be shared with the agency responsible for accounting for POW/MIA's from that conflict and should be retained by that agency.

If these reforms are implemented, we will be even further along in answering the outstanding questions. It is important to emphasize that the release of this report is not the end of our concern here in the Senate or in the Government. One of the committee's most significant conclusions is that we must keep the door open on this issue until its is ultimately resolved.

GOODBYE, CHRIS STREET

Mr. HARKIN. Mr. President, I rise today to say goodbye to a young man who left this world too soon.

History tells us that on the day John F. Kennedy died, a tailor in New York put a sign on the door that read, "Closed Due to a Death in the Family." Mr. President, that's how Iowa feels today—we've had a death in the family. And that's what makes this so hard.

Two days ago, on a lonely stretch of highway just north of Iowa City, a young man named Chris Street died when the car he was driving collided with a snowplow. It was a tragic and senseless death that rocked Iowa to the very core.

The reason Chris felt like part of the family was because every week during the winter he entered the homes and visited the family rooms of Iowans all over the State. You see, Chris was a starting forward for the University of Iowa basketball team.

Just last Saturday, he set a school record by making his 33d and 34th straight free throws. Last year, as a sophomore, he earned honorable mention in the Big Ten Conference. This year, he was a star on a team ranked No. 14 in the Nation.

None of this came as any surprise to those of us who watched him grow up. I used to represent the congressional district he was from. While at Indianola High School, Chris was an all-State basketball player—not to mention the fact that in his senior year, USA Today named him an all-American quarterback. But it was as a Hawkeye where we really grew to love him.

In Iowa, we don't have any major league sports teams. The Iowa Hawkeyes and the Iowa State Cyclones are our major league athletes. And over the last few years, Chris Street had become a household name to Iowans and a hero to thousand of kids.

It was a title he wore well. In addition to being one of the best players on one of the best teams in the country, he was also the most quotable, the most emotional, and the most friendly player out there.

No wonder it rained in Iowa City for 2 days following his death. The family, friends, and fans of Chris Street cried the rain down.

My thoughts and prayers go out to his friends and family today, as they say their last goodbyes to a truly wonderful young man.

To paraphrase what a philosopher once said when Gandhi died, "In his lifetime, this young man managed to become enshrined in millions and millions of hearts, so that all of us became somewhat of the stuff he was made of." Chris Street may be gone, but his inspiration lives inside each and every one of us. We will miss him, but we will never forget him.

RECESS

Mr. MITCHELL. Mr. President, I now ask that the Senate stand in recess as under the previous order.

Thereupon, at 12:50 p.m., the Senate recessed until 2:15 p.m.; whereupon the Senate reassembled when called to order by the President pro tempore [Mr. BYRD].

ORDER OF PROCEDURE

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

Mr. HELMS. Mr. President, the able Senator from Oklahoma wishes to make some remarks, and I ask unanimous consent that it be in order for him to make those remarks and then the floor will be mine again.

The PRESIDENT pro tempore. The Chair would state that the Senate is in a period for the transaction of morning business, and under the order previously entered, Senators may speak therein. Does the Chair understand that the Senator from North Carolina wishes to seek recognition?

Mr. HELMS. I wish to be recognized and yield to the Senator from Oklahoma briefly.

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

Mr. HELMS. I thank the Chair.

Mr. BOREN. Mr. President, I thank my colleague from North Carolina. I make an inquiry of the Chair if the introduction of bills is also in order at this time.

The PRESIDENT pro tempore. The Senator is correct.

Mr. BOREN. I thank the Chair.

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

Mr. BOREN. Mr. President, I again thank my colleague from North Carolina for allowing me to proceed.

I yield the floor.

The PRESIDENT pro tempore. In accordance with the unanimous-consent request previously granted, the senior Senator from North Carolina [Mr. HELMS] retains the floor.

Mr. HELMS. I thank the Chair.

ROBERT E. LEE—THE NOBLEST AMERICAN

Mr. HELMS. Mr. President, Tuesday, January 19, marked the 186th anniversary of the birth of Robert E. Lee, the man whom Winston Churchill correctly, in my view, called "the noblest American who ever lived and one of the greatest captains known to the annals of war."

In an age when revisionist academics spend their careers tearing the lives of those who do not fit their politically tainted agendas, Robert E. Lee still stands as one of the most inspiring and beloved men in the history of this country. But beyond the mythical general who struck with a thunderbolt on the battlefield and led the Army of Northern Virginia into legend, there was a gentle man of simplicity and perseverance who met each crisis and task with unquestioned faith in his Creator and unfailing devotion to his duty. For our times, Robert E. Lee the man is more the measure than the marble symbols of Lee the warrior which adorn so many shrines.

All of us, I suppose, have done some reading about Robert E. Lee, and in my case, looking at his life, I am reminded that at each turn, from his refusal to take command of the Union Army in 1861 to his heartwrenching decision to ask Grant for surrender terms in 1865, Robert E. Lee asked himself the same question over and over, "What is my duty as a Christian and a gentleman?" As his foremost biographer, Dr. Douglas Southall Freeman, noted, "he answered by the sure criterion of right and wrong and, having answered, acted."

Robert E. Lee's religious conviction was clearly expressed in his sense of honor and duty. He revealed this in a note he wrote to himself: "There is a true glory and a true honor: the glory of duty done—the honor of the integrity of principle."

As Dr. Freeman records, Lee's creed was no more sorely tested than in those dark hours when he faced the decision of whether to surrender his ragged but still defiant army. Robert E. Lee told his subordinates, "If it is right, then I will take the responsibility." Lee subjected his decision to the belief that his God's desire would work out for the benefit of all, including himself. Because of this he endured, despite facing insurmountable odds and even when he knew that the cause for which he fought was doomed.

Despite being born to greatness, Robert E. Lee was a man of simple humility. His sense of self-denial and basic decency prepared him for the terror of war and its equally devastating aftermath. He could have easily rode to victory at the head of Lincoln's armies, but he denied himself a chance at glory.

Rather than surrender, he could have led his men into a guerrilla war which would have probably ended any chance for restoration of the Union. Instead of continuing the battle he chose to fight for tranquility. After Appomattox he dedicated his life to restoring peace to his country by imbuing southern youth with a sense of obligation and self-sacrifice, not vengeance and acrimony. He refused to get rich by letting others use his name. There were no speaking tours or self-serving memoirs blaming other men for the South's defeat.

He was satisfied to fill out his life with the presidency of a small Virginia college. Again he denied himself in order to be an example to us.

In one of his last public acts, he took a young child from his mother's arms and in lifting him up said softly, "Teach him he must deny himself." There is no greater testament to the man.

Mr. President, as we honor Robert E. Lee this week, I close with a passage from a distinguished southern essayist, Benjamin Harvey Hill:

> He was a foe without hate, a friend without treachery, a soldier without cruelty, and a victim without murmuring. He was a public officer without vices, a private citizen without wrong, a neighbor without reproach, a Christian without hypocrisy, and a man without guile. He was a Caesar without his ambition, a Frederick without his tyranny, a Napoleon without his selfishness, and a Washington without his reward.

INTRODUCTION OF LEGISLATION

Mr. HELMS. Mr. President, today I introduce a four-pronged package of legislation to: No. 1, restore the rights of 1.5 million unborn Americans slaughtered each year; No. 2, to restore the right of our children to voluntarily pray in schools; No. 3, to restore the supremacy of the individual over State-imposed quotas; and No. 4, to treat AIDS as a public health issue rather than one of civil or political rights.

Needless to say, I will say more later about each of these proposals. For the present I will talk about the need to change the direction of the country, it being fashionable to talk about change these days.

Amid all of the cheers being raised as we enter a new Congress and a new administration, there is growing trouble across our land. Our traditions, our children, and the institutions which have made this Nation the light of the world, are all under assault.

We are not threatened in a military or material sense. We are—despite reports to the contrary—the globe's military and economic colossus. America's armed might stand unchallenged. The evil empire is a thing of the past. Our economy is twice the size of our nearest competitor—Japan.

Why then is our great country in danger? Mr. President, I believe we are in a war—in the sense that we are engaged in a struggle for the soul of America.

The residue of the 1960's—the dream decade of the left—continues to wreak havoc. Free sex translated into wave after wave of sexual diseases, the most recent manifestation, AIDS, having turned the public health agenda of this country on its head.

Illegitimacy is rampant. The Department of Health and Human Services reports that 9 of every 10 children in the District of Columbia are born to unwed teenage mothers. According to the Wall Street Journal, in the Nation's Capital, two-thirds of 10th grade boys and one-fifth of 10th grade girls report that they have already had at least four sexual partners.

Pornography is taken for granted. Unnatural lifestyles have been elevated to the level of legitimacy. At the Democratic Convention several speakers called AIDS a Reagan-Bush disease. Forget the fact that the Centers for Disease Control claim that the average male AIDS carrier has had over 500 sexual partners, and far more Federal dollars have been spent on AIDS than on heart disease and cancer combined.

Not one speaker at last year's Democratic Convention dared mention that there is a moral factor missing in this debate. To have done so, the speakers probably would have had to reject the so-called progressive creed that every person must be liberated from traditional values—in other words if it feels good, do it. In this bizarre world there are no universal standards, and like the Orwellian nightmare of "1984," right becomes wrong, bad becomes good, and the lie becomes the truth.

Tolerance of the drug culture in the popular media and the breakup of the traditional family have combined to give us three generations of a professional criminal class—the power of which raised its ugly head on the streets of Los Angeles a few months ago.

When a spokesman for former President Bush said that many of our social problems stem from the failed policies of the secular welfare state, he was hooted down and pilloried by the talking heads in the media and the political opposition.

So I think it is a significant question, a relevant question to ask, "Where are we headed?" Quo vadis, America?

What can be said in a Nation where the highest Court in the land declares that the display of the Ten Commandments and the recitation of the Pledge of Allegiance in a public school is illegal while the very same public school hands out condoms to sixth graders and preaches the equality of perverted sexual lifestyles?

Mr. President, we are losing a spiritual war and it is eating away at our national security from within. As the remarkable French statesman Alexis de Tocqueville noted in the 1850's, the source of American virtue will never be found in the Government or Government programs. The source of American virtue, he said, will always be found in the churches and synagogues of America.

Los Angeles political commentator Dennis Prager recently noted that religious Americans have not only conceded the Government and the media to left wing activits, we are now allowing those forces to define a new creed for America. The trinity of Christianity—Father, Son, and Holy Ghost—and the trinity of Judaism—God, the Torah, and Israel—have been replaced by a new creed—race, gender, and class.

In this new religion we can no longer judge people in terms of good or evil—only in the context of black versus white, male versus female, and rich versus poor. Rather than proclaim the responsibilities and duties of citizenship, the cult of victimhood is enshrined as gospel. The liberals always blame someone or something else—Reagan, Bush, lack of gun control, not enough condoms for children, et cetera, et cetera.

On the academic campus and in enlightened circles, the new religion has spawned a fashionable word: multiculturalism. Multiculturalism does not stand for the celebration of Greek-American culture, Italian-American culture, or African-American culture. Multiculturalism means multimorality—the denial of the universal truths embodied in the Judeo-Christian ethic.

Under the multicultural banner, a rock music producer—who happens to be chairman of the Southern California ACLU—in defending a particularly offensive rap singer declared with a straight face that, "What is vile to a Mormon family in Utah is not vile to a black family in south central Los Angeles." The Los Angeles Times sneered that the espousal of traditional values is simply a right wing euphemism for an oppressive organization where a white father heads a family. In other words, a married man and woman, living together with children is not a universal value—certainly not one to be encouraged and nurtured by all Americans.

I do not buy that and I do not believe many people do.

Mr. President, America has reached a point in popular culture where morality is nothing more than a matter of personal preference—like choosing where to shop, or what movie to see.

Values become simply a matter of how you look at them—no Ten Commandments, no psalms, no beatitudes, no "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights"—you know the rest.

But I say, Mr. President, and I do not claim even better than average wisdom, but I say that if America is to survive, there must be an American reawakening. We cannot continue down this destructive path or we will duplicate the fall of Rome and all other beaten civilizations in history. Before it is too late, we must have the courage and the decency to stand up for life, the family, and all of the other principles that made this Nation great in the first place.

SCHOOL PRAYER CONSTITUTIONAL AMENDMENT

Mr. HELMS. Mr. President, I am today introducing a resolution proposing an amendment to the U.S. Constitution, which, according to recent polls, is supported by 75 percent of the American people. Specifically, the proposed constitutional amendment restores the right of voluntary prayer in the public schools, including the offering of prayers at public school graduation ceremonies and sports events, such as football and basketball games.

Mr. President, in line with the comments that were just made, this proposed constitutional amendment focuses on the survival of our Nation.

During the recent Presidential campaign, the news media cited ad nauseam a sign posted in the Clinton campaign headquarters which reportedly said, "It's the economy, stupid." But what the media lost sight of—indeed, probably never recognized—is that at the core of the free enterprise system is a moral society, and unless the fact that the Lord governs in the affairs of mankind is recognized, no economy can ever be strong.

Unlike the media, the American people recognize the moral—and practical—imperatives of returning voluntary prayer to our schools. "Reader's Digest" commissioned the Wirthlin Group to conduct a poll on the issue and reported the results this past November. They found that 80 percent of the American people disapprove of the Supreme Court's recent ruling that it is unconstitutional for prayers to be offered at high school graduations and that 75 percent of Americans generally favor prayer in public schools. As "Reader's Digest" pointed out, these opinions in favor of prayer "were expressed by Democrats, Republicans, blacks and whites, rich and poor, high-school dropouts and college graduates—reflecting a profound disparity between the citizenry and the Court."

What this demonstrates, Mr. President, is that the vast majority of Americans intuitively, and properly, understand that the moral collapse in our schools, and our country, is in great part due to the Supreme Court's deemphasizing moral principles that deserve to survive—indeed, must survive if this Nation is to survive.

Mr. President, Justice Potter Stewart, dissenting in one of the Supreme Court's earliest cases outlawing school prayer, made this profound observation:

> A compulsory state educational system so structures a child's life that if religious exercises are held to be an impermissible activity in schools, religion is placed at an artificial and state-created disadvantage. Viewed in this light, permission of such exercises for those who want them is necessary if the schools are truly to be neutral in the matter of religion. And a refusal to permit religious exercises thus is seen, not as the realization of state neutrality, but rather as the establishment of a religion of secularism.

Justice Stewart's words accurately predicted that governmental intolerance of religion would be the natural and precise effect of the Court's decision banning school prayer. The effect of those decisions has been to outlaw, for all practical purposes, any manifestation of religious faith on public school property.

Mr. President, consider the havoc wrought by implications far beyond the schools themselves: Rising crime rates, increased illegitimate births, abortion, incest, poverty, teen-age suicide, AIDS, pornography masquerading as art, and a tragic erosion of the American citizen's love and concern for his fellow man into a cold indifference. All have a common thread: A massive collapse of morals in America.

Repeated statistics show that the public schools have been going downhill morally and academically since the Supreme Court outlawed school prayer in the 1960's. I have a book of graphs based on statistics from the Federal Government and other widely respected institutions which illustrate the moral and academic decline in the schools since that time. The statistics make all too clear the importance of restoring the right of voluntary prayer and Bible reading in the public schools and at public school events.

Senators may recall that on January 23d last year, I offered a Senate resolution urging the Supreme Court to use the then upcoming Weisman versus Lee school prayer case to restore to America's children the right of voluntary prayer and/or Bible reading in the public schools. While the Senate's rejection of that simple resolution by a vote of 38 to 55 did not surprise me, the Supreme Court's subsequent decision last June 24 in the Weisman case did. In that decision, the Court shamefully adhered to its historically insupportable view that the Constitution somehow forbids any and all religious expression in the public schools. In Weisman, the Court took such faulty logic yet another step forward in order to outlaw voluntary prayers during public school graduation ceremonies—based on the insane notion that an individual's mere presence during the offering of a prayer constitutes forcing that individual to participate in the prayer.

Most Senators no doubt heard from the new media and hundreds of constituents this past fall, as I have, that the ACLU and other liberal extremists have used the ruling in the Weisman case to force school boards all over the country to ban public prayers at high school football and basketball games.

But this time, Mr. President, ordinary Americans have been fighting back. In many cities and towns, school officials are providing a moment of silence in lieu of a public prayer—and the people are grasping the opportunity to spontaneously recite the Lord's Prayer in unison. But such spontaneous acts of prayer has been too much for antireligious bigots in some cities and with the ACLU's help they have gone back to the Federal courts to try and block even moments of silence before ball games.

It is my firm belief that the Founding Fathers would be horrified at such a twisted interpretation of the first amendment's establishment and free exercise clauses. Has the Court forgotten that there are two parts to the first amendment's clause dealing with religion? The amendment prohibits government from interfering with the "free exercise of religion" just as strongly as it prohibits the government from establishing a religion. The words are, "Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof."

Is the Supreme Court blind to the second half of that sentence?

Mr. President, how ironic it is that while we in the Senate deem it helpful and necessary to begin our day's activities by corporately and publicly asking God's blessing on our efforts, the Supreme Court denies this same right and privilege to millions of schoolchildren across this Nation.

It is also ironic, Mr. President, that instead of engendering official attitudes of neutrality toward religion in the schools—as the Supreme Court initially assured us they would in the early 1960's—the school prayer decisions have in fact fueled government intolerance of, and active assaults on, any vestige of Christianity in the public schools.

In North Carolina alone, within the last several years, such government-induced intolerance toward religion has produced the following results:

First, a teacher in Lexington, NC, Ronald Chapman, resigned his job because he refused to end his 23-year tradition of reading the Bible and praying with his special education students. His efforts throughout the 32 years had

the enthusiastic approval of every student and every one of their parents;

Second, just a few miles down the road in the same county, in Thomasville, NC, the school superintendent banned the decades-old tradition of permitting a public prayer for the safety and protection of football players before high school football games;

Third, the Federal courts prohibited a State judge in Charlotte from opening his court sessions with a prayer for wisdom and guidance from God; and

Fourth, a school teacher in Charlotte was prohibited by the local school board from reading her Bible during her lunch hour.

Mr. President, similar governmental restraints on religious freedom in public have taken place all over the Nation.

In the State of Florida, a school principal felt personally compelled by the Supreme Court decisions to use his scissors to remove pictures of the Bible Club from all copies of the high school annual.

In various States, students have been prohibited from praying in their cars in the school parking lot—or even bringing their personal Bibles onto school property.

In Colorado, a Denver school tried to have all copies of the Bible removed from the school library on the grounds that their presence on the shelves was an infringement of the Supreme Court's decisions on school prayer.

In Schuylerville, NY, a Federal judge ordered the removal of a former student's painting of Jesus' crucifixion that had hung on a school wall for 25 years. The judge stated that the painting conveyed a message of "government endorsement of Christianity." Yet the Federal courts have been strangely silent on the message of "government intolerance of Christianity" conveyed by National Endowment for the Arts' use of Federal funds to subsidize an artist who put a crucifix in a glass vat of urine and claimed it was art.

Three separate studies, Mr. President, have noted that textbooks in the public schools systematically shun the role of religion in molding the Nation and motivating our leaders because publishers believe the Supreme Court decisions require such censorship.

Perhaps most absurd, Mr. President, is the insistence of the American Civil Liberties Union in California that the "teaching that monogamous, heterosexual sexual intercourse within marriage as a traditional American value is an unconstitutional establishment of a religious doctrine in the public schools." No wonder the teenage pregnancy rate is going through the roof when such absurdities as this are entertained seriously in the Federal courts.

Mr. President, can the situation get further out of hand? Such ludicrous episodes clearly demonstrate the duplicity of the Supreme Court's empty assurances in 1962 in Abington School District versus Schemp that despite their decision banning school prayer:

> The State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to a religion, thus preferring those who believe in no religion over those who do.

But that is exactly what has happened. Time magazine acknowledged in its December 9, 1991, edition that Angela Davis can walk into any public school in the country and sing the praises of dogmatic Marxist atheism. Yet the students themselves cannot so much as read the Ten Commandments in rebuttal.

Mr. President, perhaps the irony of ironies in the whole situation are the recent news reports about the spiritual resurgence in the Republics of the former Soviet Union. I have here a 3-week-old article from the January 4 edition of "Newsweek" magazine detailing how those Republics are allowing prayer and religious instruction in the public schools. Let me quote from that article:

> [T]here is a religious revival in Russia, and educators—pressured, at times, by parents—are searching for ways to give students an ethic to live by. In a change as radical as its embrace of democracy, Russia—like several other former Soviet Republics—has embarked on a massive effort to bring the teaching of religion back into its 160,000 schools.

As Aleksandr Asmolov, the deputy minister of education explains, the dream is to provide Russian students with enough information about the history of spiritual culture to allow them "to freely choose any religion they want."

Even Evgenia Tikhona, a Soviet teacher for 40 years—and an atheist—understands the need for religious foundations in order to maintain her country's social fabric. In a comment about the social problems besetting the Russian schools she said:

> Now that belief [in Lenin] is gone and that is why we have to turn to Jesus. Either the children will learn from his example, or they will turn to crime, drugs, and alcohol.

Mr. President, I could not agree with her more. Without freedom of religion in the schools, American students have indeed turned to crime, drugs, and alcohol as the statistics I have here at my desk demonstrate.

The former Soviet Republics have obviously learned the hard way that devoid of the underpinnings of religion, no society—or economy—can survive, much less prosper. Unfortunately, it appears that the cultural and media elite in this country are determined to force us to learn the very same lesson the hard way, with or without the consent of a majority of Americans.

Mr. President, freedom of religion, guaranteed to us by the Founding Fathers in the first amendment to the U.S. Constitution, is fundamental to our democracy. This has been recognized as a fact from the Nation's very inception. Religious liberty, and recognition of the part played by Almighty God in creation of our country, have been foundation stones in our national existence.

One of the earliest official acts undertaken by a leader of the new Nation in 1789 acknowledged as much. President George Washington's first inaugural address, delivered in New York City on April 30, 1789, declared that:

> * * * it would be peculiarly improper (for me) to omit, in this first official act, my fervent supplications to that Almighty Being who rules over the universe, who presides in the councils of nations, and whose providential aids can supply every human defect, that his benediction may consecrate to the liberties and happiness of the people of the United States a government instituted by themselves * * * In tendering this homage to the great Author of every public and private good, I assure myself that it expresses your sentiments not less than my own; not less those of my fellow-citizens at large * * *

The Senate to this day—following George Washington's example—continues the tradition of holding a morning prayer to invoke God's blessings in our daily decisions. If we can do it in the Senate, then why are the Federal courts prohibiting a State judge in North Carolina from doing it in his courtroom every day? More importantly, why do the Federal courts prevent our children from saying such a prayer at school?

Mr. President, could George Washington have imagined that the day would come when the Supreme Court would outlaw the exercise of religion anywhere in the United States of America? Could any of those great men who led us from colonial servitude to the status of a proud new Nation—with the world's first guarantee of liberty to its people—could any of them have had the merest suspicion that 180 years into the future the Court would contravene the plain meaning and intent of the first amendment?

We know that some of those Founding Fathers harbored reservations about the role of the Supreme Court in the new Government. But surely no Founding Father could remotely have envisioned a court that could cancel a child's right to offer voluntary prayers in the company of those of like beliefs in his or her public school.

Mr. President, I am not alone in believing that this is not what the Founding Fathers intended. Prof. Charles Rice of Notre Dame Law School explains that it has been:

> * * * incorrectly asserted, by the Supreme Court and others, that the establishment clause ordained a government abstention from all matters of religion, a neutrality between those who believe in God and those who do not. An examination of the history of Clause, however, will not sustain that analysis. Its end was neutrality, but only of a sort. It commanded impartiality on the part of

government as among the various sects of theistic religions, that is, religions that profess a belief in God. But as between theistic religions and those non-theistic creeds that do not acknowledge God, the precept of neutrality under the establishment did not obtain. Government, under the establishment clause, could generate an affirmative atmosphere of hospitality toward theistic religion, so long as not substantial partiality was shown toward any particular theistic sect or combination of sects.

Mr. President, the Founding Fathers' sole intent in the Constitution's establishment clause was to prohibit the establishment of a national church; all remaining issues concerning church-state relations were left strictly with the States. And the pending amendment simply calls on the Supreme Court to restore the original intent of the Constitution's Framers in this regard.

Michael Novak of the American Enterprise Institute astutely pointed out that:

There is no issue in American life in which the public will is so clear and the political establishment is so heedless. The cultural and political elites have simply ignored the overwhelming support of the American people for voluntary school prayer—indeed for the role of religion and faith in the nation's life.

Mr. Novak hit the nail on the head. There are few more pressing duties facing Congress than to restore the true spirit of the first amendment regarding religion. Restoring balance and freedom to the public schools regarding the role of religion in our public—as well as our private affairs—is imperative if we really want to see an improvement in our schools in both academics and discipline. If we are really interested in the welfare of our Nation's children, as many of us espouse, we will restore to them a most fundamental right—the right to seek guidance and help from the Almighty each and every day at school, if and when they want to.

Earlier I quoted George Washington's first address to the Nation as President, so in closing I will recite his final counsel—and warning—to the Nation as he left office. It is as applicable today—perhaps more so—as it was more than 200 years ago. He cautioned the Nation that:

Of all the dispositions and habits which lead to political prosperity, religion, and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the text of the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 3

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE—

"Nothing in this Constitution shall be construed to prohibit voluntary individual or group prayer in public schools or other public institutions, or to prohibit prayer at public school baccalaureate services, athletic events, or other extracurricular activities. No person shall be required by the United States or by any State to participate in prayer or to be present during any prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools or other public institutions, or at events sponsored by public schools or other public institutions."

Mr. HELMS. Mr. President, I send the joint resolution to the desk and I ask that it be given first reading.

The PRESIDENT pro tempore. The Clerk will read the joint resolution for the first time.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 3) proposing an amendment to the Constitution of the United States restoring the right of Americans to pray in public institutions, including public schools, at graduation ceremonies and athletic events.

Mr. HELMS. Mr. President, I ask for second reading of the bill.

Mr. LEVIN. I object.

The PRESIDENT pro tempore. Objection is heard. Second reading will go over to the next legislative day.

CIVIL RIGHTS RESTORATION ACT OF 1993

Mr. HELMS. Mr. President, on June 25, 1991, I offered an amendment to the omnibus crime bill which would have done away with quotas in the workplace by amending title VII of the Civil Rights Act of 1964. According to the August 12, 1991 edition of the New Republic, that amendment caused a great deal of agitation within the Senate because it forced those Senators who say they oppose quotas to take a stand on outlawing the practice of racial quotas.

The New Republic went on to say that in order to force a showdown on preferences in hiring and promotion, this Senator—meaning JESSE HELMS of North Carolina—should accept a modification of the original amendment as offered by the distinguished Republican leader, Mr. DOLE. As Senators may recall the Republican leader proposed, during the debate in June 1991, that the Helms amendment contain language which would permit special recruitment of minorities and women for the employer's applicant pool—the broadly acceptable form of affirmative action. At that time, I agreed that Senator DOLE'S modification was an important addition to my amendment. However, because of objection on the other side, I was prevented from modifying the text of the amendment.

Mr. President, the legislation introduced today—The Civil Rights Restoration Act of 1993—offers Senators the opportunity to pick up the gauntlet laid down 2 years ago by this Senator and Senator DOLE.

The Helms legislation is very simple. It prevents Federal agencies and the Federal courts from interpreting title VII of the Civil Rights Act of 1964 to permit an employer to grant preferential treatment in employment to any group or individual on account of race. The Helms proposal prohibits the use of racial quotas in employment once and for all.

In the last 2 years, almost every Member of the Senate and every candidate for President has proclaimed that he or she looks with disfavor on quotas. This measure will give Senators an opportunity to reinforce their statements with a clear-cut vote against quotas.

I am not here on behalf of business—large, medium, or small. I am here on behalf of working people of all races, ethnic groups, and gender in North Carolina and around the country. They don't have 500 organizations trying to protect their civil rights. They are not organized into Washington pressure groups. They simply want to work for a living free of discrimination.

Unfortunately, government-imposed and government-encouraged quotas are a fact of life. According to the June 3, 1991, edition of Newsweek magazine, a substantial number of Fortune 500 companies have very clear minority hiring goals which they treat as quotas. In a survey of CEO's of Fortune 500 companies, 72 percent acknowledged that they use some form of quota hiring system. Only 14 percent of those CEO's claim that they hire solely on merit.

I note with interest that Business Roundtable favored the so-called Civil Rights Act passed in the last Congress. Mr. President, for whom does the Business Roundtable speak? Surely not for the little man. As the Newsweek article suggests, there are very big businesses who regularly engage in reverse discrimination. They are interested in public relations, not the civil rights of the individual worker.

Mr. President, all the Helms legislation says is that from here on out, employers will hire on a race neutral basis. They can reach out into the community to the disadvantaged—something all Senators support—and they can even have businesses with 90, 90 percent minority work forces as long as the motivating factor in employment is not race.

The Helms legislation clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of its authors, Hubert Humphrey and Everett Dirksen. Let me read it:

It shall be an unlawful employment practice for any employer, employment agency,

labor organization, or joint labor committee that is subject to this title to grant preferential treatment, with respect to selection, compensation, terms, condition, or privileges of employment or union membership, to any individual or to any group of individuals on account of the race, color, religion, sex, or national origin of such individual or group for any purpose, except as provided in subsection (e) of this section.

It shall not be an unlawful employment practice for any person described in paragraph (1) to establish an affirmative action program designed to recruit qualified minorities and women to expand the applicant pool of the person.

Why is this proposal necessary? It is necessary because in the 29 years since the passage of the Civil Rights Act, the Federal Government and the courts have corrupted the spirit of the act and created a tolerance for the very evil which Hubert Humphrey and Everett Dirksen fought so strongly against: the racial quota.

This legislation simply makes part (j) of section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those sections to make preferential treatment on the basis of race—that is, quotas—an unlawful employment practice.

This legislation will prevent the Federal Government from ever again terrorizing the small businesses of this country with threats and fines for not meeting some bureaucrat's vision of a proportionalized and racially correct society.

Perhaps Senators are familiar with the Daniel Lamp Co., a small Chicago lamp factory recently visited by the investigators of the Equal Employment Opportunity [EEOC]. On March 24, 1991, the CBS News Program, "60 Minutes"—a program not known for a conservative bias—blew the cover off to EEOC's attempt to impose its quota mentality on one defenseless businessman.

As Morley Safer put it, the Daniel Lamp Co. "is guilty of not playing the numbers game." You see, the EEOC found the owner of the Daniel Lamp Co. to be a practitioner of racial discrimination and leveled a fine of $148,000 against him. What was interesting about the charges was the fact that of the company's 28 employees the only two who were not black or Hispanic were the owner and his father—who, by the way, is a survivor of Auschwitz. There were 18 Hispanics and 8 blacks on the payroll when 60 Minutes began its investigation.

The trouble began when a disgruntled job applicant filed an EEOC racial discrimination complaint against the Daniel Lamp Co. The EEOC demanded the records of the company. The owner, who hired only minorities, was proud of his work force and happy to allow the Federal Government to inspect the ledger. He thought he might be commended for providing jobs for minorities. How wrong he was.

In its investigation CBS found that the only information the EEOC was using against the Daniel Lamp Co. was the agency's computerized quota numbers. The EEOC's computer told the agency that based on the employment statistics of Chicago businesses with over 100 employees—a fascinating comparison since the Lamp company never had more than 3 workers—the Daniel Lamp Co. had to employ exactly 8.45 blacks. That sounds like a quota to me, and it even sounded like a quota to Morley Safer who was puzzled as to why the agency was disobeying the law which as Mr. Safer put it "says the EEOC can't set quotas."

Despite the denials by the EEOC, Mr. Safer concluded that, "* * * it [the EEOC] did set numbers by telling Mike [the owner of the company] that based on other larger companies' personnel, Daniel Lamp should employ 8.45 blacks." When the Daniel Lamp Co. stood up to the intimidation of the EEOC, the agency tightened the noose. Not only did the company have to meet the quota and pay a huge fine, it also had to spend $10,000 to advertise in newspapers to tell other job applicants that they might have been discriminated against and to please contact the Daniel Lamp Co. for a potential financial windfall.

Mr. President, do you see what is going here? The Daniel Lamp Co. isn't one of those Fortune 500 companies that can afford a bunch of lawyers and can placate the varous special groups by hiring according to quotas. The Daniel Lamp Co. is a small, struggling enterprise which can afford to pay its few employees a scant $4 an hour. This company hired only minorities. But that was not good enough for the quota bureaucrats in Washington. They said the company did not hire enough of the right minorities.

This bill will put an end to this disgraceful power play by the quota crowd in the Federal bureaucracy.

Mr. President, do we want a nation where privilege and employment are handed out on the basis of group identity rather than merit? Already police and firemen in our major cities are clashing over who can be classified as black or Hispanic to ensure they receive job preference because of their minority status. Check the newspapers in San Francisco, Chicago, and Boston to see if I'm correct.

The Helms legislation protects the Daniel Lamp Co. and the firemen and the policemen, of whatever race, who are out there working hard at their jobs in the belief that they will be rewarded for their hard work—not judged on the color of their skin.

This proposal also includes an important safeguard which will protect those businesses and institutions whose special needs require personnel qualified for the job on the basis of religion, sex, or national origin. Like the other sections of title VII, this amendment protects the religious school or institution which grants preferences in hiring or admission to those of its own religion. It protects those ethnic-based enterprises which require special language skills and familiarity with particular customs.

Mr. President, there will be many Senators who will say the Helms legislation destroys affirmative action and outreach programs. Let me knock that strawman down.

If you equate affirmative action with goals otherwise known as hiring by the numbers, then the critics are correct: This bill does away with that practice.

If you support race conscious programs, if you support race norming tests, you lose under this legislation and you should vote against it.

If you equate affirmative action with outreach programs then you have nothing to worry about. Using language supplied by the distinguished Republican leader, a company can recruit and hire in the inner city, prefer people who are disadvantaged, create literacy programs, recruit in the schools, establish day care programs, and expand its labor pool in the poorest sections of the community. In other words expansion of the employee pool—what Senator DOLE calls good affirmative action—is provided for under this act.

Mr. President, America was founded on the philosophy of individual rights, not group entitlement. With that understanding, the distinguished former mayor of the city of New York, Ed Koch recently addressed the issue of numbers oriented affirmative action. In a letter to me, Mayor Koch made the following observation:

As to the already existing social problems caused by preferental affirmative action programs, several scholars, including the noted professor and sociologist Thomas Sowell, have observed that racial quotas and discriminatory affirmative action programs have not helped the intended beneficiaries. Those who are often preferred are the very ones who could have competed with the best.

If we are to uphold our commitment to civil rights—as we should—we must set in motion programs to ensure that all deprived persons—without regard to race, color, religion, sex or national origin—have the opportunity to achieve their full potential.

We should focus our attention on assisting minorities who have suffered from unequal opportunity * * * never excluding from programs others equally poor or deprived simply because they are white. The solution is not to place unqualified minority workers, or others of different national origin, in jobs for which they are not adequately trained as a Band-Aid to end discrimination. If anything that is the way to destroy the self-esteem of many workers, heightening anger and discrimination among fellow employees when some members of the work force are unable to carry their fair share of the load * * * such practices unfairly reflect upon many minority members who were hired because they were qualified and are better than other applicants. They unfairly become judged, not as individuals, but as members of a protected class, not able to compete with others.

As usual Mayor Koch cuts to the heart of the matter.

It makes absolutely no sense to this Senator that we can tolerate programs that discriminate against the poor Asian from San Francisco, or the poor white from western North Carolina because they do not fall into the class of protected minorities.

Mr. President, a few days ago I came across a scholarly paper titled "Equality and the American Creed: Understanding the Affirmative Action Debate," by Seymour Lipset. By the way, this paper was sponsored by the Democratic Leadership Council. The central thesis of this paper was summed up in this fashion:

Affirmative action policies, hiring or promoting people by the numbers or group identity challenge the basic American tenet that

rights to equal treatment should be guaranteed to individuals, and that remedial preferences should not be given to groups. And given the strength of individualism in the American tradition, it is not surprising that most Americans, including a considerable majority of women and a plurality of blacks, have continued to reject applying emphasis on protected rights to groups.

It is crucial that civil rights leaders, liberals, and Democrats rethink the politics of special preference. The American Left from Jefferson to Humphrey stood for making equality of opportunity a reality.

Mr. President, those sentiments are right on the mark. I applaud the DLC for its foresight and hope its members join the fight to eliminate the use of quotas in our society.

The Helms proposition puts America back on the course that Thomas Jefferson, Hubert Humphrey, and Sam Ervin envisioned. It offers Senators an opportunity to back up their speeches and press statements against quotas. It gives Senators an opportunity to vote against quotas.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 37

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Restoration Act of 1993".

SEC. 2. PREFERENTIAL TREATMENT.

(a) UNLAWFUL EMPLOYMENT PRACTICE.—Section 703(j) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(j)) is amended to read as follows:

"(j)(1) It shall be an unlawful employment practice for any entity that is an employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment to any individual or group with respect to selection for, discharge from, compensation for, or the terms, conditions, or privileges of, employment or union membership, on the basis of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e) or paragraph (2).

"(2) It shall not be an unlawful employment practice for an entity described in paragraph (1) to undertake affirmative action designed to recruit individuals of an underrepresented race, color, religion, sex, or national origin, to expand the applicant pool of the individuals seeking employment or union membership with this entity.".

(b) CONSTRUCTION.—Nothing in this amendment made by subsection (a) shall be construed to affect the authority of courts to remedy intentional discrimination under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)).

Mr. HELMS. I now send the bill to the desk and ask it be read for the first time.

The PRESIDENT pro tempore. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 37) to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes.

Mr. HELMS. I ask for the second reading.

The PRESIDENT pro tempore. Is there objection to second reading?

Mr. LEVIN. I object.

The PRESIDENT pro tempore. Objection is heard. The bill will go over to the next legislative day.

GENDER SELECTIVE ABORTIONS

Mr. HELMS. Mr. President, in 1989, our distinguished former colleague from New Hampshire, Mr. Humphrey, brought to the attention of the Senate a new and particularly brutal form of discrimination in America, at least that is the way he saw it and certainly that is the way I see it to this day.

On Christmas Day 1988, the New York Times detailed what Senator Humphrey was talking about. For the most part, the comments by Senator Humphrey were just like a ship passing in the night. The media totally ignored what Senator Humphrey was saying.

The New York Times article was headed "Fetal Sex Test Used as Step to Abortion." That article stated that:

In a major change in medical attitudes and practices, many doctors are providing prenatal diagnoses to pregnant women who want to abort a fetus on the basis of the gender of the unborn child.

Geneticists say that the reasons for this change in attitude are an increased availability of diagnostic technologies, a growing disinclination of doctors to be paternalistic, deciding for patients what is best, and an increasing tendency for patients to ask for the tests. Many geneticists and ethicists say they are disturbed by the trend.

That was the New York Times.

Prof. George Annas of the Boston University School of medicine is quoted in the article as saying:

I think the [medical] profession should set limits and I think most people would be outraged and properly so at the notion that you would have an abortion because you don't want a boy or you don't want a girl. If you are worried about a woman's right to an abortion, the easiest way to lose it is not set any limits on this technology.

Mr. President, the focus of this legislation addresses Professor Annas' argument—setting a limit on discriminatory abortion. Sex selection abortion is as cruel and inhuman a practice as can be imagined. I do not think anybody can imagine anything worse than that. Every year in this Chamber the cries go out for equal rights for one group or another, no matter how offensive those groups may be. but what about equal rights for these children who are killed solely for being a gender which their parents don't happen to prefer?

Then, Mr. President, there was an article published in USA Today on February 2, 1989 which ought to be referred to in this discussion. Let me quote it.

In a break with past medical attitudes more geneticists are open to identifying gender for parents early—so they can decide whether to abort.

The change has ethicists debating where a parent's right to information ends and the rights of the unborn begin.

A recent national survey of 212 medical geneticists found 20 percent approved of performing prenatal testing for sex selection; in a 1973 survey, only 1 percent approved.

Probably 99 percent of nonmedical requests for prenatal diagnosis are made because people want a boy, says Dr. Mark Evans, and obstetrician and geneticist at Wayne State University, Detroit. Some experts are concerned about the social impact.

Evans turns down nonmedical sex selection requests. "Being female," he says "is not a disease."

Mr. President, it is astonishing that the radical feminist movement in this country has not lifted one finger to halt the wanton destruction of female infants. We simply cannot follow the path of India where a survey in Bombay disclosed that of 8,000 abortions, 7,999 were female. You see, in India it is considered a liability to have female children.

Mr. President, I have always been opposed to the senseless slaughter of unborn babies. Others may try to dodge the issue, and squirm, and flip-flop—but not this Senator. Somewhere along the line, I want someone to try to explain how it can be justified to destroy millions of little lives when millions of Americans are standing in line to adopt babies.

And while they're at it let them explain why they favor destroying little babies because they happen to be the wrong sex.

The American people know that I am speaking from a deeply held conviction. In one of the most noble documents ever created by the mind of man, our Founding Fathers wrote about certain truths that were self-evident—that we are endowed by our Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.

I take that to mean that little babies in the womb were endowed—by their Creator—with the right to life, so that they can love and be loved. It is that simple.

Mr. President, there are many parts of the abortion, antilife agenda which the American people reject. Among these are abortion as a means of birth control, or when a pregnancy would cause a strain on the job or hinder a career. But on no issue are the people clearer than when they are asked about abortion when the parents want a boy instead of a girl or a girl instead of a boy.

According to a March 1989 Boston Globe poll, 93 percent of the American people reject the taking of life as a means of gender selection. Let me repeat those numbers from a news organization not noted for its adherence to conservative principles—93 percent consider gender selective abortion to be immoral.

Even a Newsweek/Gallup poll taken in April 1989 shows that four out of every five Americans oppose abortion simply because a parent wants a child of a different sex.

Mr. President, when NOW and the other antifamily groups invaded Capitol Hill several years ago, Molly Yard said that when it came to abortion on demand "its time for Congress to understand we are the majority." Molly had better take another look at the American people.

Fortunately, the people are once again ahead of their so-called leaders.

This legislation amends title 42 of the United States Code, the law which governs civil rights. Anyone who administers an abortion for the sake of choosing the gender of the infant will be subject to the same laws which protect any other citizen who is a victim of discrimination.

I urge my colleagues to speak out for the unborn.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 40

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights of Infants Act".

SEC. 2. DEPRIVING PERSONS OF THE EQUAL PROTECTION OF LAWS BEFORE BIRTH.

Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended—

(1) by inserting "(a)" before "Every person"; and

(2) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a), and for purposes of other provisions of law, it shall be a deprivation of a 'right' secured by the laws of the United States for an individual to perform an abortion with the knowledge that the pregnant woman is seeking the abortion solely because of the gender of the fetus. No pregnant woman who seeks to obtain an abortion solely on the basis of the gender of the fetus shall be liable in any manner under this section.".

Mr. HELMS. I send to the desk a bill and I ask for its first reading, please.

The PRESIDENT pro tempore. The clerk will state the title for the first time.

The legislative clerk read as follows.

A bill (S. 40) to make it a violation of the rights secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes.

Mr. HELMS. I ask for second reading of the bill.

Mr. LEVIN. I object.

The PRESIDENT pro tempore. Objection is heard. The bill will go over to the next legislative day for its second reading.

AIDS CONTROL ACT OF 1993

Mr. HELMS. Mr. President, I am today introducing the AIDS Control Act of 1993 which is a comprehensive bill designed to treat AIDS as the public health issue it is rather than the civil rights issue it has become. I have no doubt that if we take this vital step, we will curb the spread of this lethal disease.

Mr. President, the AIDS Control Act of 1993 is similar, but not identical to, a bill I introduced on January 14, 1991.

Let me first speak about the distorted priorities which guided AIDS legislation in the last Congress. The Labor/HHS appropriations bill alone contained over $2 billion in AIDS research, education, and treatment programs. In fact, AIDS spending is so out of control that it is the only disease which had its own chapter in the committee report. The report states that the number of AIDS cases in America rose only 9 percent over last year, yet the AIDS budget has grown 37 percent in 1 year.

In 1990, 731,000 people died of heart disease, and we spent $219 million on research. Also that year, 494,000 people died from cancer; we spent $1.24 billion research.

Now let's look at funding for AIDS. During 1990, AIDS was responsible for 22,000 deaths, less than half of the number of American who died of diabetes and less than one-third of the number who die of flu.

Yet we spent more on AIDS related research than we spent on research for heart disease and cancer combined.

In 1990, 36.2 percent of the Federal health research, education, and prevention budget was spent on AIDS. Yet AIDS accounts for only 1.3 percent of all deaths in America.

Mr. President, the AIDS lobby says such out of control and unfair spending is warranted because of the greed and indifference of our society. The AIDS lobby also argues that we have to take into account the years of lost productivity as justification for such spending.

Well let's examine that argument for a moment. In 1988, cancer caused 24,052 deaths among people under 45; prenatal conditions caused 18,527 deaths; heart disease, 17,520 deaths; and AIDS?—12,912 deaths.

Mr. President, in this country, approximately 39,000 children die before the age of 1 each year. That is 64 years of lost productivity from the most helpless, most innocent segments of society.

The National Commission on AIDS say that the disease deserves more funding because it is contagious while diabetes, cancer, and heart disease are not. In fact, AIDS is contagious through behavior. A change in behavior among two high-risk populations, homosexual men and IV drug users, would reduce the spread of this disease without one more dime of Federal money or the discovery of a cure.

In fact Mr. President, AIDS is such an isolated disease that a homosexual male who lives outside of such areas as New York, Los Angeles, and San Francisco, has less a chance of getting AIDS than he does of dying of cancer or heart disease.

The unwarranted concentration of Federal resources on AIDS has created problems for other diseases such as Alzheimers, the cruel, devastating killer of senior citizens, which afflicts 4 million Americans and takes more lives in 10 months than AIDS has taken in 10 years.

The American people are often accuse of being indifferent to the suffering of the AIDS community. A look at this appropriations bill says otherwise. We are spending more money on AIDS education than we are spending on Alzheimers. As the Washington Times said on June 28, 1990, "It is past time for AIDS activities to acknowledge that greed and indifference—such as they are—do not kill, but irresponsible behavior does."

Unfortunately, Mr. President, our efforts to treat AIDS as a public health concern have been thwarted by a vocal, militant minority which has used the AIDS issue to promote a political agenda it has failed to achieve in its own right. Of course, I am referring to the homosexual lobby. Members of this militant movement have masterfully manipulated the American public. By feeding on America's compassion, they have turned the AIDS epidemic to their political advantage by using it to promote something they have never achieved before—homosexual rights.

Mr. President, just listen to a quote from an article entitled, "The Overhauling of Straight America," which appeared in the November 1987 issue of Guide magazine:

In any campaign to win over the public, gays must be cast as victims in need of protection so that straights will be inclined by reflex to assume the role of protector. If gays are presented, instead, as a strong and prideful tribe promoting a rigidly nonconformist and deviant lifestyle, they are more likely to be seen as a public menace that justifies resistance and oppression. For that reason, we must forego the temptation to strut our gay pride publicly when it conflicts with the Gay Victim image.

I commend some members of this movement for one thing, Mr. President. At least some admit they are using the AIDS issue to convert straight America. In an August 2, 1985, Washington Post article, Gary McDonald, executive director of the AIDS Action Council summed it up this way:

We have to wear down the old stereotypes, and it is a burning irony that it will take AIDS to do that * * * But after thousands of men like Rock Hudson, men you thought you knew, go on TV, it's going to get harder to tell those old faggot jokes about swishy limp-wristed men. I'm sorry it's going to take so many dead men to make that point.

If anyone doubts the power of this movement, they should read the Hate Crimes Statistics Act and the American Disabilities Act to determine just how fast the homosexual lobby is moving.

Mr. President, if someone even suggests that traditional public health measures should be taken, such as testing and contact tracing, there are outcrys of "homophobia."

Mr. President, for the sake of our children and grandchildren, we must begin treating AIDS as the public health concern it is. While some are using the AIDS issue to promote political and societal acceptance of an anti-Christian lifestyle, thousands of innocent Americans are dying.

My bill, Mr. President, will move us in the right direction. It addresses five major areas: AIDS education; testing and contact tracing; record-keeping on the prevalence of the HIV infection; protection of the organ, semen and blood supply; AIDS testing in the military, in prisons and federally operated hospitals.

Mr. President, let me now review in detail the provisions of the legislation.

Section 2 would simply require the Centers for Disease Control [CDC] to keep records of those individuals infected with the human immunodeficiency virus. Currently the CDC records only individuals with AIDS.

Mr. President, by keeping records only of those individuals with AIDS and ignoring the numbers of those infected, we will never be able to grasp the magnitude of this epidemic. The Centers for Disease Control keeps track of all stages of syphilis. It should certainly do so for all stages of AIDS as well.

Section 3 requires all blood banks to test individuals for the AIDS virus. Mr. President, although I am sure that most blood banks are testing for the AIDS virus, it is not a condition of licensing. This section will simply ensure the highest standard of safety in our blood supply.

Mr. President, section 4 changes the rules for blood banks. All collectors and distributors of blood must be federally licensed. Under this provision, in order to obtain a license, the entity must provide the patient with the option of using his or her own blood for elective surgery and also provide the patient with the option of using a designated donor's blood.

Despite assurances from experts that the public has nothing to fear, Mr. President, many medical professionals are skeptical about the safety of the blood supply. In a survey of 4,000 doctors, nearly half—45 percent—of the doctors in private practice who responded to the survey said that if a family member were about to have elective surgery, they would shun publicly donated blood and would make arrangements to have their own blood or that of other family members used instead.

Mr. President, some blood banks and blood suppliers are openly opposed to autologous and directed blood donations. However, in high-risk areas, such as San Francisco and New York City, some blood suppliers have bowed to public pressure and are now allowing autologous and directed blood donations. In San Francisco, the rate of individuals wanting autologous blood donations reached 17.5 percent in 1988. In Chicago, 12 percent of the elective surgery patients in 1988 chose to reserve a supply of their own blood. In New York City, officials at Columbia Presbyterian Medical Center reported that the number of patients who asked to store their own blood jumped 50 percent in a few short years.

In areas where the AIDS epidemic has not reached the proportions found in San Francisco or New York City, autologous or directed blood donations are much more difficult to obtain.

The earlier opposition to autologous donations is now waning. The AMA and NIH have recently endorsed autologous blood donations. At a July 1986 symposium sponsored by NIH, an expert panel concluded that autologous blood is the safest form of transfusion therapy. Blood banks and blood centers should make this option available to all qualified healthy people. The panel did not take a position on directed blood donations.

The opposition to directed donations has deteriorated as well. In many institutions, however, directed donations are not encouraged and, in some cases, discouraged. Some State legislatures have legislatively counteracted this opposition. California, for instance, has enacted a bill mandating that all blood banks within California allow directed blood donations.

Unfortunately, Mr. President, it is my understanding that some blood banks still refuse to allow directed donations. I find it alarming that a person going into a hospital for elective surgery may not be able to take his wife's compatible blood, or his child's or his neighbor's. Individuals should have the freedom to choose whose blood they will receive and should not be held hostage by the blood banks.

Section 4, modeled after the California law, will allow patients to receive blood from a compatible donor of his or her choice.

Section 5 of the bill amends title X of the Public Health Service Act—the so-called family planning program—to require grantees of the title X program to notify clients about the risk of contracting AIDS and that contraceptives—including condoms—will not provide full protection against the AIDS infection.

As of November 1990, Mr. President, 2,627 children under the age of 13 had been reported as having AIDS and 585 children between the ages of 13 and 20 have been reported to have AIDS. Obviously, this is the tip of the iceberg since these figures represent children who have developed full-blown AIDS, not children who are infected with the AIDS virus.

It is a fact, Mr. President, over one-third of the title X clientele are sexually promiscuous teenagers. It is imperative that if the Federal Government is going to be involved in what some have called the "safe sex business," we owe it to the recipients of these services to tell them the truth about how safe certain measures are.

Section 6 of the bill would require States who want to participate in the Federal venereal disease program or other programs for AIDS prevention, treatment, or counseling to take legislative or administrative action to require reporting of all cases of HIV infection to the State health officials.

Mr. President, in order to contain the spread of the HIV virus, it is imperative for States to treat HIV infection in the same manner that they treated the syphilis epidemic of the 1930's. At that time, because of public health concerns, States enacted laws to contain the spread of the disease including mandatory reporting of cases to the State public health departments and premarital testing.

The majority of States have mechanisms in place to require reporting of other venereal diseases and almost one half the States still require premarital testing for syphilis or rubella, both with adequate confidentiality laws. In light of the fatal nature and rapid spread of the AIDS virus, it is imperative that States take similar precautions with respect to AIDS.

The States can then send these figures to the Centers for Disease Control, giving the Federal Government better statistics on the growth of the epidemic.

Mr. President, section 7 would require that those States receiving moneys for AIDS education and prevention take legislative or administrative steps to ensure that spouses of individuals infected with the AIDS virus are promptly notified.

Mr. President, this section should sound familiar to most Senators. The language is similar to, but not identical, to language I proposed to be added to the fiscal year 1989 Labor/HHS appropriations bill. As Senators will recall, that amendment failed by one vote.

Senators will recall the reason I proposed this amendment. During the summer of 1987 I received a call from a young woman whose mother wanted to come by and thank me for what I have done on the AIDS issue. As is the case with all Senators, I meet dozens of people each day, but the face to face meeting with that lovely lady and her

daughter is something I will never forget as long as I live.

The meeting did not last long. After the usual amenities, the three of us began to discuss why this lady had come to see me. Tears began to well up in the woman's eyes as she began her painful story. She told me that she had AIDS and was dying. Her bisexual husband had infected her with the AIDS virus. He had not told her he was infected and State law prohibited his doctor from telling her.

Mr. President, we hear so much about protecting the confidentiality of the AIDS-infected patient. Yet, we hear nothing about the fatal consequences of iron-clad confidentiality laws. We see the homosexuals march in Washington for their rights. Yet, we are blind to the rights of this woman and the thousands like her who through no fault of their own have become infected with the deadly AIDS virus.

As one Senator, I hear the cries of that woman and the thousands like her. She deserves to live. She has a right to know that she is exposing herself to the deadly AIDS virus.

Section 7 does not require States to initiate a spousal notification program. It simply says that if a State wants hard-earned tax dollars to combat the AIDS virus, that State must make a serious effort to protect a spouse from exposing himself or herself to the AIDS virus.

Section 8 would simply require States receiving Federal moneys to combat AIDS to close all homosexual bathhouses.

Mr. President, traditionally, this country's Federal and State health authorities have taken action to eliminate sources of contagion. Public health authorities routinely inspect restaurants, hotels, public swimming pools, beauty salons, barbershops and other facilities to make sure they are safe for public use. If they are found to be spreading a disease or there is evidence that they pose a serious health threat to patrons, they are shut down.

Mr. President, I agree with this traditional health measure. The health and safety of our Nation is paramount. Facilities which pose a health threat to patrons should be closed.

Closing bathhouses makes good sense, Mr. President. As of November 1990 there were 149,498 cases of AIDS in this country. Almost 65 percent of those cases are among homosexual or bisexual men—another 25–30 percent are IV drug users.

Many communities have closed bathhouses because of the health threat, but the sessions of the last World AIDS Conference in San Francisco determined that the baths are slowly working their way back as a breeding ground for AIDS.

This section will turn off the spigot, so to speak, Mr. President. Just as public health officials are quick to close other facilities which pose a health threat to the American people, we should not provide an exception for homosexual bathhouses.

Section 9 would prohibit Federal dollars from being used for so-called needle exchange programs.

Yet, Mr. President, when we talk about the AIDS epidemic, the mood seems to change. Some in this Chamber believed—and still do—that distributing clean needles in exchange for dirty ones is a good thing, despite the hard facts that such programs have not significantly reduced the spread of the AIDS virus.

Mr. President, this section would ensure that hard-earned tax dollars are not used to fund illegal and deadly behavior.

Section 10 would prohibit Federal dollars from being used to distribute condoms or pay for printed, visual, or audio advertising recommending condom use.

Mr. President, despite what the self-proclaimed experts want you to believe, not a single study shows that condom use will prevent AIDS transmission. While condom use may reduce your chances of contracting the virus, it certainly is not 100-percent effective.

Mr. President, the condom's dismal record as a contraceptive should give the American public some cause for alarm. According to most studies condoms fail to prevent pregnancy 10 percent of the time. A woman can conceive a child only a few days each month. In contrast, a person can contract the AIDS virus every minute of every day of every month. This fact suggests that condom failure is even higher in preventing the spread of the AIDS virus.

Advocating condom use has accomplished one thing, Mr. President. It has put this Government's stamp of approval on the anti-Christian ideals of the sexual revolution, a revolution that can be credited with family breakups, rising abortions, rising out-of-wedlock births, rising VD rates, and rising school dropout rates.

This section would prevent further Federal funding of this misdirected approach to the AIDS problem.

Section 11 would prohibit any Federal moneys from being used to promote homosexuality and would require that all AIDS education emphasize abstinence from sexual activity outside a monogamous marriage.

Mr. President, despite what the homosexual lobby wants you to believe, there is absolutely no credible evidence showing that explicit, pornographic AIDS education has reduced the spread of the AIDS virus. Just like the condom campaign, the AIDS education campaign has pointed this Nation down the improper path of discarding a moral ethic in public health policy. Until we return to that ethic, we will never solve the AIDS epidemic.

Section 12 would require States receiving Federal monies for AIDS education and treatment to take administrative or legislative action to require premarital testing.

Mr. President, despite all the hemming and hawing to the contrary, mandatory premarital testing for a contagious disease is a good idea. Traditionally, States have required premarital testing for syphilis, rubella, tuberculosis, and so forth, especially during epidemic periods. About one half the States still require testing for these diseases despite the fact that these diseases are no longer epidemics and there are now known cures. If we can test for these diseases, I see no reason why we shouldn't test for AIDS, a disease which is far deadlier for parents and for unborn children than any disease in history.

Section 13 addresses the problem of AIDS transmission through tainted organs, semen, and blood. It would codify a 1985 recommendation by the Public Health Service that individuals who have AIDS or who are at high risk of contracting it should refrain from donating blood, semen, or organs. My bill would simply ensure compliance with this recommendation by imposing a fine of $10,000, a term of 10 years, or both for those at high risk or those with AIDS who donate or attempt to donate blood, semen, and organs.

Section 14 of my bill would impose mandatory testing in Federal prisons.

As more AIDS prone populations enter Federal penitentiaries, the virus will certainly spread. A study of homosexual activity and sexual assault in Federal prisons revealed that overall, 12 percent of those surveyed had engaged in homosexual activity while in prison. In penitentiaries, where more dangerous offenders have longer incarceration periods, 20 percent of the penitentiary inmates stated they had had a homosexual experience in their current Federal institution. In response to the question, "Have you had a homosexual experience in a prison as an adult?," 30 percent responded, "yes."

The study also showed that some Federal inmates were victims of sexual assault. Nine percent responded positively when asked if anyone had forced or attempted to force the inmate to perform sex against his will while in a prison. Two percent of the Federal inmates were targets in a Federal institution; 0.6 percent of Federal inmates were forced to perform an undesired sex act in Federal prison; 0.3 percent of Federal inmates were sodomized in a Federal institution.

Section 15 of the bill would impose mandatory testing of members of the Armed Forces. Specifically, this provision would require testing prior to entrance and annual testing thereafter.

Mr. President, since I first proposed annual testing in the military, the Navy and the Marine Corps have begun

yearly testing. The Army and the Air Force, unfortunately, test only every 2 years.

Mr. President, for the health and well-being of our Armed Forces, I believe it is imperative for all military personnel to be tested annually for infection with human immunodeficiency virus.

I am also concerned about blood transfusions in times of crisis. In those situations, soldiers are assigned a blood partner and blood is not tested prior to transfusions. In cases where the member of the military is unaware that he is infected with the virus, he may be the recipient of blood tainted with the lethal AIDS virus.

Mr. President, we owe it to our soldiers, who risk their lives to protect our freedom, to protect them from the deadly AIDS virus.

Section 16 would require routine testing of all veterans under the age of 40 seeking inpatient treatment in VA hospitals.

Unfortunately, Mr. President, the numbers of AIDS patients in the VA system have skyrocketed. As of November 1990, over 8,000 people have been diagnosed with AIDS and cared for in our 172 VA medical centers. Of course, this probably represents only the tip of the iceberg since these are people with AIDS rather than people infected with the AIDS virus.

AIDS testing is necessary. It will ensure an accurate diagnosis. It gives the veteran an opportunity to obtain the most up-to-date care in AIDS treatment, and it will provide a valuable opportunity to educate the veteran about AIDS, whether or not he decides to be tested for the disease.

Mr. President, the AIDS test will ensure optimum care for the veteran infected with the AIDS virus. Research suggests that early detection and treatment of individuals infected with the AIDS virus or those with AIDS-related complex [ARC] reap more favorable results than treatment of patients with full-blown AIDS.

Routinely testing during an epidemic is nothing new, Mr. President. We did it during the syphilis epidemic and we should do it today with a disease which is far more lethal and spreading far more rapidly than the syphilis epidemic of the 1930's.

Furthermore, this bill would also require officials of the Veterans Administration to notify all spouses and sexual partners discovered during counseling about their potential AIDS infection.

Section 17 would require routine testing of individuals seeking treatment for tuberculosis at federally funded tuberculosis centers.

Tuberculosis, Mr. President, is the latest of the known diseases associated with the AIDS epidemic. Unlike other opportunistic infections, however, it is an air-born virus and, as far as current research shows, is far more easily contracted than the other opportunistic infections associated with AIDS.

Make no mistake about it, Mr. President. Cases of TB have increased at alarming rates. In New York City tuberculosis incidence rates have increased 60 percent since 1980.

According to some research, AIDS is largely to blame for the rise in TB. According to an April 1987 study by Dr. Arthur E. Pitchenik:

> Tuberculosis-infected patients who develop T-cell immunodeficiency are at increased risk of contracting tuberculosis, and this disease appears to occur with increased frequency among patients with acquired immunodeficiency syndrome.

Numerous other studies have found a direct correlation between AIDS and tuberculosis.

AIDS testing of patients suspected of having TB is wise health policy, Mr. President. It will guarantee an accurate diagnosis. A number of doctors, including the Public Health Service, have recommended dual testing because immunosuppression can result in a false negative test result.

Mr. President, routine AIDS testing for those infected with the tuberculin virus will ensure an accurate diagnosis and proper treatment for an individual infected with the tuberculin virus.

Section 18 requires routine testing in federally funded drug treatment centers.

Mr. President, intravenous drug use is the primary transporter of the AIDS virus into the heterosexual community.

Section 19 would require federally funded sexually transmitted disease centers to routinely test incoming patients for the AIDS virus.

Mr. President, it is no secret in public health circles that an alarming percentage of men and women attending STD clinics are also infected with the AIDS virus.

In a January 1988 article which appeared in the New England Journal of Medicine, researchers concluded:

> In particular, we are concerned by the equal rates of HIV infection in young heterosexual men and women, and the close association of HIV infection with sexually transmitted diseases such as syphilis, genital herpes, and genital warts.

Researchers are also finding that clinic attendees who are infected with the virus are not at high risk of contracting AIDS. In a report released by the National Institute for Allergies and Infectious Diseases, researchers stated:

> Among the most significant of the study's findings was that one-third of the infected men and one half of all the infected women were either unaware of or did not acknowledge behavior considered to be at high-risk for HIV exposure.

Realizing the strong correlation between an STD infection and infection with the AIDS virus, the Centers for Disease Control have recommended AIDS testing in STD centers. This section would require AIDS testing in all those centers receiving Federal dollars.

Section 20 would return the United States to a sound public health-based immigration policy.

On June 2, 1987, the U.S. Senate voted 96 to 0 to protect the health of the American people by adding the human immunodeficiency virus to the list of dangerous contagious diseases for which an immigrant can be excluded from entry into this Nation.

In 1987, the Senate unanimously approved my AIDS immigration amendment because it was, and is, good public health policy. In fact, I offered my amendment on the recommendation of the then Surgeon General, Dr. Koop, and other officials of the Public Health Service. I agreed with General Koop, as did every one of my colleagues, liberal and conservative, Democrat and Republican, that the public health of this Nation will be at risk if the United States continued to allow immigrants with AIDS into this country.

Incredibly, Mr. President, it has come to my attention that officials at the Department of Health and Human Services will now remove the AIDS immigration prohibition as well as the prohibitions now placed on all people with sexually transmitted diseases who attempt to enter this country.

I had assumed that every possible political concession had been made to the AIDS lobby, and to the homosexual rights movement which fuels it, but what is now going on at HHS is beyond belief.

It is not enough that the public health agenda of America has been torn apart by the AIDS movement, and that innocent children—like Ryan White—continue to die because the lobby and its allies promote civil rights rather than public safety? Apparently not, because some in the administration are bowing to the incessant cries of the homosexual rights movement to throw open the floodgates which our sensible immigration restrictions have previously kept shut.

The administration at first attempted to appease the homosexual rights fanatics by creating a special immigration waiver policy. Under this policy people with HIV may enter the country for up to 30 days to attend medical conferences, receive medical treatment, or visit family members. In order to gain this waiver, however, the infected individuals must answer questions about their medical condition, including whether or not they are infected with HIV.

Of course, the homosexuals were not happy—and they will never be until homosexuality is elevated to the civil rights equivalent of race and religion—they cried "discrimination." They claimed that America is stigmatizing homosexuals and that everyone should be allowed to come into the country without disclosing his or her medical condition.

At the behest of the President's Commission on AIDS and HHS Secretary

Louis Sullivan, legislation was introduced in the House to allow HHS to remove the HIV immigration restriction. In addition, on April 13, 1990, the administration issued a special 10-day visa to allow anyone who wants to attend so-called medical conferences, such as the AIDS conference in San Francisco last year, to come into the country.

What is the logic in treating HIV differently from other dangerous diseases when the great difference between AIDS and the others is that AIDS kills every time?

Mr. President, the Department of Health and Human Services is not promoting a health agenda. It is promoting an agenda skewed to placate the appetite of a radical and repugnant political movement. Once again the politics of AIDS is given priority over common sense and the public good.

Let's once and for all set the record straight: The Helms amendment, as my colleagues affirmed in 1987, is sound policy. And it works.

In late 1989 the house of delegates of the American Medical Association made it perfectly clear that the AIDS immigration policy makes medical sense. The AMA resolution said:

Immigrants have historically undergone a health assessment before admission into the citizenship process. To exclude HIV infection from the health assessment of those seeking United States citizenship would be a change in long standing U.S. policy and difficult to justify on medical, scientific, or economic grounds.

Although the delegates opposed mandatory testing of all visitors, it is important to note that the Immigration and Naturalization Service does not require AIDS testing for nonimmigrants. Rather, it asks visitors if they have any of the diseases which are on the list of dangerous contagious diseases.

An Article in the August 25, 1989 issue of Morbidity and Mortality Weekly Reports [MMWR], a publication of the Centers for Disease Control, documents cases of HIV–2 infection which have been discovered by public health authorities as a result of the Helms amendment. For the information of Senators, HIV–2, according to the CDC, is rare in the United States, but it is prevalent outside of our borders. In fact the CDC credits the mandatory medical screening process for the detection of the HIV–2 cases.

In other words the Helms amendment works.

Mr. President, let no one assume that the AIDS lobbyists will stop here. Each day they grow more strident. Each day they clamor for more special rights and more and more money to be funneled to AIDS programs. There is not a corresponding call for a measured and sensible public health response to this disease.

Congress should put the Department of Health and Human Services, and the AID lobby, on notice. The existing immigration law works for the good of all the American people; it must not be treated like a special interest football to be kicked around at the whim of any militant group and its apologists in government. I intend to do everything I can to see that the AIDS immigration prohibition remains in place. If I lose, the American people will lose also.

Section 21 and 22 should be familiar to Senators. In fact both provisions passed this body overwhelmingly in 1991.

Section 21 would protect the health care workers of America by allowing all health professionals who perform exposure-prone invasive medical procedures—as defined by the CDC—to determine if their patients carry the virus which causes AIDS. This measure passed the Senate 55 to 44 on July 30, 1991. Unfortunately it was dropped in conference.

Section 22 protects the patients of America from those health care professionals who recklessly expose their patients to HIV. I introduced this measure on July 18, 1991, in honor of the late Kimberly Bergalis, the brave young Florida woman who contracted HIV from her dentist. This section requires the health worker to notify the patient if he or she has HIV or full-blown AIDS prior to the performance of an exposure-prone invasive medical procedure. This section passed the Senate by a vote of 91 to 18 only to feel the pressure of the professional AIDS lobby in conference.

As I stated at the outset of my remarks, Mr. President, I believe the AIDS issue should be addressed as a public health problem, not as a civil rights one. Strides have been made in the right direction but a long journey lies ahead. Research to discover more about the virus and how it spreads is mandatory if we are ever going to discover a vaccine. Education and counseling are laudable efforts but more needs to be done. The Government, State and Federal, should not be afraid to take steps to contain the AIDS virus. This bill serves as a vital first step.

I ask unanimous consent that the text of the AIDS Control Act of 1993 be placed in the RECORD at the conclusion of these remarks.

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

S. 42

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "AIDS Control Act of 1993".

SEC. 2. RECORDKEEPING.

Part B of title III of the Public Health Service Act is amended by inserting after section 318A (42 U.S.C. 247c–1) the following new section:

"SEC. 318B. RECORDKEEPING OF CASES OF ACQUIRED IMMUNE DEFICIENCY SYNDROME, ACQUIRED IMMUNE DEFICIENCY RELATED COMPLEX, AND HUMAN IMMUNODEFICIENCY VIRUS INFECTIONS.

"The Director of the Centers for Disease Control and Prevention shall keep records of cases of individuals who are infected with the human immunodeficiency virus.".

SEC. 3. TESTING OF BLOOD.

Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) is amended by adding at the end thereof the following new paragraph:

"(3) Not later than 180 days after the date of enactment of the AIDS Control Act of 1993, the Secretary shall promulgate regulations to require that, as a condition of receiving a license under this section, any entity that collects or distributes blood or blood components or derivatives shall test all donors of such blood for the presence of the human immunodeficiency virus prior to accepting a contribution of such blood.".

SEC. 4. PERMITTING DIRECTED AND AUTOLOGOUS BLOOD DONATIONS.

Section 351(d) of the Public Health Service Act (42 U.S.C. 262(d)) (as amended by section 3) is further amended by adding at the end thereof the following new paragraphs:

"(4) Not later than 180 days after the date of enactment of the AIDS Control Act of 1993, the Secretary shall promulgate regulations to require that, as a condition of receiving a license under this section, any entity that collects or distributes blood or blood components or derivatives—

"(A) permit blood donations made by a donor to be used directly for blood transfusions for such donor or for an individual designated by the donor;

"(B) permit a donor of blood to direct that any blood donated by such donor be used in a blood transfusion for such donor or for an individual designated by such donor if the blood type of such donated blood is compatible with the blood type of such donor or the blood type of the designated individual, as the case may be, and the use of such donated blood is not contraindicated, as determined by the physician of such donor or such designated individual, as the case may be; and

"(C) permit blood donated in accordance with subparagraphs (A) or (B) to be used for an individual other than the donor or an individual designated by a donor, as the case may be, if—

"(i) the physician of such donor or such designated individual determines that there is a more immediate need for such blood; or

"(ii) the donor consents to the use of such blood for an individual other than the donor or such designated individual.

"(5) Regulations promulgated by the Secretary to carry out paragraph (4) shall provide that any entity to which such paragraph applies is only required to permit the donations of blood described in such paragraph during the normal business hours of such entity.".

SEC. 5. REQUIREMENTS FOR RECIPIENT OF SERVICES AUTHORIZED UNDER TITLE X OF THE PUBLIC HEALTH SERVICE ACT.

Section 1006 of the Public Health Service Act (42 U.S.C. 300a–4) is amended by adding at the end thereof the following new subsection:

"(e) A grant may be made or a contract entered into under this title only after the intended recipient provides assurances satisfactory to the Secretary that such recipient of the grant or contract will, prior to providing to any individual any services with amounts appropriated under this title, inform the individual—

"(1) of the effectiveness of the particular contraceptive method provided to the individual by the recipient as a method to prevent infection with the human immunodeficiency virus and a comparison of such effectiveness with the effectiveness of sexual abstinence;

"(2) that many individuals who are infected with the human immunodeficiency virus will develop acquired immunodeficiency syndrome, which is a fatal disease; and

"(3) that the most effective way to avoid becoming infected with the human immunodeficiency virus is to abstain from homosexual relations, from heterosexual relations outside of a monogamous marriage, and from the sharing of needles used to administer intravenous drugs.".

SEC. 6. CONDITIONS ON GRANTS FOR THE PREVENTION, TREATMENT, AND CONTROL OF ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Title XXV of the Public Health Service Act (42 U.S.C. 300ee et seq.) is amended by adding at the end thereof the following new part:

"PART C—PROHIBITION ON AWARDING OF GRANTS

"SEC. 2531. PROHIBITION ON AWARDING OF GRANTS.

"The Secretary may not make a grant under this title to any State or political subdivision of any State to support a project for education, testing, or counseling concerning acquired immune deficiency syndrome unless the State has taken administrative or legislative action to require that—

"(1) any physician practicing in the State report to the appropriate State public health authorities the name and address of any individual residing in the State who is treated by such physician and known by such physician to be infected with the human immunodeficiency virus;

"(2) any physician or medical technician who analyzes the results of clinical tests performed in the State report to the appropriate State public health authorities the name and address of any individual residing in the State who is determined as a result of an analysis conducted by such physician or medical technician to be infected with the human immunodeficiency virus; and

"(3) reporting under the laws described in paragraphs (1) and (2) to be carried out in accordance with State laws regulating the confidentiality of records maintained by the State or individuals with sexually transmitted diseases.".

SEC. 7. SPOUSAL NOTIFICATION.

Part C of title XXV of the Public Health Service Act (as added by section 6) is amended by adding at the end thereof the following new section:

"SEC. 2532. SPOUSAL NOTIFICATION.

"(a) PROHIBITION ON USE OF FUNDS.—The Secretary may not make a grant under this title to any State or political subdivision of any State, nor shall any other funds made available under this Act, be obligated or expended in any State unless such State takes administrative or legislative action to require that, within 30 days of diagnosis, a good faith effort shall be made to notify a spouse of an AIDS-infected patient that such AIDS-infected patient is infected with the human immunodeficiency virus.

"(b) EFFECTIVE DATE.—Subsection (a) shall take effect with respect to a State on January 1 of the calendar year following the first regular session of the legislative body of such State that is convened following the date of enactment of this section.

"(c) DEFINITIONS.—As used in this section:

"(1) AIDS-INFECTED PATIENT.—The term 'AIDS-infected patient' means any person who has been diagnosed by a physician or surgeon practicing medicine in such State to be infected with the human immuno-deficiency virus.

"(2) GOOD FAITH EFFORT—A 'good faith' effort includes, but is not limited to, a certified letter sent to the last known address of the spouse.

"(3) STATE.—The term 'State' means a State, the District of Columbia, or any territory of the United States.

"(4) SPOUSE.—The term 'spouse' means a person who is or at any time since December 31, 1976, has been the marriage partner of a person diagnosed as an AIDS-infected patient.".

SEC. 8. BATHHOUSES.

Part C of title XXV of the Public Health Service Act (as added by section 6 and amended by section 7) is further amended by adding at the end thereof the following new section:

"SEC. 2533. BATHHOUSES.

"(a) PROHIBITION.—None of the funds made available under this title shall be obligated or expended in any State if such State does not close all bathhouses where a pattern of continuous homosexual sexual activity or continuous illegal intravenous drug use occurs.

"(b) HOMOSEXUAL ACTIVITY.—The homosexual activity described in subsection (a) means any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

"(c) ILLEGAL DRUGS.—The illegal drug use described in subsection (a) means and includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

"(d) BATHHOUSE.—The term 'bathhouse' means any business that charges a fee for admission and for that fee offers the use of one or more of the following—

"(1) a swimming pool;

"(2) a spa or whirlpool; or

"(3) a communal bath.

"(e) STATE.—The term 'State' means any State, the District of Columbia, or territory of the United States.

"(f) FAILURE TO ACT.—If on January 1 of the calendar year following the first regular session that is convened following the date of enactment of this Act, such State fails to take the action as described in subsection (a), it shall refund to the Federal Government by that date such sums as it received in accordance with this section.".

SEC. 9. PROHIBITION ON USE OF FUNDS FOR NEEDLES AND SYRINGES.

Part C of title XXV of the Public Health Service Act (as added by section 6 and amended by sections 7 and 8) is further amended by adding at the end thereof the following new section:

"SEC. 2534. PROHIBITION ON USE OF FUNDS FOR NEEDLES AND SYRINGES.

"None of the funds made available under this title shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, or to distribute bleach for the purpose of cleansing needles for such use.".

SEC. 10. PROHIBITION ON USE OF FUNDS FOR CONDOMS.

Part C of title XXV of the Public Health Service Act (as added by section 6 and amended by sections 7, 8, and 9), is further amended by adding at the end thereof the following new section:

"SEC. 2535. PROHIBITION ON USE OF FUNDS FOR CONDOMS.

"None of the funds made available under this title shall be used in any manner to provide persons with condoms. Furthermore, none of the funds made available under this title shall be used to promote condoms as a method to prevent the spread of AIDS.".

SEC. 11. PROHIBITION ON PROMOTION OF HOMOSEXUAL ACTIVITY.

Part C of title XXV of the Public Health Service Act (as added by section 6 and amended by sections 7, 8, 9, and 10) is further amended by adding at the end thereof the following new section:

"SEC. 2536. PROHIBITION ON PROMOTION OF HOMOSEXUAL ACTIVITY.

"(a) IN GENERAL.—None of the funds made available under this title shall be used to provide AIDS education, information, or prevention materials and activities that promote or encourage, directly or indirectly, homosexual sexual activities.

"(b) REQUIREMENT.—Education information, and prevention activities and materials paid for with funds appropriated under this Act shall emphasize—

"(1) abstinence from sexual activity outside a sexually monogamous marriage (including abstinence from homosexual sexual activities); and

"(2) abstinence from the use of illegal intravenous drugs.

"(c) HOMOSEXUAL ACTIVITY.—The homosexual activity referred to in subsection (b) includes any sexual activity between two or more males as described in section 2256(2)(A) of title 18, United States Code.

"(d) ILLEGAL SUBSTANCES.—The illegal drugs referred to in subsections (a) and (b) includes any controlled substance as defined in section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)).

"(e) FAILURE TO COMPLY.—If the Secretary of Health and Human Services finds that a recipient of funds under this Act has failed to comply with this section, the Secretary shall notify the recipient, if the funds are paid directly to the recipient, or notify the State if the recipient receives the funds from the State, of such finding and that—

"(1) no further funds shall be provided to the recipient;

"(2) no further funds shall be provided to the State with respect to noncompliance by the individual recipient;

"(3) further payment shall be limited to those recipients not participating in such noncompliance; and

"(4) the recipient shall repay to the United States, amounts found not to have been expended in accordance with this section.".

SEC. 12. HIV TEST AND NOTIFICATION AS A CONDITION OF MARRIAGE LICENSES.

Part C of title XXV of the Public Health Service Act (as added by section 6 and amended by sections 7, 8, 9, and 10) is further amended by adding at the end thereof the following new section:

"SEC. 2535. HIV TESTING AND NOTIFICATION AS A CONDITION OF MARRIAGE LICENSES.

"(a) IN GENERAL.— None of the funds made available under this title shall be available for use in any State, the District of Columbia, or any territory of the United States unless such State, District or territory requires, as a condition for the granting of a marriage license, a test to determine whether the individuals applying for such a license are infected with the human immunodeficiency virus and that both individuals seeking such license shall be notified of each test result.

"(b) EFFECTIVE DATE.—Subsection (a) shall take effect with respect to a State, District, or territory on January 1 of the calendar year following the first regular session of the

legislative body of the State, District, or territory that is convened following the date of enactment of this Act.".

SEC. 13. PROTECTING THE NATION'S BLOOD AND TISSUE SUPPLY.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 89 the following new chapter:

"CHAPTER 90—PUBLIC HEALTH PRESERVATION

"Sec.
"1831. Contamination of blood and tissue supply.

"§ 1831. Contamination of blood and tissue supply

"(a) It shall be unlawful for any individual to knowingly donate, or to knowingly attempt to donate blood, semen, or organs, if such individual—

"(1) knows, on the basis of clinical or laboratory evidence, that such individual is infected with the human immunodeficiency virus;

"(2) is a male individual who has had sexual intercourse with another male individual at any time on or after January 1, 1977;

"(3) is an individual who, on or after January 1, 1977, is or has been a user of any intravenous drug the sale, distribution, or use of which is prohibited under Federal or State law at the time the individual injected the drug;

"(4) is an individual who has emigrated to the United States from Haiti, the Central African Republic, Zaire, Rwanda, Burundi, the Congo, Chad, or Uganda on or after January 1, 1977;

"(5) is an individual who has hemophillia and has received a clotting factor concentrate on or after January 1, 1977;

"(6) is an individual who has engaged in prostitution on or after January 1, 1977;

"(7) is an individual who has had sexual intercourse with an individual described in paragraph (1), (2), (3), (4), (5), (6), (8), or (9);

"(8) is an individual who has used a needle for an intravenous drug injection that the individual knows has previously been used for an intravenous drug injection by an individual described in paragraph (1), (2), (3), (4), (5), (6), (7), or (9);

"(9) knows such individual is at high risk of contracting acquired immune deficiency syndrome (as defined by the Director of the Centers for Disease Control); or

"(10) is an individual who has engaged in an activity that such individual knows places such individual at a high risk of contracting such syndrome (as defined by such Director).

"(b) Any person who violates the provisions of subsection (a) shall be subject to a fine of $10,000 or imprisonment for not more than 10 years, or both.

"(c) For purposes of this section, the term 'sexual intercourse' includes the acts described in section 2255(2)(A) of this title.".

(b) CHAPTER ANALYSIS.—The chapter analysis at the beginning of part I of title 18 is amended by inserting after the item for chapter 89 the following:

"90. Public Health Preservation ..... 1831".

SEC. 14. TESTING OF FEDERAL PRISONERS.

(a) IN GENERAL.—Chapter 305 of part III of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 4087. AIDS testing

"(a) The Director of the Bureau of Prisons shall test each person incarcerated in a Federal penal or correctional institution for infection with the human immunodeficiency virus—

"(1) on the date such person enters a Federal penal or correctional institution;

"(2) every 12 months after the date described in paragraph (1); and

"(3) at such other times as the Director determines are appropriate.

"(b) The Director of the Bureau of Prisons shall report to the Director of Centers for Disease Control the incidence of each individual who tests positively for infection with the human immunodeficiency virus.

"(c) Not later than 180 days after the date of enactment of the AIDS Control Act of 1993, the Director of the Bureau of Prisons shall promulgate regulations requiring that each individual tested under this section who tests positively for infection with the human immunodeficiency virus—

"(1) be placed in separate residential facilities in a penal or correctional institution, if possible; and

"(2) be restricted from holding any employment in a penal or correctional institution which involves duties that may increase the transmission of the human immunodeficiency virus, such as assignments in blood services, the barber shop, or medical and dental services in any capacity.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 305 of part III of title 18, United States Code, is amended by adding at the end thereof the following:

"4087. AIDS testing.".

SEC. 15. DISQUALIFICATION OF PERSONS FOR INDUCTION OR RETENTION IN THE ARMED FORCES ON THE BASIS OF INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.

(a) IN GENERAL.—Chapter 49 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 983. Disqualification of persons for induction or retention on the basis of infection with the human immunodeficiency virus

"(a) Except as provided in subsection (d)(2), no person may be inducted into or retained in the armed forces (other than in a retired status) if it is determined, on the basis of a test or tests administered to such person under subsection (b), that such person is infected with the human immunodeficiency virus.

"(b) Under regulations prescribed by the Secretary concerned—

"(1) each person examined for induction and re-enlistment into the armed forces shall be tested for infection with the human immunodeficiency virus before induction,

"(2) each member of the armed forces shall be tested for infection with the human immunodeficiency virus at least once each year;

"(3) each time a member of the armed forces is admitted to any medical facility of the uniformed services or of the Veterans' Administration in order to receive in-patient care in such facility, such member shall be tested for infection with the human immunodeficiency virus; and

"(4) each member of the armed forces shall be tested for infection with the human immunodeficiency virus at such times (other than the times specified in paragraphs (2) and (3) of this subsection) as the Secretary concerned considers appropriate.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 49 of such title is amended by adding at the end thereof the following:

"9830. Disqualification of persons for induction or retention on the basis of infection with the human immunodeficiency virus.".

SEC. 16. VETERANS' ADMINISTRATION.

(a) TESTING.—Section 124(b) of Veterans' Benefits and Services Act of 1988 (38 U.S.C. 4133 note) is amended to read as follows:

"(b) TESTING.—(1) The Administrator shall provide for a program under which the Veterans' Administration routinely tests each patient to whom the Veterans' Administration is furnishing health care or services, as described in paragraph (2), for the human immunodeficiency virus to determine whether such patient is infected with the virus.

"(2) Patients referred to in paragraph (1) are—

"(A) patients who are receiving treatment for intravenous drug abuse;

"(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus;

"(C) patients who are receiving treatment for a sexually transmitted disease;

"(D) patients who are otherwise at high risk for infection with such virus; and

"(E) patients seeking in-patient treatment who are 40 and under.

"(3) The Administration shall provide pre- and post-test counseling to each patient described in paragraph (2).".

(b) DISCLOSURE TO SPOUSE OR SEXUAL PARTNERS.—Section 4132 of title 38, United States Code, is amended—

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

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

"(f)(1) Notwithstanding subsection (a), and subject to paragraph (2) of this subsection, a physician or a professional counselor shall disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to—

"(A) the current spouse of the patient;

"(B) any other person who at any time since December 31, 1976 has been the marriage partner of the patient; or

"(C) to any individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

"(2) A disclosure under paragraph (1) may be made by a physician or counselor other than the physician or counselor referred to in paragraph (1)(A) if such physician or counselor is unavailable to make the disclosure by reason of absence or termination of employment.".

SEC. 17. USE OF PREVENTIVE HEALTH SERVICES APPROPRIATIONS.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations requiring the recipient of moneys appropriated under section 317 of the Public Health Service Act (42 U.S.C. 247b) to—

(1) routinely test each person receiving treatment for tuberculosis to determine if such person is infected with the human immunodeficiency virus; and

(2) provide pre- and post-test counseling on acquired immunodeficiency syndrome to each such person.

(b) CONFIDENTIALITY.—In promulgating regulations under subsection (a), the Secretary shall ensure that confidentiality shall be provided to those tested under such regulations in accordance with section 552(a) of title 5 of the United States Code.

SEC. 18. REQUIREMENT OF TESTING BY BLOCK GRANT RECIPIENTS.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the

Secretary of Health and Human Services shall promulgate regulations requiring the recipient of grant moneys under subpart I of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) to—

(1) routinely test each person receiving treatment for substance abuse through funds provided under such subpart for substance abuse to determine if such person is infected with the human immunodeficiency virus; and

(2) provide pre- and post-test counseling on acquired immunodeficiency syndrome to each such patient.

(b) CONFIDENTIALITY.—In promulgating regulations under subsection (a), the Secretary shall ensure that confidentiality shall be provided to those tested in accordance with section 552(a) of title 5 of the United States Code.

SEC. 19. PROGRAMS FOR THE PREVENTION OF THE SPREAD OF AIDS.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall promulgate regulations requiring the recipient of grant moneys appropriated under section 318 of the Public Health Service Act (42 U.S.C. 247c) to—

(1) routinely test each person receiving treatment for a sexually transmitted disease from the recipient to determine if such person is infected with the human immunodeficiency virus; and

(2) provide pre- and post-test counseling on acquired immunodeficiency syndrome to each such person.

(b) CONFIDENTIALITY.—In promulgating regulations under subsection (a), the Secretary shall ensure that confidentiality shall be provided to those tested under such regulations in accordance with section 552(a) of title 5 of the United States Code.

SEC. 20. IMMIGRATION REFORM.

Notwithstanding any other provision of law or any decision of the Secretary of Health and Human Services or any other Federal official, the President shall, pursuant to section 212(a)(6) of the Immigration and Nationality Act, add infection with the human immunodeficiency virus and syphillis to the list of dangerous contagious diseases contained in title 42 of the Code of Federal Regulations.

SEC. 21. HEALTH CARE WORKERS PROTECTION ACT.

(a) EXPOSURE PRONE INVASIVE PROCEDURES.—Notwithstanding any other provision of law, a State shall, not later than 1 year after the date of enactment of this Act, certify to the Secretary of Health and Human Services that such State has in effect regulations, or has enacted legislation, to protect licensed health care professionals from contracting the human immunodeficiency virus and the hepatitis B virus during the performance of exposure prone invasive procedures.

(b) TESTING.—The regulations or legislation referred to in subsection (a) shall permit health care professionals to require that, prior to the commencement of or during the conduct of an exposure prone invasive procedure, a patient may be tested for the etiologic agent for the human immunodeficiency virus. Such regulations or legislation shall not apply in emergency situations when the patient's life is in danger.

(c) CONFIDENTIALITY OF RESULTS AND ENFORCEMENT.—

(1) RESULTS.—The result of tests conducted under subsection (b) shall be confidential and shall not be released to any other party without the prior written consent of the patient.

(2) ENFORCEMENT.—The regulations or legislation referred to in subsection (a) shall contain enforcement provisions that subject an individual who violates the provisions of paragraph (1) to a $10,000 fine or a prison term of not more than one year for each such violation.

(d) FAILURE TO PROVIDE CERTIFICATION.—Except as provided in subsection (e), if a State does not provide the certification required under subsection (a) within the 1-year period described in such subsection, such State shall be ineligible to receive assistance under the Public Health Service Act (42 U.S.C. 301 et seq.) until such certification is provided.

(e) EXCEPTION.—The Secretary of Health and Human Services shall extend the time period described in subsection (a) for a State, if—

(1) the State has determined not to promulgate regulations to adopt the guidelines referred to in subsection (a); and

(2) the State legislature of such State meets on a biennial basis and has not met within the 1-year period beginning on the date of enactment of this Act.

(f) DEFINITION.—As used in this section, the term "exposure prone invasive procedure" means such procedures as listed in guidelines promulgated by the Centers for Disease Control and Prevention concerning recommendations for preventing the transmission by health care professionals, of the human immunodeficiency virus and the hepatitis B virus to patients during exposure prone invasive procedures.

SEC. 22. DELIBERATE TRANSMISSION OF THE AIDS VIRUS.

(a) IN GENERAL.—Whoever, being a registered physician, dentist, nurse, or other health care provider, knowing that he or she is infected with the human immunodeficiency virus, intentionally provides medical or dental treatment to another individual, without prior notification to such individual of such infection, shall be fined not more than $10,000, or imprisoned not less than 10 years, or both.

(b) APPLICABILITY.—The provisions of this section shall not be applicable in the case of a medical emergency in which alternative medical treatment is not reasonably available.

(c) DEFINITIONS.—As used in this section the term "treatment" means the performance of any medical diagnosis or procedure that involves an invasive physical contact between the patient being treated and the physician or health professional administering the procedure.

Mr. HELMS. Mr. President, I send said bill to the desk and ask it be given first reading.

The PRESIDENT pro tempore. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 42) to control the spread of AIDS and for other purposes.

Mr. HELMS. Mr. President, I would like to ask for a second reading.

The PRESIDENT pro tempore. Is there objection?

Mr. LEVIN. I object.

The PRESIDENT pro tempore. Objection is heard. The bill will go over until the next legislative day for the second reading.

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

FEDERAL ADOPTION SERVICES ACT OF 1991

Mr. HELMS. Mr. President, I am today introducing the Federal Adoption Services Act of 1991. This legislation which was originally proposed by our former colleague from New Hampshire, Mr. Humphrey, would amend title X of the Public Health Services Act to allow family planning services to provide adoption services.

This legislation provides that family planning clinics may offer adoption services based on their understanding of the needs of the community as well as the ability of the individual clinic to provide those services.

As we have discovered during debates on title X, there is excessive attention paid in these programs to the prevention or spacing of pregnancies and the limiting of the size of the American family. But the debate should be about much more. It should be about the affirmation of life. That is why adoption should be a part of family planning—since the benefits are obvious for parents unable to care for children as well as for parents who are unable to have children.

More importantly, adoption is a better alternative than abortion in dealing with an unplanned pregnancy.

Mr. President, more than one-third of the women who use title X services are teenagers. If a young, unmarried teenager finds herself pregnant she may not be aware that adoption is an option. The employees of the family planning clinic may be as poorly informed as well. The bill I am introducing would change that.

Let me be clear, no woman would be threatened or cajoled into giving up her child for adoption, but she would be allowed to make an informed, compassionate, judgment based on all of her available options.

This legislation is written to provide family planning clinics a new option. It is not my intent to force family planning clinics to provide adoption services which they are unable to offer. This legislation merely makes it clear that Federal policy will allow, and hopefully encourage, the use of adoption as a means of family planning.

Mr. President, adoption was called by a wise man, "the loving option." I have seen the joy that it has brought to my family and to many others. In a world where hundreds of children are murdered each day—some simply because their parents do not like the child's gender—why not give life a chance.

It is the responsibility of Government to stand and protect the most innocent among us. Let us take up that responsibility.

I urge my colleagues to support this effort to ensure that adoption does not become a forgotten weapon in the war to protect our children.

Now, Mr. President, I send to the desk a bill and I ask for first reading.

The PRESIDENT pro tempore. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services and for other purposes.

Mr. HELMS. I ask for second reading, Mr. President.

The PRESIDENT pro tempore. Is there objection to the second reading of the bill?

Mr. LEVIN. I object.

The PRESIDENT pro tempore. Objection is heard. The bill will go over to the next legislative day for its second reading.

Mr. HELMS. I thank the Chair.

The PRESIDENT pro tempore. Does the Senator from North Carolina seek recognition again?

Mr. HELMS. Yes, I do indeed.

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

UNBORN CHILDREN'S CIVIL RIGHTS ACT

Mr. HELMS. Mr. President, I am again introducing a bill which I have introduced in the three prior Congresses. It is entitled, the "Unborn Children's Civil Rights Act." If enacted, this bill would take a first step in overcoming the Roe versus Wade decision.

Specifically, this bill would accomplish four things.

First, it would put Congress clearly on record as finding that abortion takes the life of an unborn child, that the Constitution sanctions no right to abortion and that Roe versus Wade was erroneously decided.

Second, it would prohibit congressional appropriations from being used to pay for or to promote abortion. In this regard, it permanently defunds abortion, thereby relieving Congress of annual fights over abortion restrictions in appropriations bills.

Third, it would end certain indirect funding for abortion by prohibiting discrimination, at federally funded institutions, against individuals who object in conscience to abortion and by curtailing attorney's fees in abortion-related cases.

Fourth, it would provide for appeals to the Supreme Court as a right if a Federal court declares State restrictions on abortion unconstitutional. As a practical matter, this provision will assure Supreme Court reconsideration of the abortion issue in the future.

Mr. President, there's the old adage, "Those who cannot remember the past are condemned to repeat it." All of us have heard those words, but many in our government have refused to heed them. Only 45 years after hundreds of thousands of European Jews and other civilians died at the hands of Hitler's Nazis, we have forgotten the critical lesson of that atrocity—that all human life is sacred regardless of color, race, religion, or physical, or mental capabilities of that human being.

We are today reliving the Holocaust. We know it by a different name. It is called abortion. Yet, the same fate that was met by millions of Jews is being met by millions of unborn children right here in this country. At latest count, over 22 million unborn children—the most innocent of human life—have been murdered.

Abortion has become a tool of convenience, Mr. President. We have slipped so far down the slippery slope that now children are being aborted because they do not have the desired hair color, sex, physical attributes, or mental capabilities. The same excuses for murdering countless Jews are now being used to justify the murder of the most innocent and helpless members of humanity.

Mr. President, Roe versus Wade was, simply put, an unconstitutional decision. It has no foundation whatsoever in the text or history of the Constitution. It was invented out of whole cloth. As Justice White said in his dissent, Roe was an exercise in raw judicial power.

How has it endured for 17 long years? Why do we permit some 4,000 unborn babies to perish every day through legalized abortion?

The answer is woefully simple, Mr. President. Even though Roe versus Wade is an unconstitutional decision, Congress has been unwilling to right the wrong—to exercise its powers to check and balance a usurping Supreme Court which has destroyed the right to life of the most defenseless among us. The powers exist, but Congress has nonetheless permitted Roe to stand because many Members of Congress are apparently committed to legalized abortion. These Members share the same antihistorical, secularized, liberal view of law and public order as the activist justices who gave us Roe versus Wade in the first place.

In their view—with which I disagree—the Ten Commandments are not the eternal rules of Almighty God and the source of authority for human law, but the transitory precepts of a bygone age in need of periodic updating by wiser heads here on Earth. Of course, human nature being what it is, there is never any shortage of wiser heads.

Mr. President, for these reasons, Roe versus Wade still stands and the Holocaust continues. It is not the Constitution or our system of Government which is at fault. Ample means exist within them, even apart from a constitutional amendment, to overturn Roe. The fault, on the part of Members of Congress, lies in a failure of intellect to perceive the true nature of abortion and a failure of will to do something about it. These are the ingredients which perpetuate the travesty of Roe versus Wade.

But, Mr. President, this Senator from North Carolina is ever hopeful that, with God's help and human effort, hearts and minds—even in Congress—will change. Enactment of the Unborn Children's Civil Rights Act, certainly would be a step in the right direction. I urge Senators to seek its early enactment.

Mr. President, I send this bill to the desk and ask it be given first reading.

The PRESIDENT pro tempore. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill to protect the lives of unborn human beings and for other purposes.

Mr. HELMS. Mr. President, I ask for a second reading.

The PRESIDENT pro tempore. Is there objection to the request the bill be given a second reading?

Mr. LEVIN. I object.

The PRESIDENT pro tempore. Objection is heard. The bill will go over until the next legislative day for a second reading.

Mr. HELMS. Mr. President, one final item of business?

The PRESIDENT pro tempore. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair. In order to save time of the Senate I wish to submit en bloc all of the bills that I have just offered. But this time I want them, each of them, to be referred to committee.

I ask unanimous consent that the Chair approve that.

The PRESIDENT pro tempore. The Senator has the right to introduce the bills over again.

Mr. HELMS. I understand that but I wanted the Chair to understand what I am doing.

The PRESIDENT pro tempore. Without objection the Senator's request is granted. The bills will be appropriately received and appropriately referred.

Mr. HELMS. Mr. President, the Chair has as always been patient with me. I thank the Chair and I yield the floor.

The PRESIDENT pro tempore. The Senator from Michigan [Mr. LEVIN].

Mr. LEVIN. I thank the Chair.

(The remarks of Mr. HELMS pertaining to the introduction of S. 24 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

WELCOMING THE VICE PRESIDENT

Mr. MITCHELL. Mr. President, following up on Senator LEVIN's comments, in behalf of all Members of the Senate, I would like to take official notice of the fact that the Vice President of the United States, an important part of whose duties includes presiding over the Senate, is now presiding over the Senate for the first time and we wel-

come him. I ask my colleagues to join in welcoming him at this time.

[Applause, Senators rising.]

The VICE PRESIDENT. I am told demonstrations are not allowed.

[Laughter.]

LETTER OF RESIGNATION

The VICE PRESIDENT. The Chair lays before the Senate the letter of resignation of Senator Lloyd Bentsen of Texas.

Without objection, the letter is deemed read and spread upon the Journal.

The document, ordered to be printed in the RECORD, is as follows:

U.S. SENATE,
Washington, DC, January 20, 1993.

Hon. ALBERT GORE,
Office of the Vice President of the United States, S–212, Washington, DC.

Mr. VICE PRESIDENT: I hereby tender my resignation effective today as United States Senator from Texas.

I depart the Senate with profound respect for the Chamber we both have served. I have been honored to call its members colleagues and to share in its history for twenty-two years. It will be my continuing privilege to work with them and with you as we advance an agenda of growth for our Nation.

Respectfully submitted.

LLOYD BENTSEN.

CERTIFICATE OF APPOINTMENT

The VICE PRESIDENT. The Chair lays before the Senate the certificate of appointment of Senator designate ROBERT C. KRUEGER of the State of Texas.

Without objection, the certificate of appointment will be deemed to have been read and spread upon the Journal.

The document, ordered to be printed in the RECORD, is as follows:

CERTIFICATE OF APPOINTMENT

To the President of the Senate of the United States:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Texas, I, Ann Richards, the Governor of said State, do hereby appoint Robert C. Krueger a Senator from said State to represent said State in the Senate of the United States until the vacancy therein, caused by the resignation of Lloyd Bentsen, is filled by election as provided by law.

Witness: Her excellency our Governor Ann Richards, and our seal hereto affixed this 21st day of January, in the year of our Lord 1993.

ANN RICHARDS,
Governor of Texas.

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senator designate will present himself at the desk, the Chair will administer the oath of office as required by the Constitution and prescribed by law.

[Applause.]

The Senator designate, escorted by Mr. Bentsen, advanced to the desk of the Vice President; the oath prescribed by law was administered to him by the Vice President; and he subscribed to the oath in the official oath book.

[Applause, Senators rising.]

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

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

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

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

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

The Senator from Arizona [Mr. DECONCINI] is recognized.

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

Mr. DECONCINI Mr. President, it is with great sadness that I note the recent passing of the famous songwriter, Sammy Cahn. Mr. Cahn, who died Friday, January 15, at the age of 79, was known universally as a talented, witty, and wisecracking lyricist whose passion for music spanned more than seven decades. He was a high-school dropout who went on to write hundreds of popular songs for radio, television, Broadway, and Hollywood. His memorable songs include "Three Coins in the Fountain," "Call Me Irresponsible," "Ring-a-Ding Ding," and "Only the Lonely."

As a tribute to his enduring and catchy lyrics, Mr. Cahn was awarded four Oscars and a special Emmy, for "Love and Marriage." He worked closely with such renowned composers as James Van Heusen, Saul Chaplin, and Jule Styne. Many of his songs were written specifically for the legendary singer, Frank Sinatra. One of these, "High Hopes," was revised and used as a theme song for John F. Kennedy's 1960 Presidential campaign.

Having known Sammy, I can attest to the fact that his genius and sense of humor will be greatly missed. Sammy Cahn wrote a special song about me when I was recently honored in New York. His lyrics were great, as always, and gave me a tremendous amount of enjoyment and entertainment, just as he has millions of others throughout the years. We are fortunate that his music will live on forever, for he was truly one of a kind.

Mr. HOLLINGS addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Carolina [Mr. HOLLINGS].

THE NOMINATION OF FEDERICO PEÑA TO BE SECRETARY OF THE DEPARTMENT OF TRANSPORTATION

Mr. HOLLINGS. Mr. President, earlier today we confirmed the nomination of Mr. Federico Peña from Colorado as the Secretary of Transportation. He is an outstanding individual. He headed up the transitional team in transportation as the mayor of Denver. And in his other activities, he shows a deep knowledge, awareness, and sensitivity of motor transport, the railroads, the airlines, and the different problems we have there. He was very responsive to our committee.

I believe that through his experience heading the transportation transition team for President Clinton and as mayor of Denver, he is cognizant of the many challenges that will face him as Secretary of Transportation.

With respect to transportation, Government has a vital role in fostering an economic climate in which U.S. companies can thrive, and the traveling and shipping public can receive responsive, efficient and cost-effective service. The Secretary of Transportation has a key role in fostering such a climate being an advocate for our transportation industries. He will have an opportunity to shape the future of the Nation's transportation system—a critical job given the importance of transportation to our economy and our ability to compete in world markets.

At his confirmation hearing before the Commerce Committee 2 weeks ago, Mr. Peña proved that he is well aware of the divergent transportation issues and views. He reviewed with the committee in both oral and written questions many pressing transportation issues, including the declining state of the airline and aircraft manufacturing industries; a shrinking U.S. merchant marine; the impact of our economy on the motor carrier industry; the need to maintain our vital rail system; the development of high speed rail transportation; and the need to ensure improved safety in our transportation network. He exhibited an open mind in looking at the problems, an understanding of the urgency of these issues, and a resolve to bring the parties together to find appropriate solutions. His task will not be an easy one, and I am pleased he is prepared to take on the challenge. I look forward to working with him to act quickly and decisively to address these urgent problems.

The PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator

COVERDELL be recognized to address the Senate for up to 5 minutes; that at the conclusion of his remarks, Senator KASSEBAUM be recognized to address the Senate for up to 5 minutes; and that at the conclusion of her remarks, the Senate proceed to executive session to consider the nomination of Ronald H. Brown to be the Secretary of the Department of Commerce, a nomination reported earlier today by the Commerce Committee; that there be 1 hour of debate on the nomination equally divided and controlled between Senators HOLLINGS and DANFORTH or their designees; that at the conclusion or yielding back of time on the nomination, the Senate proceed to vote without any intervening action or debate on the disposition of the nomination; that the President be immediately notified of the Senate's action; and that the Senate then return to legislative session.

Mr. President, before the Chair acts on the request, I am authorized to state that I have discussed this with Senator DOLE. He has no objection to this request.

The PRESIDENT pro tempore. Is there objection to the request?

The Chair hears no objection. That will be the order.

Mr. MITCHELL. Mr. President, I have also discussed with Senator DOLE and with our colleagues the manner of voting on the Brown nomination. We have no request for a recorded rollcall vote at this time. We do not anticipate such a request. Therefore, in the event no request is forthcoming, it is my expectation that the vote will occur by voice vote.

I thank my colleagues. I yield the floor.

The PRESIDENT pro tempore. The Chair recognizes the Senator from Georgia [Mr. COVERDELL].

Mr. COVERDELL. Mr. President, I ask unanimous consent to be added as an original cosponsor of Senate bill 9 introduced earlier today by Senator MCCAIN of Arizona.

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

The PRESIDENT pro tempore. Under the order previously entered, the Chair recognizes the junior Senator from Kansas [Mrs. KASSEBAUM] for not to exceed 5 minutes.

AUDREY HEPBURN

Mrs. KASSEBAUM. Mr. President, yesterday the world lost one of its caring and dedicated unofficial ambassadors. On January 20, Audrey Hepburn died at her home in Switzerland.

Born in 1929 in Belgium to a Dutch mother and English father, Ms. Hepburn grew up in Europe during the Second World War. As a teenager, she and her mother were caught in Holland when the Nazis invaded. They suffered much during the conflict. Her experiences as a frightened and hungry little girl caught in the midst the war would lead her to give so much of herself in later life to the children of the world.

I first met Ms. Hepburn several years ago after her return from the Horn of Africa. In front of the Foreign Relations Committee, she spoke with eloquence and passion about the children starving in Africa and the need for international action to help them.

AS UNICEF goodwill ambassador, she traveled extensively to Africa and Latin America to draw attention to the plight of the children caught in famines and civil wars in those regions. Most recently, Ms. Hepburn traveled to Somalia to publicize the tragic situation in that country.

Audrey Hepburn's tireless efforts on behalf of the children of the world will not be forgotten. Her dignity and quiet passion saved the lives of thousands of destitute children. She will be missed by all of us—but particularly by the world's children.

I would just like to comment that I got to know Ms. Hepburn as the UNICEF goodwill ambassador, particularly in regard to her work on behalf of the children of Africa. I think it was her trip in September to Somalia that really did raise the public's consciousness to the tragedy that was befalling the children in Somalia.

So for her dedication, her thoughtfulness, her dignity and quiet passion, she not only will be missed by all of us around the world, but particularly by the children.

(The remarks of Mrs. KASSEBAUM pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. KASSEBAUM. Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. HOLLINGS. Mr. President, on behalf of the majority leader—which has been cleared—I ask unanimous consent that upon the disposition of Mr. Brown's nomination, the approval or disapproval vote, upon the return to legislative session that the Senator from Massachusetts, Senator JOHN KERRY, be recognized to speak in morning business for up to 15 minutes; and all other speeches thereafter be limited to 10 minutes each.

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

EXECUTIVE SESSION

The PRESIDENT pro tempore. Under the order previously entered, the Senate now will proceed to executive session to consider the nomination of Mr. Ronald H. Brown to be Secretary of the Department of Commerce.

The Senate proceeded to the consideration of executive business.

The PRESIDENT pro tempore. The nomination will be stated.

DEPARTMENT OF COMMERCE

The legislative clerk read the nomination of Ronald H. Brown, of the District of Columbia, to be Secretary of Commerce.

The PRESIDENT pro tempore. There is a time limitation of 1 hour, to be equally divided and controlled by the Senator from South Carolina [Mr. HOLLINGS] and the Senator from Missouri [Mr. DANFORTH].

Upon the conclusion of the hour, or upon the yielding back thereof or enforcement thereof, the Senate will immediately proceed without further debate to the vote on the nomination.

The Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, the first step that is to be taken to revive the American economy is to revitalize the Department of Commerce and forge a new relationshp between business and government to meet the challenges of a vastly competitive national economy.

In Ron Brown, American industry and American workers are getting a man prepared for this task.

Mr. President, the first step that must be taken to revive the American economy is to revitalize the Department of Commerce and forge a new relationship between business and government to meet the challenges of a fiercely competitive international economy. In Ron Brown, American industry and American workers are getting a man prepared for this task—a man with the drive, the intelligence, and the commitment that they deserve. As a civil rights leader, a public servant, a lawyer, a businessman, and a party leader, Mr. Brown has distinguished himself in facing successfully many important challenges. His job as Secretary of Commerce will likewise be a challenge but one for which he is ready.

Several issues concerning Mr. Brown's distinguished career as an attorney and businessman have been raised. The Committee carefully examined each issue and has found no conflicts. In addition, the OGE (Office of Government Ethics) and the general counsel of the Department of Commerce have reviewed Mr. Brown's circumstances and concluded that he is in compliance with applicable laws and regulations regarding conflicts of interest. We are satisfied that Mr. Brown has complied with the highest ethical standards. In fact, Mr. Brown is making a tremendous personal and financial sacrifice in order to serve the American people.

In Mr. Brown's appearance before the Commerce Committee, he displayed a deep understanding of the economic challenges that must be met if we are going to restore American competitiveness. As Secretary of Commerce, his next task will be to turn one of the largest and most diverse government agencies, with its important respon-

sibilities for oceans and atmosphere and trade and technology, into a forceful agency that will be a strong advocate for the interests of American business and the American worker.

Given years of neglect, this is a formidable assignment. Some think that it does not matter if the United States manufactures computer chips or potato chips. This hands-off trade and economic policy has resulted in the loss of two million manufacturing jobs, a 12 percent decline in hourly wages, and steadily eroding market shares in important industries from basic manufacturing, like textiles and automobiles, to high-technology products, like aircraft and computers.

Our competitors in Europe and Asia have not shared the past administration's zeal for a free-market approach to international trade. While our government remained indifferent, governments in Europe and Asia protected their home markets and targeted specific industries. The Europeans poured $26 billion into the development of Airbus and then captured 30 percent of the market for civil aviation. The Japanese targeted semiconductors and the machine tool industry and promptly captured a major share of the market. While in recent years the United States was writing off the textile and steel industries, the European Community was providing its steel industry with billions in subsidies and its textile industry with $500 million in subsidies that enabled that industry to modernize its manufacturing facilities. The Germans and the Japanese have out invested the United States by 2 to 1, at the same time that American industries' ability to attract capital has been hampered by government indifference—once an industry has been targeted by foreign competition, capital disappears.

That was the past, but, as President John Kennedy once said, our task is not to fix the blame for the past, but to set the course for the future. The new Commerce Secretary must be part of this new course at the forefront of an economic policy that promotes America's economic interests with the same fervor and the same commitment which led to our triumph in the cold war. As the new Secretary, Mr. Brown will be responsible not only for promoting our exports, and developing and fostering new technologies, but also for enforcing vigorously the Nation's trade laws to ensure that these investments in future technologies are not overwhelmed by the kind of unfair trade practices that drove American companies out of the consumer electronics industry and almost drove them out of the semiconductor industry.

If the United States is to stay competitive, industry and government must be allies in promoting the development of high technology industries and the so-called mature industries, which provide many jobs in our manufacturing sector. The Department of Commerce will have to take the lead in developing a coordinated strategy that uses our leverage both to open markets abroad and to preserve American jobs. In an era in which national power is increasingly dependent upon economic strength, Mr. Brown's primary job responsibility will be to preserve the American dream so that the next generation of Americans will have economic opportunity, rather than a declining standard of living.

His background suits him well.

I enthusiastically urge that my colleagues support his nomination.

Now, Mr. President, as we are waiting the approach of the handlers of the bill on the other side, let me acknowledge certain things.

To be specific, as of yesterday, for example, the tempest that media had worked itself into culminated in an article by the distinguished writer Hobart Rowan.

Mr. Rowan said and I quote:

> That is the package that Clinton has to deliver, or see Ross Perot push him out of the White House in 1997. Nothing else counts. It is the economy, stupid. But, you ask, "Wasn't Brown insensitive to proper ethical procedure? Answer, yes, he was."

I take exception to that very strongly. The fact of the matter is that the Office of Government Ethics and the general counsel in the Department of Commerce has stated time and again that Mr. Brown is in total compliance with all the applicable conflict of interest regulations.

First they said we were ramrodding Mr. Brown through, Mr. President. The fact of the matter is that the last time we had a change of administration from Democratic to Republican back in 1981, we held hearings for the distinguished Secretary of Commerce nominee, Mr. Malcolm Baldrige, on January 6.

Your Commerce Committee also held, some 2 weeks ago, the confirmation hearing on January 6 of this year for Mr. Brown. So there was no ramrodding.

In fact we held the record open for additional questions for 2 weeks after the hearing.

Questions were raised regarding his recusals.

Mr. Brown has agreed to recuse himself from his former clients 1 year, similar to actions taken by other nominees. He has also, in correspondence to this Senator, the committee, and others said that he will not meet with members of his firm for a 4-year period, and that his son, who is an associate of Global U.S.A., will not appear before him.

Questions were also raised about awarding Chemfix a sludge contract and its connection to the selection of New York City for the Democratic National Convention. Of course, no contract was awarded and the convention was selected by a 50-member site selection committee of the Democratic Party and had no relation whatsoever to Chemfix.

Questions were raised about his association with the Capital Pepsco. Mr. Brown has totally diversified his interest in that particular venture. Questions were raised about his severance from his law partnership. He was treated just like any other partner who resigned from the firm. A lump-sum settlement is what the firm agreed to as of yesterday, January 20.

So he is totally severed as of yesterday. This lump-sum settlement is in actuality a financial penalty to him. But we wanted to make absolutely clear that everything was answered and handled in an ethical fashion.

The firm has asserted—that is Patton, Boggs & Blow—that there is no understanding as to future employment, and Mr. Brown has asserted that as well. So he has no agreement to go back.

The Office of Government Ethics, as I said, has approved these. And in addition thereto he has taken the 5-year Clinton pledge not to lobby the Department of Commerce for 5 years after he leaves that post as Secretary.

The PRESIDENT pro tempore. Who yields time?

Mr. BOND. Mr. President, I ask unanimous consent I might proceed 1 minute as in morning business.

The PRESIDENT pro tempore. The Senate is in executive session.

Is there objection to the request that the Senator proceed as in legislative session for 1 minute?

There is no objection. The Senator is recognized.

Mr. BOND. I thank the Chair.

(The remarks of Mr. BOND pertaining to the introduction of S. 3 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senate is in executive session. Who yields time?

Mr. LOTT. Parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator will state it.

Mr. LOTT. I understand the time on this side, perhaps, is controlled by the distinguished Republican leader?

The PRESIDENT pro tempore. By Mr. Danforth.

Mr. LOTT. It is by Mr. DANFORTH.

Mr. President, I am a member of the committee and I ask unanimous consent I be able to proceed on this time designated for the executive session on the nomination of Ron Brown to be Secretary of Commerce.

The PRESIDENT pro tempore. How much time does the Senator request?

Mr. LOTT. I think 10 minutes, Mr. President.

The PRESIDENT pro tempore. The Chair recognizes the Senator as the

designee of Mr. DANFORTH, and he yields himself 10 minutes on the nomination?

Mr. LOTT. That is correct.

The PRESIDENT pro tempore. The Senator is so recognized.

Mr. LOTT. Mr. President, I ask unanimous consent a series of letters, correspondence that I have had with the nominee, from him and from his law firm, be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF COMMERCE,
January 20, 1993.

Hon. TRENT LOTT,
Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: In follow-up to our telephone conversation this morning, let me further clarify the statement in my letter to you dated January 18, 1993, that "for the duration of my term as Secretary of Commerce, I will not engage in any personal professional contact with any member or employee of my former law firm on any issue before the Department of Commerce." (I have enclosed a copy of my January 18 letter for your ease in reference.)

As I assured you this morning, I will not communicate with or discuss with any partner, associate or other employee of Patton, Boggs and Blow any matter which is before the Department of Commerce during my entire tenure as Secretary of Commerce. Further, I will not communicate with or discuss with any partner, associate or other employee of Patton, Boggs and Blow any matter likely to come before the Department of Commerce during my entire tenure as Secretary of Commerce.

You received today under separate cover a letter from Timothy J. May which concisely sets forth the position of Patton, Boggs and Blow as to my future involvement with Patton, Boggs and Blow (I have attached a copy of Mr. May's letter). I can assure you that my resignation from Patton, Boggs and Blow, which became effective today, is final and permanent. There have been no discussions concerning my possible return to the firm and there is no understanding of any nature about my return to Patton, Boggs and Blow at any time in the future.

I hope this provides complete clarification as to your questions. I look forward to working with you and the other senators of the Committee on Commerce, Science and Transportation in the months and years to come.

Sincerely,

RONAND H. BROWN,
Commerce Secretary-Designee.

PATTON, BOGGS & BLOW,
Washington, DC, January 20, 1993.

Senator TRENT LOTT,
Senate Russell Office Building, Washington, DC.

DEAR SENATOR LOTT: I have previously delivered to the Committee a copy of the provisions in the Patton, Boggs and Blow partnership agreement relevant to the departure of a partner from the law firm. You have inquired whether Mr. Brown's resignation is permanent and, in any event, whether there are any understandings, express or implied, written or unwritten, respecting Mr. Brown's return to this law firm after government service. I want to state categorically there is no understanding of any nature with Mr. Brown about a possible return to this law firm. Mr. Brown's resignation, effective today, is final. From this day forward he has no connection whatsoever with this law firm, nor have there been any discussions concerning a possible return to this firm. Should Mr. Brown in the future seek to return to this law firm he would have to be voted into partnership by two-thirds vote of the partners, as is the case with any person unrelated to this law firm who seeks admission as a partner. In sum, there is no provision in the partnership agreement for Mr. Brown's return; there are no understandings express or implied for his return; nor have there been any discussions with respect to that possibility.

Please let me know if you wish any further clarification on this point.

Sincerely yours,

TIMOTHY J. MAY,
Managing Partner.

DEPARTMENT OF COMMERCE,
January 18, 1993.

Hon. TRENT LOTT,
Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: I am writing in response to your two letters of January 8 and your subsequent letter dated January 14. Attached to and made a part of my response is a copy of a letter (with enclosures) to Senator Danforth (identical letters were sent to Chairman Hollings) from Timothy J. May, Managing Partner of Patton, Boggs and Blow which sets forth in detail the basis upon which I will receive any and all payments from Patton, Boggs and Blow following my resignation from the firm. (Appendix 1) As Mr. May states in his letter, termination of my financial interests in Patton, Boggs and Blow will be in accordance with paragraph 4.05 of the partnership Agreement to which I referred during my confirmation hearing on January 6, 1993. (Transcript at page 30). Specifically, as a departing equity Partner, I will receive the same treatment as any other equity Partner "who dies, resigns, retires or is expelled":

(a) My capital account balance on the date of departure;

(b) My percentage interest in the accounts receivable of the firm; and

(c) The already-earned interest on partner's capital account.

Paragraph 4.05(e) of the Partnership Agreement allows for a lump sum liquidation payment to be made, which payment will be contiguous with my departure from the firm. Additionally, the record of my hearing testimony reflects my representation to the Committee that I would provide the Committee with a copy of the Partnership Agreement on the condition that the firm was "willing to share the partnership agreement". (Transcript at page 30). As reflected in Mr. May's letter, I have discussed providing the full partnership Agreement to the Committee in response to your request. Mr. May has provided those provisions which may be deemed relevant. However, Mr. May declined, on behalf of the Patton, Boggs and Blow partners, to provide the full Partnership Agreement in that the agreement is regarded as highly confidential. It is important to note however that Mr. May's letter fully details the financial terms of my departure from the firm.

As concerns any pension benefits associated with Patton, Boggs and Blow, there are none. However, as disclosed on my financial disclosure report which was provided to the Committee, I have a retirement account invested in a number of securities. These securities will be divested and will be re-invested in a broadly diversified mutual fund or other non-conflicting interests.

My response to Section D(4) of the United States Senate Committee on Commerce, Science and Transportation Questionnaire Submitted for Completion by Presidential Nominees was my response to questions concerning my lobbying activities rather than to client representations in the broader context. Certainly, I provided services as a member of my firm to many clients over the course of the past 10 years. Obviously my resignation from the firm terminates my involvement with the firm and any of its clients. I would like to emphasize that for the duration of my term as Secretary of Commerce, I will not engage in any personal professional contact with any member or employee of my former law firm on any issue before the Commerce Department.

In response to your questions concerning my various business holdings and the waivers which I will seek upon the advice of the Office of Government Ethics and the Office of the General Counsel of the U.S. Department of Commerce, you should know that both offices spent considerable time and effort formulating their opinions before issuing the certification as to potential conflicts of interest. Further, it is important for me to point out that my actions regarding potential conflicts of interest or appearance of conflict exceed OGE standards as well as interpretation of those standards by the ethics office at the Department of Commerce. Before addressing your specific questions to the companies for which waivers will be sought, I would like to inform you that I am terminating my personal business relationship with Public Employee Benefit Service Corp. (formerly PEBSCO Municipal Securities Corp.) and Kellee Communications. Therefore, I will not be seeking a waiver as to either of these entities.

Boston Bank of Commerce, a single bank holding company located in Boston, MA, is 100% minority owned. I am a passive investor in the holding company with ownership of less than 10% of the outstanding and issued stock. Having resigned as a Director, I have no operational or management involvement in the activities of the company. Harmon International is an equipment leasing company of which I am the sole shareholder. I have served in the past as President of the company, a position from which I have resigned. As to the companies discussed in this paragraph, I intend to seek a waiver, as authorized under conflict of interest laws, for my financial interests. My interest in each of these companies is less than 10% of my net worth and is not substantial. Thus, I am eligible for a waiver under the applicable conflict of interest statute, 18 (U.S.C.) 208(b)(1). If the waiver is issued, I will disqualify myself from matters which are likely to have a specific or differential effect on the companies. Given the business activities of these companies, it is unlikely such a matter would be pending at Commerce, in any event. I would be able to participate in matters which may have an incidental effect on any of the companies as a member of any industry sector, however. For example, I will be able to participate in trade issues concerning banking services which are likely to affect the entire banking industry.

As to your inquiry concerning contributions to the Democratic National Committee or Democratic candidates. I have no financial interests in such contributors and will not be influenced by their past political contributions.

You expressed concern about my recusal regarding members of my family. I am unclear as to your meaning relative to the term "involved". However, as provided in Federal ethics regulations, I will not participate in any matter in which a member of my household has a financial interest. Regarding my adult children and other close relatives who are not members of my household, also, as provided in Federal ethics rules, I will not participate in any matter in which they are a party or serve as a representative.

You also inquired as to my ownership of Capitol PEBSCO and Public Employee Benefit Services Corporation. I am, I'm sure you are now aware, divesting of all my interest in these entities.

Finally, neither I nor any of my staff had contact or communications with Special prosecutor Walsh, his assistants or any member of his staff concerning the Weinberger indictment and the timing of its announcement.

I hope that these are satisfactory responses to your questions. If further information is required, I will be pleased to provide it.

Sincerely,

RONALD H. BROWN,
Commerce Secretary-Designee.

APPENDIX 1—LETTER FROM TIMOTHY J. MAY TO SENATOR JOHN C. DANFORTH, DATED JANUARY 15, 1993

PATTON, BOGGS & BLOW,
Washington, DC, January 15, 1993.

Hon. JOHN C. DANFORTH,
Ranking Minority Member, Commerce, Science, and Transportation Committee, Washington, DC.

DEAR SENATOR DANFORTH: This letter responds to your request to Ron Brown that the Committee be supplied with information about Mr. Brown's partnership rights and obligations upon his resignation from Patton, Boggs & Blow, effective January 20, 1993. I have enclosed a copy of those provisions of the Partnership Agreement ("Agreement") which relate to distributions to former partners, specifically paragraph 4.05 of that Agreement.

I would particularly draw your attention to paragraph 4.05(b) dealing with equity partners, which Mr. Brown has been. You will note that paragraph provides that an equity partner "who dies, resigns, retires or is expelled" will receive distributions in accordance with this paragraph. I point this out to emphasize the fact that Mr. Brown will receive neither more nor less than he would have received if he had been expelled from the firm or if he were to have died. The suggestion in the press, as well as comments made during Mr. Brown's confirmation hearing, relating to a "golden handshake" from this law firm, are entirely false and without any foundation whatsoever. Mr. Brown will be paid only that which he presently owns. That is why he will receive no more than would a partner who died; that partner's estate would also receive that which he or she presently owns. As the partnership provisions make clear, what Mr. Brown, or any other departing equity partner owns, is the following:

(a) His or her capital account balance on the date of departure (the amounts the partner has been required to invest in the firm);

(b) His or her percentage interest in the accounts receivable of the firm, which will not be distributed to that partner until and unless those receivables are collected; and the partner's percentage interest in work in process, that is, work already performed but not yet billed; distributions for that will be made only if and when that work is billed and collected; and

(c) The already-earned interest on the partner's capital account.

We have had experience in the past with equity partners who have both died or resigned from the firm. In each instance it has taken a number of years for the full distributions to which these partners are entitled to be paid to them; this is so for the simple reason that, in the normal course of events, it takes several years for all of the receivables and the work in process to be collected.

It is important to point out that, unlike many so-called legal partnerships, Patton, Boggs & Blow is a true partnership. Each equity partner has a fixed percentage of the profits, losses, and expenses of this law firm for each year the law firm operates. That percentage changes from year to year, based upon a complicated formula that weighs the amount of work performed by the partner, the amount of business originated by the partner, and the seniority of the partner. Each equity partner's percentage is fixed in advance for the year based upon the performance of that partner, relative to the performance of all other equity partners, in the preceding year.

Once that percentage is fixed, then that partner is charged, on a daily basis, with that partner's share of all expenses of the firm for that year; that partner is credited on the positive side only when the work done in that year has been billed and collected. To be specific, if a partner had a 2% interest for 1992, then that partner has been charged (that partner's capital account has been charged) with 2% of every expense the law firm incurred during 1992. That partner is credited with 2% of the fees collected for work done in 1992 only when those fees are actually collected. Consequently, at the conclusion of 1992, each equity partner has already been charged with, and has had to pay for, his or her percentage share of the expenses of operating the law firm in 1992. It is for that reason that each partner owns his or her percentage share of the fees that will be realized from that work when those fees are collected. Thus, the equity partners own their share of the receivables; they own their share of the work in process not yet billed; and nothing that the law firm wishes to do can defeat that partner's ownership rights. It is for that reason, even if we were to expel a partner, that partner would have the same entitlement as Ron Brown has as a resigned partner. In both cases those partners own their right to receive payments.

You will note that paragraph 4.05(e) of the Agreement provides for an exception which would allow the former partner and the firm to agree upon a lump sum liquidation payment in satisfaction of the former partner's rights and obligations where that partner has accepted a position in government. We are informed that the Office of Government Ethics requires payment now in full liquidation of our obligation to Mr. Brown. We have agreed to do that. Such a lump sum settlement will require us to make an evaluation of the probability of the collection of receivable and work-in-process. In making that evaluation, it is our firm intention that Mr. Brown be treated, as he is entitled to under his contractual partnership rights, the same exact way as any other partner that departs this firm, whether that departure is occasioned through a resignation, retirement, expulsion, or death. Our accounting firm is making the calculations necessary to determine the proper settlement payment, and that final payment will be made to Mr. Brown before January 20, 1993.

Because we have had partners who have departed this firm under various circumstances, including death, we have an established track record to document what happens upon the departure of a partner; it is a track record against which our treatment of Mr. Brown can be compared so that the proper authorities can be assured that Mr. Brown is treated in no more favorable fashion than would be the case with any other partner that departs this law firm, under whatever circumstances.

It is also important for the Committee and the public to understand that there is no possible way we can vary what Mr. Brown is legally entitled to whatever Mr. Brown's future attitude towards or dealings with the law firm may be in his official capacity in the government.

I want to assure you we will cooperate in every way to provide all the information that the Committee needs to fulfill its obligation.

Please let me know if the materials supplied herewith are adequate for your needs, or if you need additional information about the Partnership Agreement.

Sincerely yours,

TIMOTHY J. MAY,
Managing Partner.

4.05. Distributions to Former Partners.

(a) Non-Equity Partners and Lateral Partners. A Non-Equity Partner or a Lateral Partner who dies, resigns, retires or is expelled during a taxable year shall receive at the end of the month of such death, resignation, retirement or expulsion a pro-rated portion of such Former Partner's compensation for that month. Within sixty (60) days of such death, resignation, retirement or expulsion, the balance of such Former Partner's capital account shall be paid to such Former Partner. If such Former Partner is entitled to any additional compensation (such as interest pursuant to Section 3.02(b)) for such taxable year, it shall be paid to such Former Partner at the same time as it would have been paid if such Former Partner had remained a Partner.

(b) Equity Partners. An Equity Partner who dies, resigns, retires or is expelled shall not be entitled to monthly draws following the date of such death, resignation, retirement, or expulsion. Within ninety (90) days from the date of death, resignation, retirement or expulsion, the Partnership shall distribute to the Former Partner an amount equal to such Partner's capital account balance as of the date of death, resignation, retirement or expulsion, plus interest thereon to the date of payment. For purposes of the preceding sentence, the Former Partner's capital account balance shall be an amount—

(i) determined pursuant to the rules of Section 3.02 as if the taxable year had ended on the date of death, resignation, retirement or expulsion (and as if Section 3.06 did not apply),

(ii) reduced by the Former Partner's share of the net interest expense accrued, but not paid, on the capital accounts of all other Partners up to the date of death, resignation, retirement or expulsion, and

(iii) adjusted by debiting all sums owed by the Former Partner to the Partnership and crediting all sums owed by the Partnership to the Former Partner (other than death payments pursuant to Section 8.03).

Such balance will be estimated by the Managing Partner with the assistance of the Partnership's accountants. If such balance is

negative, it shall be deducted from future payments owed to the Former Partner or collected from the Former Partner as provided below. The amount of interest on the Former Partner's capital account and the amount of interest expense accrued on the capital accounts of other Partners shall be estimated in general accordance with Section 3.02(b).

(c) Future Adjustments for Equity Partners.

(i) Within thirty (30) days after the Partnership's accountants distribute to Partners the tax return for the taxable year of the death, resignation, retirement or expulsion of a Former Partner, the Partnership shall pay to such Former Partner the positive capital account balance, if any, shown on the return. If the capital account balance is negative, the Former Partner shall owe such amount to the Partnership. Such amount shall be paid by being debited from future payments owed to the Former Partner by the Partnership, unless the Managing Partner determines that the future payments will be insufficient to cover the deficit, in which case, the deficit will be payable upon demand of the Partnership.

(ii) Following the accounting described in clause (i), such Former Partner shall be entitled to receive amounts equal to the amounts by which such Former Partner's distributive share of items of income or gain (such as Clause (i) Allocations) exceeds such Former Partner's distributive share of items of deduction or loss (such as Clause (ii) Items). Computations and distributions of such excess amounts shall be made in conjunction with distributions under Section 4.03.

(d) Adjustments for Equity Partners. If the adjustments taken into account under Section 3.05(d) in determining the Formula Percentage of an Equity Partner do not operate as intended to recapture prior distributions because of the resignation, retirement or expulsion of an Equity Partner, the Executive Committee shall make appropriate reductions in such Former Partner's future distributions to recapture the distributions which such Partner received in a prior taxable year.

(e) Lump Sum Liquidations. Except in the case of a Former Partner who accepts a position in government and whom the Executive Committee concludes shall receive a lump sum liquidation payment in satisfaction of such Former Partner's rights and obligation under this Section 4.05, no Former Partner shall have a right to receive a lump sum liquidation payment in lieu of the payments described in Section 4.05 (a), (b) and (c), but the Partnership may by the affirmative vote of the Partners holding a majority of Voting Percentages make a lump sum payment to a Former Partner in satisfaction of such Former Partner's rights and obligations under this Section 4.05. Such lump sum shall reflect the estimated present value of amounts that the Partner would otherwise receive under this Section 4.05.

(f) Payments in Cash. All payments pursuant to this Section 4.05 shall be made in cash, except that the Partnership may elect to set aside and deliver to a resigning Partner (but not a disabled Partner or the estate of a deceased Partner) such Partner's pro rata share of the Partnership's capital assets in lieu of cash. In the event that the Partnership sets aside property for this purpose, it shall have discretion as to what items to set aside, all items being valued for the purpose of partition, either by agreement between the Partnership and the resigning Partner or by an independent appraisal, at current market prices.

U.S. SENATE,
Washington, DC, January 14, 1993.

Hon. RON BROWN,
Secretary Designate, Washington, DC.

DEAR MR. BROWN: After reviewing the documents you submitted to the committee, I have some further questions. You indicated that you will seek a conflict of interest waiver to allow you to continue your ownership of Capitol PEBSCO and your participation in PEBSCO Municipal Securities Corporation.

Could you please provide me with a list of the officers of this corporation? Who are the owners of this corporation? How much money is managed by the corporation? From what sources does the money come? Are any pension funds handled by the corporation? What municipalities, local, State, university, or corporate pension funds, if any, are invested by the corporation? Who make the actual investment decisions for the corporation? Are they registered investment advisors?

Thank you for your help in answering these questions, and I look forward to your answers to these and other questions.

Sincerely yours,

TRENT LOTT.

U.S. SENATE,
Washington, DC, January 8, 1993.

Secretary Designate, RON BROWN,
Democratic National Committee, Washington, DC.

DEAR MR. BROWN: I would like to thank you for your thoughtful responses to the many questions during your Senate nomination hearing on January 6, 1993. And as I stated during that exchange there would be additional follow-up questions. This one focuses on your service as the Chairman of the Democratic National Committee (DNC). Specifically, your involvement in the recently completed presidential campaign as it relates to the indictment of Mr. Weinberger on October 30, 1992.

The timing of this event just days before the election causes one to wonder and worry. In fact, the media felt at best there was an awkward coincidence and at worst a collusion between the Democratic Party and the Office of the Special Prosecutor. It was further highlighted by the press reporting there were campaign contributions of certain members of Mr. Walsh's staff to the Democratic Party, and subsequent dropping of the indictment following the election.

I would like to give you an opportunity to clear away all of these suspicions by carefully responding to the following question:

Did you, anyone on your staff, or employed/contracted by the DNC have any contact or communications formal or informal with Special Prosecutor Walsh, his assistants (Mr. Brosnahan or Mr. Gillen), or any other members of his staff concerning the Weinberger indictment and the timing of its announcement?

I appreciate your careful attention and considered response to this question.

Sincerely yours,

TRENT LOTT.

U.S. SENATE,
Washington, DC, January 8, 1993.

Mr. RON BROWN,
Secretary Designate, Democratic National Committee, Washington, DC.

DEAR RON: I appreciate your willingness to respond to our additional questions. As you will recall I requested a copy of your separation agreement with Patton, Boggs, and Blow. This is particularly critical because of your very narrow recusal policy and the limited duration for which you plan to recuse yourself.

Specifically, Senators need to know whether your separation agreement is to be made as a fixed payment, a lump sum, or a payout schedule. If it is on payout schedule, what is that schedule? Are there any specific pension benefits which are a part of this agreement? How and when are they to be paid? Without the full written separation agreement there is no way to be confident that your narrow recusal policy vis a' vis Patton, Boggs, and Blow clients will be sufficient to remove any conflict of interest problems or the appearance of any conflict of interest problems.

The review of your list of clients from your 10 year association with Patton, Boggs, and Blow, the list which you say will serve as the basis of your one year recusal policy, lists only six clients. Did you not participate as a member of the firm in providing services to any other clients, if so, what representations were made by you or the firm regarding your future involvement with those clients or their interests?

In the letter from Barbara Frederick regarding your plans to avoid any conflict of interest, a request for a waiver was mentioned. Would you please supply more specific information on these holdings, your past involvement in these businesses, and specifically in what types of matters you will continue to participate under this waiver?

The possible relationships from your other recent employment also interest me. As chairman of the Democratic National Committee did you ever participate in efforts to raise so-called soft corporate contributions? If so, from what corporations that might have dealings with the Commerce Department? What will be your recusal policy regarding any of these companies and their dealings with the Department of Commerce?

Finally, what will be your recusal policy regarding any case in which by employment or association a member of your family may be involved?

Sincerely Yours,

TRENT LOTT.

DEPARTMENT OF COMMERCE,
OFFICE OF THE GENERAL COUNSEL,
Washington, DC, January 4, 1993.

Hon. JOHN C. DANFORTH,
Ranking Minority Member, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR DANFORTH: President-elect Clinton has announced his intention to nominate Mr. Ronald H. Brown for the position of Secretary of Commerce.

By letter to Stephen D. Potts of the Office of Government Ethics, my office certified that Mr. Brown's financial disclosure report is complete and does not disclose any financial interest or outside activity that violates or appears to violate applicable conflict of interest laws or regulations.

The mission of the Department of Commerce is to foster, promote, and develop the foreign and domestic commerce of the United States. This encompasses the broad responsibility to serve and promote the nation's economic development and technological advancement.

Mr. Brown is currently chairman of the Democratic National Committee. He also is a partner with a law firm, Patton, Boggs & Blow. Mr. Brown serves on several corporate and educational and public policy non-profit

boards of directors. In addition Mr. Brown has stock holdings in companies in several industry sectors, as well as holdings in money market funds, accounts in financial institutions, and real estate holdings, including several residential real estate limited partnerships. Additionally, Mr. Brown has financial interests in banking, communications, consulting, pension plan record-keeping, telephone installation, television equipment leasing, and waste management business entities. Also, Mr. Brown's wife receives a salary from a communications company.

Mr. Brown is taking a number of actions to avoid a conflict between his private interests and any responsibilities he would have as Secretary. He will resign from his position as chairman of the Democratic National Committee and from all director and officer positions with outside business and non-profit entities.

Mr. Brown also will terminate his relationship with Patton, Boggs & Blow and terminate his financial interest in the firm. Mr. Brown will also convert his independently managed, defined contribution plan into a diversified investment fund or other nonconflicting interest.

Mr. Brown will convert his interests in a Prudential Securities Managed Account, as well as any other stock in a widely-traded company, into a diversified investment fund or other non-conflicting interest.

Mr. Brown will disqualify himself from participating in any matter likely to have a direct and predictable effect on Albimar Communications, Capital PEBSCO, First International Communications, Huntcliff Associates Limited Partnership, Potomac Housing Fund Limited Partnership, residential property in Davis, West Virginia, Rollingbrook Associates Limited Partnership, and Willow Springs Associates Limited Partnership.

Because one of the companies in which Mr. Brown has a financial interest has significant contractual dealings with the District of Columbia, Mr. Brown will also disqualify himself from participating in any particular matter likely to have a specific and differential effect on the District of Columbia.

Although he will retain no financial interest in the Democratic National Committee and Patton, Boggs & Blow, to avoid any potential appearance of a conflict of interest, he will disqualify himself from participating in any matter likely to have a specific and differential effect on those entities for one year following his appointment. Similarly, he will disqualify himself for one year from participating in any particular matter in which he or his firm provided legal services to one of his current clients. Current clients include all entities Mr. Brown brought to the firm or personally provided legal services during the past year.

Mr. Brown will seek a conflict of interest waiver which will allow him to participate in matters likely to have a direct and predictable effect on Boston Bank of Commerce, Harmon International, Kellee Communications, and PEBSCO Municipal Securities Corp. Until such a waiver is granted, he will not participate in any matter likely to have a direct and predictable effect on those entities. Following issuance of the waiver, he will continue to disqualify himself from participating in matters likely to have a specific and differential effect on those entities. In the event a waiver is not granted, Mr. Brown will either divest the financial interests or continue to disqualify himself from matters likely to have a direct and predictable effect on those companies.

Programs and policies of the Department are unlikely to have a direct and predictable effect on Mr. Brown's interests which are outside the coverage of the actions described in this letter. Mr. Brown's actions as Secretary are not likely to influence significantly, or be influenced by, those interests. If a particular matter arises which would have a direct and predictable effect on such interests, he could disqualify himself from participating in that matter or seek a conflict of interest waiver for interests which are insubstantial.

In light of Mr. Brown's plans to terminate certain interests, resign positions, issue a disqualification statement, and seek a waiver, his financial holdings should present no impediment under 18 U.S.C. §208 and related regulations to the execution of his duties as Secretary. I am not aware of any other potential conflict of interest or appearance of a conflict or any other legal impediment to Mr. Brown serving as Secretary of Commerce.

Sincerely,

BARBARA S. FREDERICKS,
Assistant General Counsel
for Administration.

STATEMENT ON THE CONFIRMATION OF RONALD H. BROWN

Mr. LOTT. Mr. President, the next Secretary of Commerce will play an important role in the future of the United States. Critical policy decisions facing our Nation must be resolved involving international trade, new and advanced technology development, American competitiveness, and our oceans and atmosphere.

New missions and structures will be needed if the Department and administration are to effectively promote U.S. exports, expand our economy and create new jobs and opportunity.

So, this is a very important position and we need the best possible person to serve as the Secretary of this Department.

In that context, the Senate is charged with the constitutional responsibility of advice and consent on the nomination and confirmation of Ron Brown to be Secretary of Commerce.

The confirmation process ensures the nominee's qualifications, his or her public record, policy views, and character are fully considered. The process provides important information not only for the Senate but also for the public.

If possible conflicts of interest exist, it is essential to know how those issues will be handled. It is a process which affords every nominee an opportunity to address such questions and issues for the record. In the end, I hope it is a process which instills public confidence in our Nation's leaders and decisions.

This becomes increasingly important when we consider the credibility of our governing institutions and leaders. The American people must have confidence that their officials have an interest only in the common good.

It is in that light that as a member of the Commerce, Science and Transportation Committee chaired by the distinguished Senator from South Carolina, that I did ask a number of questions when the committee had hearings of the designee, Ron Brown.

I thought he answered those questions straightforwardly and honestly, but additional questions needed to be pursued. That is why I did correspond and discuss with him potential problems.

I have to say at this point that he made a number of changes that helped address those questions. He has done everything I think we could reasonably expect of him and I have enjoyed working with him in this area. I think it will help remove clouds that might have been hovering over his stewardship at Commerce if these changes had not been made.

The Clinton administration must start by demonstrating that it is truly committed to the overall common good and not to special interests. There cannot and should not be any question lingering.

If it does do this then I believe a very needed step can be made in building public trust and confidence.

I would like to point out a number of the questions that were raised during the hearing and how he has addressed them.

We did raise questions about representation of foreign clients: who they were; what his relationship with them had been in the firm; were there other foreign clients.

That is a matter of record. There is no question that when he practiced law with a very successful law firm that he did represent the Duvalier regime or Government of Haiti.

The firm, I think, maybe did some other foreign work. But I have the impression he was not directly involved with that.

There were a number of municipal contracts which were awarded to firms and companies with which the nominee had an interest, or was associated, some of them under controversial circumstances. But there was not any evidence that came to the record or that I was able to find that he did anything illegal or unethical in those relationships.

So I did not address those particular areas in my questions to him.

Mr. Brown has taken steps to address these questions. I did not raise questions about the party that was going to be sponsored in his honor, for a variety of reasons. I understood it had been planned for a long time. But the point is there was one that was going to be sponsored by corporate sponsors. He made the right decision to cancel it and I think he should get credit for that.

Here are the points I asked him about where he made changes.

He significantly broadened his recusal policy in relation to his former law firm, Patton, Boggs & Blow, from 1

year to the duration of his term as Secretary of Commerce.

He said:

I will not communicate with or discuss with any partner, associate or other employee of Patton, Boggs, and Blow, any matter before, or likely to come before, the Department of Commerce during my entire tenure as Secretary of Commerce.

That is a very broad recusal policy and probably he did not necessarily have to go that far, but he did. Now that question has been removed.

Second, he assured the committee and the Senate that his separation from the firm is final and permanent. There are no reentry provisions or continuing financial interests.

That was not clear during the committee meeting. He has further clarified that. He said in his letter:

I can assure you that my resignation from the firm is final and permanent.

Third, he made available to the committee portions of his separation agreement and the firm's policy on distributions to departing partners. This disclosure addresses and removes the perception of a "golden handshake."

He said:

I will receive the same treatment as any other equity partner who dies, resigns or is expelled.

To this extent:

(A) My capital account balance on the date of departure;

(B) My percentage interest in the accounts receivable of the firm; and

(C) The already-earned interest on partner's capital account.

Four, in other areas the nominee withdrew waiver requests—which he had asked for in his request to the committee and which he reiterated when we had the hearing—that waivers be granted on, I believe, a bank and two corporations. He has now withdrawn those waiver requests and has said that he will sell all of his interest in the Pebsco Municipal Securities Corp. and Kellee Communications.

Again, this is going the extra mile. In a way, it is very hard for these nominees to give up some of their investments and the benefits of their life's work. But if you are dealing not only with ethical problems but the appearances, sometimes you have to do it and he has agreed to not ask for the waivers.

In addressing the allegations surrounding the Weinburger indictment prior to the November election, he stated that neither he, nor anyone on his staff, had at any time at the Democratic National Headquarters had anything to do with the Walsh investigation. He stated emphatically he did not have any contact and there had been no contact in any way by him or his staff with that office.

Finally, he recused himself from any matter where a family member would be representing a client before the Department.

I believe these actions are good and necessary steps in the right direction to remove any appearance of conflicts of interest. I am satisfied that Mr. Brown has done everything possible at this time to avoid potential problems.

In a larger sense I think it is important that the nominee has had the opportunity to establish the record so that the people will be able to look at it and know what he has agreed to do.

So, Mr. President, I think it was important that I rise today, because the questions had been raised and these matters needed to be clarified. The American people need to know that he has taken the proper steps.

I think that has been done. Therefore, I have withdrawn my reservations about him and any effort to hold up the nomination. I think he is qualified by education and by experience to do this job. He was selected by the President of the United States for this job and after he has taken these actions, I do think he should be confirmed.

I yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDENT pro tempore. The Senator from South Carolina [Mr. HOLLINGS].

Mr. HOLLINGS. Mr. President, I am pleased to work with the distinguished Senator from Mississippi. His points are well taken. As he stated, it is above and beyond the requirements legally and ethically taken by Mr. Brown and is a compliment to this particular nominee because he came as a chairman of a political party and the media invariably had a heyday: "Wait a minute. Here is a chairman of a political party making money representing clients."

If that is to be controlled barring any statutory provisions that we may provide, it is up to the party itself. We found out Republican and Democratic Party chairmen all had clients, established new law firms, expanded their law practice. That is a question that concerns the distinguished Senator but it was not Mr. Brown's fault. When he complies with the ethics and provisions of the community in which he practices, he is to be complimented and not have aspersion against him with respect to unethical conduct. Otherwise, with respect to foreign corporate or foreign entity representation, I more or less yield to the view expressed by Pat Choate in his book "Agents of Influence" whereby he listed the Washington merry-go-round or representing all these folks. I had long since, years back, taken the position of restricting the Special Trade Representative from representation of any of the clients or affairs before the Government later as clients.

I tried as a rider on the appropriations for the Special Trade Representative measure a 5-year bar. It was knocked off in conference each time as a matter of veto bait. More recently, however, we finally got a compromise this past year not to apply it to the present occupant of the Office of Special Trade Representative, but to ensuing ones, namely to Mr. Mickey Kantor. And we got a 3-year provision that bars him from having any interest or activity with respect to anybody that has been before the Government and his particular role as Special Trade Representative.

So I take a similar view and concern. It worried me at the time when it came up and I did make that comment, which I reiterate, that I had represented clients. I represented murderers, and I have been elected, fortunately, Mr. President, six times to this distinguished body. I do not favor murder and I am confident that Mr. Brown does not favor any of the activity of Baby Doc Duvalier of Haiti. Mr. Brown answered on top of the table that he was working with Members of Congress and the State Department on the political situation down in Haiti trying to get them additional aid and help from this Government, which is an ethical practice, as the distinguished Senator from Mississippi has pointed out. There is nothing illegal or nothing unethical.

So I think we have cleared the air. I am indebted to the distinguished Senator from Mississippi for pursuing these questions, making the record and entering it into the official record of the confirmation process.

The distinguished Senator from West Virginia [Mr. ROCKEFELLER] was approaching the floor. I am of the school of thought of the senior Senator from West Virginia, our distinguished President pro tempore, that we have to move things along. I am ready. Unless he appears, I certainly will ask consent that his statement be printed in the RECORD as if delivered on the floor. I ask unanimous consent now that the statement of the junior Senator from West Virginia be printed in the RECORD as if delivered on the floor.

Mr. President, thereupon, I ask the Senator from Mississippi, on behalf of the Senator from Missouri, my ranking member, are we ready to yield back time?

Mr. LOTT. Mr. President, I do believe we have at least one more speaker. I believe the Republican leader wanted 10 minutes. If we could at this moment put in a quorum call and get him to come over and do that.

Mr. HOLLINGS. I think the distinguished Senator from Washington could use the time and we will not object.

Mr. GORTON. Will the Senator defer?

Mr. LOTT. I certainly will and we will get in contact with him right now.

The PRESIDENT pro tempore. The Senator from Washington. Who yields time?

Mr. GORTON. Mr. President, on the basis that no other Member wishes to use time on the nomination, I ask

unanimous consent to proceed for 8 minutes as in morning business.

The PRESIDENT pro tempore. Is there objection? The Senate is in executive session. Is there objection to the request that the Senator proceed for not to exceed 8 minutes as in legislative session and as in morning business? The Chair hears no objection. Does the Senator ask that the time not be charged against the time controlled?

Mr. GORTON. He does.

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

NOMINATION OF ZOE BAIRD

Mr. GORTON. Mr. President, Zoe Baird's nomination to the post of Attorney General presents the Clinton administration with a dilemma. The President can stand beside his nominee or withdraw her name. I believe that it is in the interest of President Clinton's administration and of the country as a whole that her nomination be withdrawn.

Ms. Baird's professional qualifications are outstanding. She is eminently qualified for the position, but her credibility as a member of the Clinton Cabinet has been mortally wounded. In choosing to hire illegal aliens to care for her child, she knowingly circumvented some of the very laws she would be sworn to uphold as America's highest law enforcement officer.

This situation is truly regrettable. Were it not for her single set of unfortunate but clear transgressions, Ms. Baird would certainly have received my full and enthusiastic support.

To begin with, Zoe Baird is a fellow Washingtonian, having been raised and educated in Puget Sound country, not too far from my own home. And while a shared heritage may provide little basis for confirmation to the President's Cabinet, it is a point of pride. The people of Washington State, including this Senator, continue to hold great respect for Ms. Baird's accomplishments.

Second, Ms. Baird has been a champion of tort reform; I had hoped that she would continue her efforts in that arena as Attorney General. Tort reform must and will be achieved as an integral component of more encompassing reforms to our Nation's legal system. Ms. Baird's leadership from the Office of the Attorney General would have proven invaluable.

Third, it is my conviction that any President of the United States—Republican or Democrat—has the right—both practically and constitutionally—to select his or her Cabinet members. In the absence of an important infraction of propriety or law, this body should not impede the President from choosing to advise him those whom he most trusts and respects.

For these reasons I am, only with great reluctance, forced to conclude that the seriousness of Ms. Baird's lapse should not be overlooked by the President, regardless of the larger contribution her presence on his Cabinet might provide.

And finally, I sympathize with Zoe Baird in regard to the situation that faced her 3 years ago: Possessed of a brilliant mind and at the peak of her intellectual powers, she wanted to continue her extraordinary career, and she wanted the best possible care for her child. I have two married daughters. Both have young children, and I have listened to and understand their frustrations with the supreme difficulty women face in juggling career and family obligations. I also understand that society has been slow to come forward to meet their needs. I know of the wrenching decisions made by my daughters, by women on my staff, and by other women friends as they have struggled to combine motherhood with careers outside the home.

But while I sympathize with Zoe Baird and while I admire her professional qualifications I still conclude that President Clinton should withdraw her name.

I have listened to those who seek to exonerate her. One defense I have heard often is that "everyone does it." No, everyone does not do it. As Senator BIDEN pointed out Tuesday during Ms. Baird's confirmation hearings, there are millions of American citizens who have but a fraction of the income of Zoe Baird and her husband, but who do not break the law to solve their child care problems.

Second, and more importantly, Zoe Baird is not everyone. Zoe Baird has been nominated to be the highest legal officer in this Nation. The Office of Attorney General is different from every other Cabinet position. The Attorney General is ultimately responsible for the prosecution of all violations of U.S. immigration laws. The person who enforces these laws cannot credibly be a person who has knowingly and intentionally broken those very laws for years. In many cases involving issues of ethics in Government the issues are gray or cloudy. Sometimes the law is unclear and it is unclear exactly who did what and whether those laws were broken. This case is neither gray nor cloudy. Ms. Baird knew exactly the laws she was breaking.

I urge President Clinton not to overlook this legal and ethical breach of judgment at the beginning of his administration. I do not wish for Ms. Baird or President Clinton the embarrassment of further Senate scrutiny and, in my opinion, likely rejection. Her nomination should simply be withdrawn. The price to a new administration for which the American people have such high hopes is simply too great to warrant any other course of action.

Whatever Zoe Baird's destiny turns out to be—and, given her talent and ability, I have no doubt it will be significant—it should not be as Attorney General of the United States of America.

If the election just past taught us anything, it taught us that Americans wanted change. The most fundamental change demanded by the electorate was in the behavior of those elected and reelected to wield the power of Government. Americans sent a clear signal that public officials must not hold themselves above the laws they create and administer, and that the President and Members of Congress must not turn a blind eye when clear transgressions occur. The American people, Mr. President, wanted a change in business as usual, and they elected Bill Clinton to implement that change.

In his eloquent inaugural remarks yesterday to an America ready to listen, President Clinton spoke of that change. He offered the gift of hope to Americans, and they responded with cheers and trust.

But cheers are fleeting, and hope is fragile. And trust is purchased with deeds, not words.

For the sake of his new administration and for America, I urge President Clinton to withdraw the name of Zoe Baird from nomination to the post of Attorney General.

NOMINATION OF RONALD H. BROWN

The PRESIDENT pro tempore. The Senate resumes consideration of the nomination of Mr. Ronald H. Brown, of the District of Columbia, to be Secretary of Commerce. Who yields time?

Mr. ROCKEFELLER addressed the Chair.

The PRESIDENT pro tempore. The Senator from West Virginia [Mr. ROCKEFELLER].

Mr. ROCKEFELLER. Mr. President, I would just like to speak for about 3 minutes on the nomination.

Mr. HOLLINGS. I yield to the Senator.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. ROCKEFELLER. I thank my distinguished colleague from South Carolina. I feel so strongly about the confirmation of Ron Brown. One of the things that President Clinton made very clear throughout this campaign was that he was going to make restructuring and the competitiveness of our economy matters of great importance.

Essential to that theme is that the Department of Commerce, long a languishing backwater Department, is going to become central to that purpose. You must have a strong export policy. You must be sure of enforcing our trade laws in this country. You must be sure of making exports possible for small business people in States like the distinguished Presiding Officer and my own State of West Vir-

ginia, where there are many small business people who would like to be doing export business with other parts of the world but do not have the opportunities or the financing.

In Ron Brown, for the first time as long as I can remember in my public life, we have a real champion. I think he has a passion to succeed in this position like few I have seen in any job. I watched him as the chief fund raiser for the Democratic National Committee take a party which was torn asunder in every single way and bring it together. I do not mention that for political purposes, but I said to him once that I felt if he could bring the Democratic Party together, he could sure do a lot for strengthening the economy of our country.

Ron Brown is so smart, and so shrewd, and so tough, and he knows business so well that the prospect of his being Secretary of Commerce is I think one of the truly bright spots of the new Clinton Presidency.

So I support him strongly, Mr. President, and look forward to his serving in that position.

Mr. EXON addressed the Chair.

The PRESIDENT pro tempore. The senior Senator from Nebraska.

Who yields time?

Mr. HOLLINGS. I yield whatever time is necessary.

The PRESIDENT pro tempore. How much time does the Senator require?

Mr. EXON. Three minutes.

The PRESIDENT pro tempore. Is 3 minutes yielded?

Mr. HOLLINGS. Yes.

Mr. EXON. I thank the Chair and I thank the distinguished chairman of the committee of jurisdiction.

The PRESIDENT pro tempore. The Senator is yielded 3 minutes.

Mr. EXON. When Ron Brown was first mentioned as a possible nominee for the position for which he has been approved in the Commerce Committee, I was very much impressed because I have known Ron Brown for a long, long time. I had a long conversation with him in my office prior to his appearing before the Commerce Committee. I was further impressed, Mr. President, with his keen knowledge, his keen insight, the fact he has been a success in everything that Ron Brown has ever touched. I am simply delighted the President of the United States has seen fit to nominate a man with Ron Brown's intellect, with Ron Brown's experience, with Ron Brown's knowledge of the workings of the U.S. Senate and the Congress as a whole, a man who I think after 4 years very likely will set a record that will be looked back on as a standard for those who have served in that position and those who will serve that position in the future.

So I simply congratulate Senator HOLLINGS, the chairman of the committee, for the expeditious action that has been taken after a thorough process, after visitation I think with all members of the committee on both sides of the aisle, after a rather lengthy hearing process where everything I believe was aired very fully, after answering in detail by mail not only the original questions submitted to him by the committee but also several follow-up questions that were asked of him after the hearing, and as it was explained earlier today when we confirmed and recommended that he be approved. He has gone beyond the call of duty to be very, very forthright, and I am very pleased to soundly endorse my friend Ron Brown and a friend of the American people for Secretary of Commerce.

I yield back the remainder of my time.

Mr. HOLLINGS. Mr. President, I yield 3 minutes to the distinguished Senator from Louisiana.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. BREAUX] is recognized for 3 minutes.

Mr. BREAUX. I thank my chairman for yielding me the 3 minutes.

Mr. President, I think Ron Brown is the right person for the right job at the right time. In our hearings, which I think were really very good hearings, I think the minority, the Republican members, really handled this nomination with the appropriate and proper procedures incumbent upon their role. The committee, under the leadership of our distinguished chairman, had some good hearings.

We are in a period of time with a new sense of ethics in Government. President Clinton has set out a very strong sense of what officers in this Government are going to be able to do when they serve and during their tenure in office as well as what they do after they leave the Government. The American people have the right to feel we are starting this new administration off in the right direction and with the proper degree of concern for ethics in Government.

With Ron Brown's nomination and the hearing processes, we have really set a standard which will do us proud. I think he will be outstanding in the position of Secretary of Commerce, and I think this Senate has done itself proud by conducting the hearings in such fine fashion. I commend our chairman for heading up those hearings.

I yield back my time.

Mr. HOLLINGS. Mr. President, I thank our distinguished colleague from Louisiana.

I ask unanimous consent, Mr. President, that a column in yesterday's Washington Post by the distinguished writer William Raspberry be printed in the RECORD.

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

WHY DID RON BROWN BECOME A TARGET?

(By William Raspberry)

Ron Brown is my friend. That explains why I have steered clear of both the controversies and the successes in which he has been involved, as chairman of the Democratic National Committee and, lately, as Bill Clinton's nominee for secretary of commerce.

I didn't write about his expert handling of the party chairmanship or the clockwork smoothness with which he ran the party convention, and I didn't write about the political contretemps in which he sometimes found himself. Praising a friend seemed somehow incestuous, and siding with him on controversies would have demanded some sort of disclosure.

Besides, he was doing awfully well—in the media and in fact—without me.

Now I'm hearing about a stranger called Ron Brown: a man of poor judgment and questionable ethics who, if he isn't watched, will sell the government to the highest corporate bidder.

What are they doing to my friend? I read as editorialists hold him to unwritten and constantly changing ethical standards. I watch as media critics "force" him to cancel a preinaugural celebration because it was sponsored by corporate figures with whom he might, as commerce secretary, have to do business. I listen—incredulously—as celebrated talk-show journalists pooh-pooh Zoe Baird's knowing violation of immigration rules (the nominee for attorney general hired a couple of illegal workers and failed to make Social Security payments on their behalf) but scorch Brown for—for what?

I'm not really sure. Some of it is in the normal course of journalism—for instance, the attempts, when he decided to seek the Democratic chairmanship, to figure out what sort of man he was, where he got his money, where his loyalties lay. Some of it was a cynical assumption that behind every successful politician there must be a few skeletons. Some of it was dirt planted by enemies.

But was some of it more sinister than that? I watched with relief as my friend sailed through his confirmation hearings, hardly breaking a sweat. (Republican leaders had hinted that they were ready to pounce on him for various possible conflicts of interest, partly because there were real questions of conflict and partly to get even for the rough treatment Democrats had given the late John Tower, Bush's original nominee for defense secretary.)

Then two things happened. The Wall Street Journal and the New York Times chastised Sen. Trent Lott (R-Miss.) for his "softball" treatment of Brown, and it was learned from Brown's financial disclosure documents that Brown had earned some $750,000 last year.

Since then, there's been, in effect, contest to see who can make the nastiest insinuations about the nominee's "riches." Contracts landed by firms in which Brown had an interest have been discussed as though they were tainted (though there has been no contention that the work was poorly performed or overpaid). Brokerage fees have been written about as though they were the next thing to under-the-table bribes. And when the word circulated that Brown might leave his law firm with a "million-dollar handshake," the "aha!" was almost audible.

Granted, $750,000 is a lot of money. But two questions come to mind. First, if Brown could make that kind of money while George Bush was in the White House, didn't he stand to make a heck of a lot more under Bill Clinton, whose election he helped engineer? In other words, if money is what principally motivates him, he'd be far better off staying with his law firm and choosing among the fat-cat clients who would inevitably throw business his way. The second question is sim-

pler: Why do the media watchdogs who scent corruption at Brown's $750,000 smell nothing unsavory about the money the widely admired Bob Strauss made—and makes.

Can any part of what is going on have something to do with race—an uneasiness with "black leaders" from other than a civil rights background, an unwillingness on the part of some whites to believe that a black guy can dramatically out-earn them without being a crook?

I don't know, and there's more than a little irony in the question. Ron Brown and I are most likely to be kidded as naive by other members of our social group for our insistence on looking always for the nonracial explanation when things go wrong.

We come to our attitude by slightly different paths. For Brown, it is the "integrated" experience. He has gone to school with, worked with, lived among and enjoyed the friendship of whites all his life. He has dear friends (and committed enemies) of all colors, and a predisposition to see people as individuals, not as racial abstractions.

For me, it's largely a question of pragmatics. I have spent an adulthood urging young blacks to look first for explanations over which they have some control: exertion, dedication, cooperation, loyalty, personality, working at being necessary. These may in fact be the real explanations. And even if they are not working at them can go a long way toward overcoming racism. In either case, working at the things we can control is likely to bring us nearer our goals.

So what will I tell these young people now? That working hard, playing by the rules, overcoming barriers of all sorts and winning earns you the chance to stand up and declare like some besieged Richard Nixon: "I am not a crook"?

Mr. HOLLINGS. I yield now to my distinguished friend from Mississippi.

Is the Senator ready to yield back time?

Mr. LOTT. Mr. President, if I could say to the distinguished Senator from South Carolina, we do understand that our leader would like to be here and present his statement, and if we have a request for more time we could go ahead with that. If necessary, I would suggest the absence of a quorum but I will desist at this time.

Mr. BREAUX addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. BREAUX. I ask unanimous consent with this understanding that I be allowed to speak for 3 minutes as if in morning business.

The PRESIDENT pro tempore. Without the time being charged.

Mr. BREAUX. Without the time being charged.

The PRESIDENT pro tempore. Is there objection?

The Chair hears no objection.

The Senator from Louisiana [Mr. BREAUX] is recognized for 3 minutes as in legislative session.

Mr. BREAUX. I thank the Chair.

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

EXECUTIVE SESSION

The PRESIDENT pro tempore. The Senate is in executive session.

Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDENT pro tempore. The Republican leader.

How much time does the Republican leader yield to himself?

Mr. DOLE. Two minutes.

The PRESIDENT pro tempore. The Senator is recognized for 2 minutes.

STATEMENT ON THE NOMINATION OF RON BROWN

Mr. DOLE. Mr. President, I rise in support of the nomination of Ron Brown to be the next Secretary of Commerce.

As we all know, this nomination has not been without controversy. There have been concerns over Mr. Brown's ties with his former law firm and with his extensive lobbying activities.

Many of us on my side of the aisle—including myself—also find ourselves in the situation of not having agreed with a thing Ron Brown said the past 4 years, during his service as chairman of the Democrat National Committee.

While I may not agree with Ron Brown at all times, I do admire his intelligence and his eloquence. I believe he can be an effective advocate for American commerce. I believe the nominee has been most cooperative with the Commerce Committee and its members during the confirmation process.

Mr. Brown has personally assured me that he will act in a strictly nonpartisan manner in the fulfillment of his new responsibilities. And if he is as successful at the Department of Commerce as he was the DNC, then America will be very well served.

I also believe that Mr. Brown has answered the questions pertaining to his past lobbying experience, and I am confident he will do everything possible to avoid even the appearance of impropriety.

Certainly, President Clinton has pledged to ensure the highest standard of conduct for his administration. Indeed, his first act as President was to sign an Executive order pertaining to ethical behavior.

Let me also thank and congratulate the distinguished Senator from Mississippi, Senator TRENT LOTT, for his yeoman work in serving as the Republican point man on President Clinton's Cabinet nominations.

With little time and the demands of a new Congress, Senator LOTT made sure that those issues that needed to be addressed were addressed—in a fair and nonpartisan manner.

I further want to commend Senator LOTT for his interest and his insistence on getting the facts. We have an obligation in this body to make certain that anyone who is confirmed by the Senate is qualified.

Obviously, it is important that the President have the right to select his own people to serve in the Cabinet. I think because of the diligence of the Senator from Mississippi, we can be assured that Mr. Brown has passed all appropriate tests.

Mr. HELMS. Mr. President, I ask that the RECORD reflect my view that there should be a rollcall vote on this nomination. However, inasmuch as a number of Senators on both sides of the aisle are necessarily absent, and inasmuch as this nominee would be confirmed even if a rollcall vote were demanded, out of deference to my absent colleagues, I will not request a rollcall. However, if a rollcall were to be called, I would vote in the negative.

Mr. PRESSLER. Mr. President, I want to take a moment to address the nomination of Ronald H. Brown to serve as Secretary of Commerce. Today, I joined my colleagues on the Commerce Committee to recommend unanimously that the Senate confirm Mr. Brown. I support his nomination. I look forward to his tenure as Commerce Secretary.

During his confirmation hearing, I raised several questions regarding Mr. Brown's severance arrangement with his former law firm, Patton, Boggs and Blow. My specific concern was with his receiving a payment for his partnership interest valued at $1 million. The prospect of a Secretary of Commerce with continuing financial ties to a prominent Washington-based lobbying firm would have placed the Commerce Department under an ethical cloud. Mr. Brown has worked diligently to lift this cloud.

In response to additional questions that I and other members of the committee raised about potential conflicts of interest, Mr. Brown has made clear that his termination with his former firm is final and permanent. Mr. Brown also has made additional changes in his recusal policy, as first described to the committee. He now promises that, throughout his term as Secretary, he will not discuss any matter which is before the Commerce Department with any partner, associate or employee of Patton, Boggs, and Blow. Mr. Brown's pledge should ensure that his former firm and its clients have no special access or direct line to the office of Secretary of Commerce.

The Department of Commerce has a key role to play in revitalizing our economy, modernizing our Nation's infrastructure, and expanding international markets for U.S. exports. Mr. Brown shares my concerns about expanding export opportunities for small business, encouraging economic development in rural areas, and coordinating Federal high-tech research and development efforts. I look forward to working with him. I wish him the very best of success.

Mr. THURMOND. Mr. President, I rise today in support of the nomination

of Ronald H. Brown by President Clinton to be Secretary of Commerce.

Mr. Brown is a distinguished individual, who is well qualified to be Secretary of Commerce. His political leadership roles and his experience with various businesses in his role as partner in Patton, Boggs and Blow law firm lend him the knowledge needed for efficiency as Secretary.

Regarding his formal education, Mr. Brown received his bachelor of arts degree from Middlebury College in Middlebury, VT in 1962. After graduation, he joined the Army where he rose to the level of captain. Mr. Brown then went to law school at St. John's University and graduated in 1970.

Mr. Brown began his career in public service in 1971 when he became general counsel for the National Urban League. Two years later he became the national spokesperson for that organization, and in 1974 he became the executive national director for another 2 years. He later became the vice president of Washington operations for the National Urban League.

In 1979, Mr. Brown began his political career as the deputy national campaign manager for Senator EDWARD KENNEDY's 1980 Presidential campaign. He then became a staff member and later chief counsel to the Senate Judiciary Committee. After 1 year as chief counsel, Mr. Brown joined Senator EDWARD KENNEDY's staff as general counsel and staff director. In 1981 he joined the law firm of Patton, Boggs, and Blow.

Throughout his career, Mr. Brown has participated in various leadership and executive roles. He was a member of UNESCO for 2 years, the legislative chairman of the Leadership Conference on Civil Rights for 2 years and was a member of the advisory counsel for the Federal Home Loan Bank Board. He also served as Democratic Convention manager for Jesse Jackson, and senior political advisor to the Dukakis-Bentsen campaign.

Mr. Brown held several positions in the Democratic National Committee throughout the 1980's and has served as a skillful chairman of that committee since 1989.

I am sure that Mr. Brown will be diligent in his attempts to deal with the trade issues that face this great Nation and will prove his capabilities as Secretary of Commerce. I strongly urge my colleagues to support his nomination.

Mr. DODD. Mr. President, I rise in strong support of the nomination of Ron Brown to be Secretary of Commerce.

Mr. President, today our economy is undergoing dramatic structural change. Declines in defense spending, the rapid rise in world trade and the breathtaking development of new technologies present overwhelming challenges for American companies and the working men and women they employ. In the State of Connecticut, unfortunately, this change has been accompanied by an element of pain: we have lost roughly 25 percent of our jobs in durable manufacturing during the last decade.

In this era of change, America's industries need someone to stand for them. They need a Secretary of Commerce who will be an unflinching advocate for American business. They need a Secretary of Commerce who will help to develop an industrial policy that promotes the growth of manufacturing and new technologies. They need a Secretary of Commerce who understands the challenges small businesses face in this increasingly competitive world.

Most of all, Mr. President, our Nation's industries need someone with a proven track record of success—someone who knows how to be an advocate and who knows how to be a leader.

Mr. President, Ron Brown meets that test. After a successful stint with the Urban League that started in 1968, Ron Brown rose quickly through the ranks to become the chief counsel to the Senate Judiciary Committee in 1980. He then became the first African-American partner at the law firm of Patton, Boggs and Blow.

In 1989, he became the first African-American ever to serve as chairman of the Democratic National Committee, a job he held with distinction and obvious success.

Mr. President, I have had the pleasure of knowing Ron Brown personally for several years. I know him to be an outspoken and aggressive individual who understands the needs of private industry and never backs down from a fight. In my view, that is exactly the type of advocate American businesses need—and exactly the type of advocate they will get if Ron Brown's nomination is confirmed.

Mr. President, I urge the confirmation of this nomination.

Mr. DOLE. I yield the remainder of my time.

Mr. HOLLINGS. I yield the remainder of my time, Mr. President.

The PRESIDENT pro tempore. All time has been yielded.

The question is, Will the Senate advise and consent to the nomination of Ronald H. Brown, from the District of Columbia, to be Secretary of the Department of Commerce?

So the nomination was confirmed.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. Under the order that was entered, the President will be immediately notified of the confirmation of the nominee.

Mr. DOLE. Mr. President, on the vote just taken on the nomination of Ron Brown to be Secretary of Commerce, the Senator from North Carolina, Senator FAIRCLOTH, has requested he be reported as having voted in the negative.

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

LEGISLATIVE SESSION

The PRESIDENT pro tempore. The Senate will return to legislative session.

Under the order previously entered, Mr. KERRY of Massachusetts is recognized for not to exceed 15 minutes in morning business.

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

The PRESIDENT pro tempore. The Senate continues its period for the transaction of morning business with time limitation thereon and with Senators permitted to speak therein for not to exceed 10 minutes.

The senior Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, let me first talk about a bill which I am introducing. Needless to say this is the day when many bills are being introduced with reference to campaign reform.

The PRESIDENT pro tempore. The Senator is recognized for 10 minutes.

Mr. DOMENICI. I thank the Chair.

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

INCREASE IN THE MAXIMUM DEFICIT AMOUNT

Mr. DOMENICI. Mr. President, let me give you one other quick one before I return to an economic issue.

Again I say to fellow Senators, there is much talk about the maximum deficit amount that is in the 5-year budget agreement and the President of the United States has the sole authority to alter that and alter it by tonight at midnight, where now there would be a major sequester in 1994 and 1995, half from defense and half from domestic unless we reach those agreed-upon, now enforceable Gramm-Rudman-Hollings limitations.

The President can agree to change them. This is a statement urging the President not do that. It is saying, even if they are tough, we ought to leave them in and take the whole year to work out a deficit plan. That would be the time to ask Congress to change them. Leave them there so there will be some discipline built in as the budget plans come down.

It seemed to me, in his message to the American people, our President was suggesting that we do not want to ease up on deficit reduction, we do not

want to ease up on sacrifice and treating everybody the same and trying to get an equitable plan. I think he was saying we should do that with more vigor. I submit the way to make it less vigorous is to change these maximum deficit numbers now in advance of the discipline of a multiyear approach.

In his inaugural address yesterday, President Clinton asked us to "demand more responsibility from all." He also told us that: "We know we have to face hard truths and take strong steps." Today, we have an opportunity to do just that. Today, President Clinton can set the tone and display his resolve in combating our burgeoning Federal deficit. And, I believe I can safely say, Republicans stand ready to work with President Clinton in reducing deficit spending and putting our Nation on a sound fiscal footing.

Today, President Clinton must notify the Congress today whether he will weaken the discipline in Gramm-Rudman. By preliminary estimates, if he chooses to take the teeth out of Gramm-Rudman and adjust the deficit targets upward, he will increase the deficit by $72.2 billion.

The President will clearly be within his rights in the law on this decision. The 1990 Budget Enforcement Act required President Bush to adjust these targets for deposit insurance, economic, and technical changes for 1991 through 1993. The Bush administration always supported fixed deficit targets and supported the return to fixed deficit targets as contemplated in the law for 1994 and 1995.

The law continues to require President Clinton to make adjustments for deposit insurance, but it gives the new President the option as to whether he wants to stick to fixed deficit targets or allow them to continue to float for economic and technical adjustments.

The law also provides a $6.4 billion dividend in additional spending authority for the Appropriations Committee. If the President adjusts the deficit targets, he must also adjust the spending caps upward for budget authority by an estimated $3.5 billion in 1994 and $2.9 billion in 1995. The outlays associated with this adjustment amount to a total of $3.6 billion for the 2 years.

While I understand the problems with Gramm-Rudman's fixed deficit targets, if nothing else, they serve as an action forcing mechanism. It will force us to work together and confront the deficit and our debt problems this year.

I think the President makes a mistake if he chooses to adjust these deficit targets upward. The American people realize the dangers of a $350 billion deficit and a debt accelerating toward $5 trillion. The budget deficit represents the most serious long-term economic problem facing this country.

While I will not agree with the President if he chooses to make this adjustment, it will not affect my strong desire to work with this administration to meet the President's pledge to cut the deficit in half, down to $141 billion in 1996.

I ask unanimous consent that a table relating to maximum deficit amounts be printed in the RECORD.

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

MAXIMUM DEFICIT AMOUNTS (MDA)

[In billions of dollars]

	1994	1995
October 23, 1992 MDA's	307.8	302.5
Mandatory adjustment for deposit insurance	+27.1	+.1
New MDA's	334.9	302.6
Optional adjustment for economic and technicals	+22.4	+42.8
Optional adjustment for discretionary caps	+1.4	+2.2
Subtotal optional adjustments	+25.5	+46.7
Adjusted MDA's	360.4	349.4

Note.—Based on OMB estimates. The actual adjustments will depend on the assumptions in President Clinton's fiscal year 1994 budget submission. The maximum deficit amount calculations do not include the receipts and disbursements of off-budget programs, such as Social Security.

SENATE REPUBLICAN ECONOMIC POLICY TASK FORCE

Mr. DOMENICI. Mr. President, today is the first day of the 103d Congress when Senators may introduce bills they hope may someday become law. In truth, another law—the law of averages—suggests that few of the bills introduced will actually become law. In the previous Congress, of the nearly 3,400 Senate bills introduced, only 131, or less than 4 percent, were signed into law.

A number of the proposals introduced today are also aimed at signaling a Senator's area of legislative focus he or she intends to pursue in the new Congress. Today there will be numerous bills introduced, by Members on both sides of the aisle, which have one basic theme: The economy and deficit reduction. These measures reflect what is unquestionably emerging as the major congressional debate of 1993—how to simultaneously foster economic growth while achieving long-term deficit reduction and increased job growth.

Clearly, the national economy has improved significantly in the last 6 months. Indeed the economy grew 3.4 percent in the last quarter, the strongest level of growth since 1988. But, as CBO Director Reischauer has astutely observed, this has been a nonpartisan recovery: It was 6 months too late for President Bush's reelection, and it is 6 months too early for President Clinton to claim the credit. So it is a nonpartisan recovery.

I am certain President Clinton, congressional Democrats, and Republicans all want to sustain our recent economic growth. But I believe we all want to see this growth occur within the overall context of creating more jobs and reducing the Federal deficit.

Yes, the deficit has grown these last 12 years, facts do not lie—in truth, increasing deficit spending has been a trend in this country for the past 30 years. But it is blatantly unfair to attribute the increase in the deficit solely to Republican control of the White House during the past 12 years. We in Congress control appropriations. We control changing the entitlements to agree with Presidents or not agree. So there is plenty of blame to go around.

We Republicans join in wishing President Clinton well as he crafts his policies, outlined in yesterday's inaugural address to: "invest more in our people, in their jobs, and in their future, and"—and I emphasize this—"at the same time cut our massive debt." We heartily endorse his goal of cutting the deficit in half in 4 years. But in the words of our new President: "It will not be easy, it will require sacrifice."

And I might add to this my own thought that it will require a lot of change in what we are used to paying for and what we are used to letting go unattended in terms of spiraling costs.

As ranking Republican on the Senate Budget Committee, I pledge my support to work with the new administration and the majority here in the Congress to reach this goal. I do not believe, however, that it can be achieved on a partisan basis. It is going to take hard work and an honest dialog with each other, and with the American people. Together we all have produced these deficits. Only together can we reduce them.

We Senate Republicans have many ideas. The Senate Republican leadership has established an Economic Policy Task Force to help define and refine our ideas and suggestions for addressing the economic issues that confront this country. I, along with Senator PACKWOOD, the ranking member on the Finance Committee, will chair the task force. A core group of Senators will report to the Republican leadership on our suggestions. I am honored that the core group includes Senators ROTH, MACK, DANFORTH, MCCONNELL, D'AMATO, and two freshmen Republican Senators: BENNETT and FAIRCLOTH. Other Republican task forces will be looking at other issues such as health care and the environment.

The Economic Policy Task Force will meet regularly. Our first meeting will be next Tuesday morning. But our staffs have been meeting and already some consensus is clear.

While we Republicans have many ideas and suggestions that we think can help the new administration achieve its goals, we also have some basic principles that we strongly believe in and cannot be compromised. We believe that reducing Federal deficit spending should be the highest domestic economic priority. We believe that deficit spending erodes U.S. competitiveness and limits future economic growth by absorbing national

savings and raising the cost of capital. We believe in the private sector as the real engine of economic growth. We believe in as low taxation as possible. Some of these ideas have taken the form of legislation already introduced today.

Amongst ourselves, we obviously have different approaches. Some proposals we have will sound very familiar. Some will sound new. Indeed, some of the policies the new President presented in the campaign we Republicans can support. In the near term, the Task Force on Economics will review and formulate legislative initiatives in the following areas:

One, small business incentives that foster growth among the businesses that generate the majority of jobs in this country.

Two, reduction of unnecessary regulations, mandates, litigation, and other overhead costs that stifle the entrepreneurial spirit and job creation.

And while I am on that No. 2, let me suggest that those talking about stimulating the American economy are saying, simultaneously, so it will create more jobs. I am not sure we need significantly more growth; 3.4 percent is pretty good. If this President could maintain that for his 4 years, it would be rather healthy and sound and probably very positive.

But the issue is why, with that growth, are we not producing more jobs? I think there are two reasons that cry out for our attention. One, productivity is increasing, especially in our service industries. With increased productivity, you get more done with less people. So we have simultaneously a craving for more productivity and the need for less jobs if you want to stay in the marketplace. That has to be looked at from the standpoint not of getting rid of productivity increases, but how do we solve more jobs that are needed in the economy. What do we do with the private sector to help with that mission?

Second, the overhead cost of putting on a new employee, man or woman, in America is getting so prohibitive that businesses are using part-time workers and overtime in abundance, because, even at its expense, it is cheaper than putting on new people, because of the enormous cost of health care and related expenses to business people.

Continuing on to make my third point—we are interested in: Investment and savings incentives that reduce the cost of capital and raise its returns; increasing the access to credit, especially among small businesses; and expanding global markets by striving for free and fair trade by all nations.

Let us work together to take the best of these ideas and more. The country's economic future should transcend politics.

The PRESIDENT pro tempore. The distinguished Senator from Vermont [Mr. LEAHY] is recognized for not to exceed 10 minutes.

Mr. LEAHY. I thank the Chair.

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

Mr. LEAHY. Mr. President, I see the distinguished senior Senator from New Mexico back on his feet, and so I yield back whatever time I have.

The PRESIDING OFFICER (Mr. ROBB). The Chair recognizes the Senator from New Mexico, Senator DOMENICI.

Mr. DOMENICI. Mr. President, I ask unanimous consent I be permitted to speak for 3 minutes as in morning business.

The PRESIDING OFFICER. The Senator is recognized accordingly.

Mr. DOMENICI. I thank the Chair.

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

Mr. DOMENICI. I thank the Chair and I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. 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. DOLE. 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 Republican leader is recognized.

PRESIDENTIAL INAUGURAL: SENATE MEDIA GALLERIES, A BEHIND-THE-SCENES SUCCESS STORY—PRINT, RADIO/TV, PERIODICALS, AND PHOTOGRAPHERS GALLERIES GET THE JOB DONE ONCE AGAIN

Mr. DOLE. Mr. President, as the world watched Bill Clinton take the oath of office yesterday, a behind-the-scenes success story came to a close without much recognition.

That is why I want to publicly salute today the four Senate media galleries, whose superintendents and staffs—along with their House counterparts—did such a fantastic job in handling the huge challenge of the Presidential Inaugural.

No doubt about it, it was not just a 1-day task for these dedicated Senate employees. Planning and organizing took months of hard work as the enormity of the event, and the demands of the media worldwide must have looked like a tidal wave.

But, as usual, the galleries were more than up to the challenge. Thousands of reporters, photographers, and camera crews from all over the world were issued credentials, and finally took their places in their convenient observation posts yesterday to witness and report the changing of the guard at the White House.

It was the professionalism and dedication of our galleries that made it all happen. It was not easy, given the fact that approximately 2,000 print reporters, 2,500 radio and television correspondents and± technicians, 300 still photographers, and 230 periodical journalists covered yesterday's inauguration. But looking at all the TV, radio, and print coverage the world is viewing today, it is clear the media were once again well served.

I would like to salute superintendents Bob Petersen of the press gallery, Larry Janezich of the radio/TV gallery, Louise Curran of the periodical gallery, and Maurice Johnson of the press photographers' gallery for their great work. We might sometimes take their work for granted, but yesterday's success story reminds us just how good they are, and how invaluable they are to our constitutional ideals of an open and free press.

I also want to salute their excellent staffs, too, because they are absolutely essential to gallery operations. It is lots of late hours, and probably not a whole lot of thank you's, but let me tell you, we appreciate your efforts.

RETIREMENT OF KATHLENE E. LUTHER

Mr. DOLE. Mr. President, on February 4, 1993, Kathlene Elizabeth Luther, a trusted and valued member of my staff, is retiring after 19 years of service to the Senate. She will be deeply missed.

Kay began her career with the Senate in 1974 as a legislative secretary for Senator Warren Magnuson, whom she served as office secretary until January 1981. His loss was certainly my gain as Kay joined my staff shortly thereafter. Since then, Kay has been my legislative secretary, office manager, and friend.

As is the case in all busy congressional offices, she has had to handle a wide range of duties and responsibilities. I could always count on Kay to get the job done. Whether it was setting up meetings, rooms, and services for a large group of visiting constituents, scheduling, maintaining voting records, and floor statements, or managing the mountain of paperwork that makes a Senate office run, Kay was always on top of things. I have known few people who are more graceful and cheerful, regardless of the circumstances.

No doubt about it, some of the best people come from North Carolina—and I should know. To be sure, Kay Luther is one of the finest from that great State, or anywhere for that matter.

Over the past 19 years, Kay has earned the complete respect of the Senate and everyone who has had the privilege to work with her. I will miss her. And I know that everyone here will join me in extending a most heartfelt thank you and our very best wishes to Kay Luther.

THANKS TO MAUREEN P. WEST

Mr. DOLE. Mr. President, I rise to commend Maureen West who has served me as legislative assistant for disabilities issues for the past 4 years. Over that time, and throughout her career, Mo has worked tirelessly to assist those with disabilities in becoming equal and productive members of society. She has fought tenaciously to tear down the barriers, both social and physical, that have hampered those with disabilities.

Perhaps no one worked harder or with more dedication than Mo West to make the Americans with Disabilities Act a reality. And 43 million Americans who will now have the chance they deserve owe her a debt of gratitude.

Over the past 4 years, Mo has become well known to the many organizations that have supported the cause of the disabled. She has given of her time freely and generously and she was always there to hear their concerns, work to get them a voice in the Congress, and ultimately achieve fairness and opportunity.

As Mo leaves my staff in February to pursue her career in Seattle, WA, she can be proud of the job she has done. She has left an indelible mark. She has made a difference. Mo West is an outstanding example of what public service is all about.

I know my colleagues will join me in wishing Maureen P. West all the best in her future endeavors and extend to her a most heartfelt thank you. The Senate will miss Mo, and so will I.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SALUTE TO BILL FARMER

Mr. DOLE. Mr. President, I join Senator MITCHELL in congratulating Bill Farmer on his retirement from the Senate family after 28 years of distinguished service, including more than 21 years at the rostrum in the Senate Chamber.

Many people may only recognize his Kentucky-bred voice, but anyone who has served in this body in the past two decades knows the man well, and respects him tremendously for his dedication. No doubt about it, there is no such thing as 9 to 5 around this place. Bill may have served 28 years, but if you added up the hours it might come out to 48—that is based on official Senate time. In his more than 12 years as chief legislative clerk, Bill has also probably read more legislation than he cares to remember, especially those enjoyable filibusters.

Bill, thanks for your years of hard work. It is much appreciated.

I know all my colleagues join me in wishing Bill all the best in his retirement and in extending our thanks and appreciation for his service to the Senate.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant 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.

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed into executive session to consider the nomination of Bruce Babbitt to be Secretary of the Interior, reported earlier today by the Energy and Natural Resources Committee; that the nomination be confirmed; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session, and that any statements with respect to the nomination appear in the RECORD as if read.

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

So the nomination was confirmed.

Mr. BYRD. Mr. President, I rise today in support of the nomination of Bruce Babbitt, of Arizona, to serve as Secretary of the Interior in the Clinton administration.

Mr. Babbitt is the former Governor of Arizona, having served in that position from 1978 to 1987. Prior to that time, Mr. Babbitt was the attorney general for Arizona. Most recently, Mr. Babbitt has served as the president of the League of Conservation Voters. He is very familiar with the public land, Indian, water, mineral, and other issues that are at the core of the Interior Department's mission.

As chairman of the Interior and Related Agencies Subcommittee of the Appropriations Committee, I look forward to working with Governor Babbitt as he attempts to lead the Department at a time of tight budgets and growing conflicts over the programs for which he has been nominated to be the Nation's steward. Governor Babbitt comes to this job with a reputation as an aggressive supporter of land conservation and environmental protection, tempered with the realism necessary to secure compromise and get the job done.

I encourage Governor Babbitt to work closely with the authorizing committees of the Congress to begin addressing some of the policy issues affecting public lands today. For the last several years, fierce debates over matters that are properly the jurisdiction of the authorizing committee have occurred during consideration of the Interior appropriation bill. These debates have consumed a great deal of time in the Senate, as well as in conference. The debate is much the same year after year. I hope that the new Secretary and the Congress will be able to resolve these policy issues in the proper forum.

The contentiousness of the public lands issues that Governor Babbitt will have to deal with as Secretary of the Interior cannot be overstated. With a number of the States having over one-third of their land base owned by the Federal Government, the policies of the Interior Department affect the everyday lives of citizens residing in the surrounding communities. West Virginia is fortunate in that the Federal Government owns just 14 percent of our State, as compared to 50, 60, 70, or even 80 percent in other States. But the potential significance of Federal action on local communities is no different if the town is Payson, AZ, or Hot Springs, AR, or Roseburg, OR, or Glen Jean, WV. I encourage Governor Babbitt to be sensitive to these needs as he contemplates policy decisions on matters such as grazing fees, mining law reforms, timber harvesting, endangered species, wetlands protection, park development, and oil and gas activity.

Mr. President, Governor Babbitt brings a keen sense of the need to protect our environment for future generations to the job of Secretary of the Interior. I urge my colleagues to support his nomination.

Mr. THURMOND. Mr. President, I rise in support of Bruce Babbitt to be Secretary of the Interior.

Governor Babbitt was born in Los Angeles and currently makes his home in Phoenix, AZ. He graduated from the University of Notre Dame, received his masters from the University of Newcastle in England, and received his law degree from Harvard Law School in 1965. Governor Babbitt was attorney general for the State of Arizona from 1975 to 1978, and he served as Governor from 1978 to 1987. He has been in private legal practice since leaving public office.

Governor Babbitt has an extensive background in environmental matters. During his term as Governor, he

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pushed a comprehensive water management bill through the Arizona Legislature. In his recent private practice, he has become involved in national environmental and natural resource issues. He served as president of the League of Conservation Voters, and his nomination has been well received by various environmental groups.

The Department of the Interior serves as our country's primary conservation agency, and oversees most of our nationally owned public lands and natural resources. The incoming Secretary will have the responsibility of ensuring that our lands, wildlife, and water resources are protected and are properly maintained and utilized. Further, the Secretary must preserve our valuable parks and historic sites to enable the public to continue to enjoy their benefits.

Mr. President, Bruce Babbitt has considerable experience which should assist him in carrying out his new duties. I am pleased to support his nomination and look forward to working with him in the future.

Mr. SIMPSON. Mr. President, I rise in support of the nomination of Bruce Babbitt. Through the years, I have come to know and respect this able man. In the course of our careers, Bruce and I have disagreed strongly on some matters and agreed—just as strongly—on other matters.

He is a very fair and kind man. I met him in 1979 when we were both involved in the after-accident investigation of the nuclear incident at Three Mile Island. I trust that as Secretary of the Interior he will demonstrate what I believe to be his appreciation for the sound policy of multiple use of our public lands. Bruce Babbitt has never equated multiple use with massive abuse, as some in the more extreme ranks of the environmentalist community assert. With sound and balanced management, we can preserve and protect our precious natural resources and still enjoy the fruits of the land and the benefits these resources provide to the American people.

I will continue to do all I can to work with my fine senior colleague, MALCOLM WALLOP, to ensure a cooperative and mutually respectful relationship with the Department of the Interior. I trust that Secretary Babbitt will remain objective and open minded as public land issues generally, and specifically those which affect Wyoming, are dealt with at the Department of the Interior. I am optimistic that he will demonstrate how very important water development and domestic mineral production is to the West; to our national security; and to our standard of living. We must develop our resources to their maximum potential while, at the same time, maintaining the quality of the environment. Coal, uranium, oil and gas, hard rock mining, trona, and all of the other commodity resources beneath our Federal lands are so crucial to the national and States' well being in terms of jobs and local economies.

Mr. WALLOP. Mr. President, I rise in support of Governor Babbitt to be Secretary of the Interior. I do so with some reservations, but it is my belief that in the absence of any question of morality or illegal conduct, a President deserves to have Cabinet officers of his own choosing.

My reservations center around the ability of Governor Babbitt to administer the programs within his responsibility in a balanced manner. As Governor of Arizona, he showed a degree of creativity, integrity, and balance which was commendable. However, as President of the League of Conservation voters, he advocated extreme environmental positions with which I strongly disagree and don't believe represent constructive approaches to resource decisions.

During the 2 days of hearings on Governor Babbitt's nomination held by the Energy and Natural Resources Committee, Governor Babbitt assuaged some of my concerns in the responses to members' questions and in his statement that upon taking the post at Interior he will take off his advocacy hat and put back on his public service hat. I take him at his word and look forward to working with him to craft policies and solutions to natural resource problems which are sensible and reflect the balanced stewardship which the law requires.

In closing, I want to note the speed by which the Energy and Natural Resources Committee acted on this nomination. My colleagues may recall the lengthy and excruciatingly painful hearings that two of my friends from Wyoming, Stan Hathaway and Jim Watt, endured at the hands of the Democrats in this body. We would have been justified to hold Governor Babbitt to that new level of scrutiny, but instead chose to cooperate with the Clinton administration and move forward.

The lives and livelihood of so many of my constituents, citizens in the other Western States, as well as the rest of the Nation depend on the policies and interpretations which Governor Babbitt will make. If President Clinton's promise that economic growth and protection of the environment are not incompatible is to be upheld, then Governor Babbitt will have to demonstrate the balance he pledged to the committee. I look forward to working with him and wish him well in his new endeavor.

Mr. JOHNSTON. Mr. President, I rise in support of President Clinton's nomination of Bruce Babbitt of Arizona to be Secretary of the Interior. The Committee on Energy and Natural Resources has conducted 2 days of hearings on this nomination and has voted 20 to 0 in favor of Mr. Babbitt's confirmation.

Mr. President, in the past 25 years, the role of the Secretary of the Interior has changed dramatically. The Secretary is no longer the guardian of narrow Western regional interests.

Now, under laws enacted by Congress, the Secretary is the steward, for all Americans, of much of our national land heritage, including our national parks, wildlife refuges, and public lands.

The Secretary is manager of nationwide programs for outdoor recreation, restoration of lands affected by coal mining, historic preservation, and mineral and water resources. His decisions on energy and environmental matters affect the interests of every American. The old days of few users and little or no constraints on the Secretary's decisions are gone forever. This is particularly true with respect to use of the Federal lands.

The Secretary of the Interior and the entire Department are challenged to provide for needed development without sacrificing vital environmental interests. This effort will require a high degree of competence, careful planning, constant effort to achieve a balance between development and preservation, and complete integrity in the decision making process.

In this regard, I believe that there are certain principles established by Congress which should guide the Secretary.

First, decisions should be based on comprehensive planning and professional judgment with ample public participation.

Second, maximum protection of the environment should be one of the highest priorities.

Third, the Federal Government should receive fair market value for private use of public resources.

And, fourth, the Secretary should cooperate to the maximum extent possible with State and local governments, and local citizens.

Many of the recent complaints from traditional users about Federal resource management stem not so much from new rules of the management game, but from the fact that there are many new players. Increasing scarcity of basic commodities, a rapid shift of the urbanized population center of the Nation to the West and South, and a growing appreciation for environmental values have increased pressures for such competing purposes as energy production, urban growth, recreation, and wilderness preservation. As a result, there are new definitions of public interest, new constituencies to be served, and new claims on the resources of the Federal lands.

Mr. President, Bruce Babbitt is well qualified to fill this challenging assignment. I commend President Clinton for choosing Mr. Babbitt, and look forward to working with him as Secretary of the Interior.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NOTICE OF ADJUSTMENT OF THE MAXIMUM DEFICIT AMOUNT—MESSAGE FROM THE PRESIDENT—PM 2

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which, pursuant to the order of August 4, 1977, was referred jointly to the Committee on the Budget and the Committee on Governmental Affairs:

To the Congress of the United States:

Pursuant to section 254(c) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended ("Act") (2 U.S.C. 904(c)), notification is hereby provided of my decision that the adjustment of the maximum deficit amount, as allowed under section 253(g)(1)(B) of the Act (2 U.S.C. 903(g)(1)(B)), shall be made.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *January 21, 1993.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

Under the authority of the order of the Senate of January 5, 1993, the Secretary of the Senate, on January 21, 1993, during the recess of the Senate, received a message from the House of Representatives announcing that the House has passed the joint resolution (S.J. Res. 1) to ensure that the compensation and other emoluments attached to the office of the Secretary of the Treasury are those which were in effect on January 1, 1989; without amendment.

The message also announced that pursuant to the provisions of section 4(a) of the Technology Assessment Act of 1972 (2 U.S.C. 473(a)), the Speaker appoints as members of the Technology Assessment Board, the following Members on the part of the House: Representatives BROWN of California and DINGELL.

The message further announced that pursuant to the provisions of Senate Concurrent Resolution 2, 103d Congress, the Speaker reappoints as members of the Joint Committee To Make the Necessary Arrangements for the Inauguration of the President-Elect and the Vice President-Elect of the United States on the 20th day of January, 1993, the following Members of the House: Mr. FOLEY, Mr. GEPHARDT, and Mr. MICHEL.

The message also announced that pursuant to the provisions of section 161(a) of the Trade Act of 1974 (19 U.S.C. 2211) and upon the recommendation of the chairman of the Committee on Ways and Means, the Speaker selects the following members of that committee to be accredited by the President as official advisers on the part of the House to the U.S. delegations to international conferences, meetings, and negotiation sessions relating to trade agreements during the first session of the 103d Congress: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. MATSUI, Mr. ARCHER, and Mr. CRANE.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–423. A communication from the President of the United States, transmitting, pursuant to law, a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council; to the Committee on Foreign Relations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Ronald H. Brown, of the District of Columbia, to be Secretary of Commerce.

Federico Pena, of Colorado, to be Secretary of Transportation.

(The above nominations were reported with the recommendation that they 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. KENNEDY. Mr. President, for the Committee on Labor and Human Resources, I report favorably three nomination lists in the Public Health Service which were printed in full in the CONGRESSIONAL RECORDS of January 5 and 6, 1993, and ask, to save the cost of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources:

Bruce Babbitt, of Arizona, to be Secretary of the Interior.

(The 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.)

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. KENNEDY (for himself, Mrs. BOXER, Mr. WELLSTONE, Mr. DODD, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. PELL, Mr. SIMON, Mr. WOFFORD, Mr. INOUYE, Mr. SARBANES, Ms. MOSELEY-BRAUN, Mr. LEAHY, Mr. RIEGLE, Mr. DURENBERGER, and Mr. METZENBAUM):

S. 1. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. FORD (for himself, Mr. HATFIELD, Mr. MITCHELL, Mr. LAUTENBERG, Mr. WELLSTONE, Mr. SARBANES, Ms. MOSELEY-BRAUN, Mr. CONRAD, Mr. HARKIN, Mr. LEAHY, Mr. PELL, Mr. MOYNIHAN, and Mr. RIEGLE):

S. 2. A bill to establish national voter registration procedures for Federal elections, and for other purposes; to the Committee on Rules and Administration.

By Mr. BOREN (for himself, Mr. MITCHELL, Mr. FORD, Mr. BYRD, Mr. BRYAN, Mr. DECONCINI, Mr. LAUTENBERG, Mr. REID, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. LEVIN, Mr. PELL, and Mr. RIEGLE):

S. 3. A bill entitled the "Congressional Spending Limit and Election Reform Act of 1993"; to the Committee on Rules and Administration.

By Mr. HOLLINGS (for himself, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. LIEBERMAN, Mr. RIEGLE, Mr. ROBB, Mr. WOFFORD, Mr. KERRY, Ms. MOSELEY-BRAUN, and Mr. LEAHY):

S. 4. A bill to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology programs of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhance the development and nationwide deployment of manufacturing technologies, and authorizing appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. PACKWOOD, Mr. MITCHELL, Mr. JEFFORDS, Ms. MIKULSKI, Mr. HATFIELD, Mr. BOND, Mr. METZENBAUM, Mr. COATS, Mr. D'AMATO, Mr. CHAFEE, Mr. DECONCINI, Mr. PELL, Mr. SIMON, Mr. SPECTER, Mr. BRADLEY, Mr. MOYNIHAN, Mr. KERRY, Mr. INOUYE, Mr. BIDEN, Mr. ROCKEFELLER, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. REID, Mr. SARBANES, Mr. AKAKA, Mr. BINGAMAN, Mr. DASCHLE, Mr. EXON, Mr. HARKIN, Mr. RIEGLE, Mr. BRYAN, Mr. KERREY, Mr. LEVIN, Mr. WELLSTONE, Mr. KOHL, Mr. FORD, Mr. FEINGOLD, Mrs. BOXER, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. MOSELEY-BRAUN, and Mr. CAMPBELL):

S. 5. A bill to grant family and temporary medical leave under certain circumstances; to the Committee on Labor and Human Resources.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. SIMPSON, Mr. MCCAIN, Mr. SPECTER, and Mr. COVERDELL):

S. 6. A bill to prevent and punish sexual violence and domestic violence, to assist and protect the victims of such crimes, to assist State and local effects, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mr. MCCONNELL, Mr. PACKWOOD, Mr. LOTT, Mr. GORTON, Mr. THURMOND, Mr. DOMEN-

ICI, Mr. LUGAR, Mr. D'AMATO, Mr. SIMPSON, Mr. STEVENS, Mr. NICKLES, and Mr. CHAFEE):

S. 7. A bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes; to the Committee on Rules and Administration.

By Mr. HATCH (for himself, Mr. THURMOND, Mr. SIMPSON, Mr. GRASSLEY, Mr. SPECTER, Mr. DOLE, Mr. BROWN, Mr. PRESSLER, and Mr. NICKLES):

S. 8. A bill to control and prevent crime; to the Committee on the Judiciary.

By Mr. COATS (for Mr. MCCAIN) (for himself, Mr. COATS, Mr. THURMOND, Mr. BROWN, Mr. GRAMM, Mr. SIMPSON, Mr. MCCONNELL, Mr. WALLOP, Mr. NICKLES, Mr. BOND, Mr. MACK, Mr. SMITH, Mrs. KASSEBAUM, Mr. HELMS, Mr. BURNS, Mr. KEMPTHORNE, Mr. LOTT, Mr. CHAFEE, Mr. LUGAR, Mr. WARNER, Mr. DANFORTH, Mr. COVERDELL, Mr. PRESSLER, and Mr. BOREN):

S. 9. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. CRAIG (for himself, Mr. DOLE, Mr. HATCH, Mr. GRASSLEY, Mr. BURNS, Mr. SIMPSON, Mr. KEMPTHORNE, and Mr. HATFIELD):

S. 10. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers; to the Committee on Finance.

By Mr. BIDEN (for himself, Mrs. BOXER, Mr. COHEN, Mr. KENNEDY, Mr. KOHL, Mr. BOREN, Mr. AKAKA, Mr. GLENN, Mr. GRAHAM, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LIEBERMAN, Mr. SARBANES, Mr. SHELBY, Mr. ROCKEFELLER, Mr. ROBB, Mr. WARNER, Mr. PELL, Mr. SIMON, Mr. MOYNIHAN, Mr. BRADLEY, Mr. WELLSTONE, Mr. BREAUX, Mr. HARKIN, Mr. LEVIN, Mr. HATFIELD, Mr. DECONCINI, Mr. REID, Mr. CAMPBELL, Mr. RIEGLE, Mr. BRYAN, Mr. KERRY, Mr. DODD, Mr. CONRAD, Mr. BAUCUS, Mr. D'AMATO, Mr. DURENBERGER, Mr. KERREY, Mr. INOUYE, Mr. LAUTENBERG, Ms. MURRAY, Ms. MOSELEY-BRAUN, Mr. LEAHY, and Mr. SPECTER):

S. 11. A bill to combat violence and crimes against women on the streets and in homes; to the Committee on the Judiciary.

By Mr. BIDEN:

S. 12. A bill to authorize the Secretary of Commerce to make grants to States and local governments for the construction of projects in areas of high unemployment, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 13. A bill to institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 14. A bill to amend the amount of grants received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; to the Committee on Labor and Human Resources.

By Mr. ROTH (for himself and Mr. CAMPBELL):

S. 15. A bill to establish a Commission on Government Reform; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 16. A bill to amend title IV of the Social Security Act to require full funding of the job opportunity and basic skills training program under part F of such title, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Mr. PACKWOOD, Mr. AKAKA, Mr. BRADLEY, Ms. MOSELEY-BRAUN, Mr. DECONCINI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. INOUYE, Ms. MIKULSKI, Mrs. MURRAY, Mr. PELL, Mr. ROBB, Mr. SIMON, Mr. WELLSTONE, Mr. ROCKEFELLER, Mrs. BOXER, Mr. BINGAMAN, Mr. WOFFORD, Mr. LEAHY, Mr. CAMPBELL, Mr. BIDEN, Mr. DODD, Mr. METZENBAUM, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. RIEGLE, Mr. MITCHELL, Mr. COHEN, Mr. HARKIN, and Mr. SPECTER):

S. 17. A bill to amend section 1977A of the Revised Statutes to equalize the remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. SPECTER:

S. 18. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

By Mr. SPECTER (for himself and Mr. DOMENICI):

S. 19. A bill to amend the Internal Revenue Code of 1986 to provide economic growth in 1993 and for other purposes; to the Committee on Finance.

By Mr. ROTH (for himself, Mr. GLENN, Mr. GRAHAM, Mr. METZENBAUM, Mr. MCCAIN, Mr. AKAKA, Mr. LUGAR, and Mr. ROBB):

S. 20. A bill to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

By Mrs. FEINSTEIN (for herself, Mrs. BOXER, Mr. AKAKA, Mr. BINGAMAN, Mr. BOREN, Mr. BRYAN, Mr. FEINGOLD, Mr. HARKIN, Mr. KENNEDY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. METZENBAUM, Ms. MIKULSKI, Mrs. MURRAY, Mr. NUNN, Mr. PELL, Mr. REID, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, Mr. WOFFORD, and Mr. JEFFORDS):

S. 21. A bill to designate certain lands in the California Desert as wilderness to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. DECONCINI):

S. 22. A bill to amend the Child Nutrition Act of 1966 to make available certain amounts of funding for the special supplemental food program for women, infants, and children (WIC), and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH:

S. 23. A bill to amend title 17, United States Code, to clarify news reporting monitoring as a fair use exception to the exclusive rights of a copyright owner; to the Committee on the Judiciary.

By Mr. LEVIN (for himself and Mr. COHEN):

S. 24. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MITCHELL (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mrs. BOXER, Mr. BRADLEY, Mr. BRYAN, Mr. CAMPBELL, Mr. CHAFEE, Mr. COHEN, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. INOUYE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KERREY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mrs. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. WELLSTONE, Mr. SPECTER, and Mr. KOHL):

S. 25. A bill to protect the reproductive rights of women, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DORGAN:

S. 26. A bill to amend the Internal Revenue Code of 1986 to end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States; to the Committee on Finance.

By Mr. SARBANES:

S. 27. A bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia; to the Committee on Rules and Administration.

By Mr. MCCAIN:

S. 28. A bill to improve the health of the Nation's children, and for other purposes; to the Committee on Finance.

By Mr. MCCAIN:

S. 29. A bill to fully apply the rights and protections of Federal law to employment by Congress; to the Committee on Governmental Affairs.

By Mr. MCCAIN (for himself, Mr. SHELBY, Mr. MACK, Mr. SMITH, Mr. HELMS, Mr. DECONCINI, and Mr. COATS):

S. 30. A bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

By Mr. MCCAIN:

S. 31. A bill to amend title XVIII of the Social Security Act to repeal the reduced medicare payment provision for new providers; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 32. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to require that persons comply with State and local firearms licensing laws before receiving a Federal license to deal in firearms; to the Committee on Finance.

By Mr. DANFORTH (for himself and Mr. BOND):

S. 33. A bill to require the Secretary of Education to waive certain regulations in considering an application submitted by the Winona R–III School District, Missouri; to the Committee on Labor and Human Resources.

By Mr. DURENBERGER:

S. 34. A bill for the relief of Randall G. Hain; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 35. A bill to provide for an extension of regional referral center classifications, and for other purposes; to the Committee on Finance.

By Mr. BOREN:

S. 36. A bill to amend section 207 of title 18, United States Code, to tighten the restrictions on former executive and legislative branch officials and employees; to the Committee on Governmental Affairs.

By Mr. HELMS:

S. 37. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes.

By Mr. THURMOND:

S. 38. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. LIEBERMAN, Mr. DURENBERGER, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LEAHY, Mr. SIMON, Mr. BIDEN, Mr. HARKIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. KERRY, Mr. PELL, Mr. LAUTENBERG, Mr. AKAKA, Mr. BRYAN, Mr. WELLSTONE, Mr. JEFFORDS, Ms. MIKULSKI, and Mr. DODD):

S. 39. A bill to amend the National Wildlife Refuge Administration Act; to the Committee on Environment and Public Works.

By Mr. HELMS:

S. 40. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes.

By Mr. THURMOND;

S. 41. A bill granting an extension of patent to the United Daughters of the Confederacy; to the Committee on the Judiciary.

By Mr. HELMS:

S. 42. A bill to control the spread of AIDS, and for other purposes.

S. 43. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services, and for other purposes.

By Mr. THURMOND:

S. 44. A bill to amend title 18, United States Code, to prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis; to the Committee on the Judiciary.

S. 45. A bill to establish constitutional procedures for the imposition of the death penalty for terrorist murders and for other purposes; to the Committee on the Judiciary.

S. 46. A bill to provide that a justice or judge convicted of a felony shall be suspended from office without pay; to the Committee on the Judiciary.

S. 47. A bill to amend title 28, United States Code, to provide special habeas corpus procedures in capital cases; to the Committee on the Judiciary.

By Mr. HELMS:

S. 48. A bill to protect the lives of unborn human beings, and for other purposes.

By Mr. THURMOND (for himself and Mr. DECONCINI):

S. 49. A bill to establish constitutional procedures for the imposition of the sentence of death, and for other purposes; to the Committee on the Judiciary.

By Mr. WARNER (for himself, Mr. ROBB, Mr. GRAMM, and Mr. DANFORTH):

S. 50. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. FEINGOLD:

S. 51. A bill to consolidate overseas broadcasting services of the United States Government, and for other purposes; to the Committee on Foreign Relations.

S. 52. A bill to amend the Public Health Service Act to establish a program to provide information and technical assistance and incentive grants to encourage the development of services that facilitate the return to home and community of individuals awaiting discharge from hospitals or acute care facilities who require manage long-term care, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 53. A bill to amend the Civil Rights Act of 1964 to make preferential treatment an unlawful employment practice, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PELL (for himself and Mr. WOFFORD):

S. 54. A bill to amend the Communications Act of 1934 and the Federal Election Campaign Act of 1971 to better inform the electorate in Senate elections; to the Committee on Foreign Relations.

By Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. HATFIELD, Mr. PELL, Mr. DODD, Mr. SIMON, Mr. HARKIN, Mr. WELLSTONE, Mr. WOFFORD, Mr. AKAKA, Mr. BIDEN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. DASCHLE, Mr. FEINGOLD, Mr. KERRY, Mr. KERREY, Mr. GLENN, Mr. INOUYE, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SARBANES, Mr. LAUTENBERG, Ms. MIKULSKI Mr. MITCHELL, Mr. SASSER, and Mr. BAUCUS):

S. 55. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Labor and Human Resources.

By Mr. THURMOND:

S. 56. A bill to redefine "extortion" for purposes of the Hobbs Act; to the Committee on the Judiciary.

S. 57. A bill for the relief of Maria Eduarda Lorenzo; to the Committee on the Judiciary.

S. 58. A bill for the relief of Ibrahim Al-Assaad; to the Committee on the Judiciary.

By Mr. HELMS:

S. 59. A bill to control the spread of AIDS, and for other purposes; to the Committee on Labor and Human Resources.

S. 60. A bill to make it a violation of a right secured by the Constitution and laws of the United States to perform an abortion with knowledge that such abortion is being performed solely because of the gender of the fetus, and for other purposes; to the Committee on the Judiciary.

S. 61. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DECONCINI:

S. 62. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. EXON:

S. 63. A bill for the relief of Luis A. Gonzalez and Virginia Aguilla Gonzalez; to the Committee on the Judiciary.

By Mr. HELMS:

S. 64. A bill to protect the lives of unborn human beings, for other beings; to the Committee on Governmental Affairs.

By Mr. NICKLES:

S. 65. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil and refined petroleum products; to the Committee on Finance.

By Mr. NICKLES (for himself, Mr. FORD, Mr. GRASSLEY, Mr. SMITH, Mr. COHEN, Mr. HELMS, Mr. D'AMATO, and Mr. BOREN):

S. 66. A bill to amend title IV of the Social Security Act to enhance educational opportunity, increase school attendance, and promote self-sufficiency among welfare recipients; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. MCCAIN, Mr. DANFORTH, Mr. SMITH, and Mr. GORTON):

S. 67. A bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents; to the Committee on Commerce, Science, and Transportation.

By Mr. METZENBAUM:

S. 68. A bill to amend the Federal Food, Drug, and Cosmetic Act to prevent misleading advertising of the health benefits of foods; to the Committee on Labor and Human Resources.

By Mr. BREAUX (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. PELL, Mr. BRADLEY, Mr. COHEN, Mr. HOLLINGS, Mr. JOHNSTON, Mr. MACK, Mr. GRAHAM, Mr. LEVIN, Mr. DURENBERGER, Mr. SHELBY, Ms. MIKULSKI, Mr. HELMS, Mr. LIEBERMAN, Mr. GORTON, and Mr. DODD):

S. 69. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats; to the Committee on Finance.

By Mr. COCHRAN:

S. 70. A bill to reauthorize the National Writing Project, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself, Mrs. MURRAY, Mr. KERRY, Mr. CAMPBELL, and Mr. WELLSTONE):

S. 71. A bill to prohibit discrimination by the Armed Forces on the basis of sexual orientation; to the Committee on Armed Services.

By Mr. MOYNIHAN (for himself and Mr. SIMON):

S. 72. A bill to amend Section 481(c) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

By Mr. METZENBAUM (for himself and Mr. LAUTENBERG):

S. 73. A bill to provide for the rehiring by the Federal Aviation Administration of certain former air traffic controllers; to the Committee on Governmental Affairs.

By Mr. METZENBAUM:

S. 74. A bill to amend the Endangered Species Act of 1973 to clarify citizen suit provisions, and for other purposes; to the Committee on Environment and Public Works.

By Mr. METZENBAUM (for himself, Mr. GLENN, and Mr. LEVIN):

S. 75. A bill to amend the River and Harbor Act of 1970 to improve Great Lakes Water Pollution Control, and for other purposes; to the Committee on Environment and Public Works.

By Mr. METZENBAUM:

S. 76. A bill to establish a grant program under the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by individuals under the age of 16; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself and Mr. DECONCINI):

S. 77. A bill to amend title 18 to limit the application of the exclusionary rule; to the Committee on the Judiciary.

S. 78. A bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 79. A bill to restore public confidence in the performance and merits of elected officials and Federal employees; to the Committee on Governmental Affairs.

By Mr. GRAMM:

S. 80. A bill to increase the size of the Big Thicket National Preserve in the State of Texas by adding the Village Creek Corridor Unit, the Big Sandy Corridor unit, and the Canyonlands Unit; to the Committee on Energy and Natural Resources.

By Mr. NICKLES (for himself, Mr. REID, Mr. SHELBY, Mr. MCCAIN, Mr. BOND, Mr. MCCONNELL, and Mr. HELMS):

S. 81. A bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes; to the Committee on Governmental Affairs.

By Mr. INOUYE:

S. 82. A bill to establish a higher education recruitment and retention initiative, and a leadership for human survival initiative; to the Committee on Labor and Human Resources.

By Mr. GRAMM (for himself, Mr. COCHRAN, Mr. LOTT, Mr. SHELBY, and Mr. MACK):

S. 83. A bill to ensure the preservation of the Gulf of Mexico by establishing within the Environmental Protection Agency a Gulf of Mexico Program; to the Committee on Environment and Public Works.

By Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. BIDEN, and Mr. SIMON):

S. 84. A bill to modify the antitrust exemption applicable to the business of insurance; to the Committee on the Judiciary.

By Mr. METZENBAUM:

S. 85. A bill to provide for basic financial services; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. METZENBAUM (for himself, Mr. KENNEDY, and Mr. DODD):

S. 86. A bill to amend the Fair Labor Standards Act of 1938 to improve enforcement of child labor provisions of such Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY (for himself, Mr. BIDEN, and Mr. BRADLEY):

S. 87. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; to the Committee on Rules and Administration.

By Mr. LUGAR (for himself, Mr. DOLE, Mr. KENNEDY, Mr. COCHRAN, Mr. SIMON, Mr. MCCAIN, and Mr. ROTH):

S. 88. A bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE:

S. 89. A bill to amend 2 USC 437c; to the Committee on Rules and Administration.

By Mr. HOLLINGS:

S. 90. A bill to improve the enforcement of the trade laws of the United States, and for other purposes; to the Committee on Finance.

By Mr. THURMOND:

S. 91. A bill to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia and for other purposes; to the Committee on Governmental Affairs.

By Mr. HOLLINGS (for himself, Mr. HEFLIN, Mr. BIDEN, and Mr. ROBB):

S. 92. A bill to create a legislative line item veto by requiring separate enrollment of items in appropriations bills; to the Committee on Rules and Administration.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. INOUYE, Mr. CONRAD, and Mr. DASCHLE):

S. 93. A bill to amend the Public Health Service Act to establish the National Center for Nursing Research as a National Institute, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DOMENICI:

S. 94. A bill to provide a comprehensive congressional campaign financing reform to encourage grassroots campaign giving, lessen the role of special economic interests, prohibit the use of soft money, discourage candidate expenditures of personal wealth, and otherwise restore greater competitive balance to the congressional electoral process; to the Committee on Rules and Administration.

By Mr. HARKIN (for himself, Mr. PACKWOOD, Mr. HATFIELD, and Mr. LIEBERMAN):

S. 95. A bill to amend the Public Health Service Act to provide for the development and operation of centers to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 96. A bill to amend the Internal Revenue Code of 1986 to clarify the employment status of certain fishermen; to the Committee on Finance.

By Mr. HARKIN (for himself and Mr. CONRAD):

S. 97. A bill to amend title XVIII of the Social Security Act and title III of the Public Health Service Act to protect and improve the availability and quality of health care in rural areas; to the Committee on Finance.

By Mr. BRADLEY:

S. 98. A bill to establish a Link-up for Learning grant program to provide coordinated services to at-risk youth; to the Committee on Labor and Human Resources.

By Mr. METZENBAUM (for himself, Mr. GRASSLEY, Mr. SIMON, and Mr. BROWN):

S. 99. A bill to amend the antitrust laws to provide a cause of action for persons injured in United States commerce by unfair foreign competition; to the Committee on the Judiciary.

By Mr. RIEGLE:

S. 100. A bill to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; to the Committee on Finance.

By Mr. GLENN:

S. 101. A bill to establish a National Commission on Executive Organization Reform; to the Committee on Governmental Affairs.

By Mr. MACK (for himself, Mr. BOND, Mr. BURNS, Mr. COATS, Mr. D'AMATO, Mr. GRAMM, Mr. CRAIG, Mr. GRASSLEY, Mr. HELMS, Mr. MURKOWSKI, Mr. NICKLES, Mr. SMITH, Mr. THURMOND, Mr. GORTON, Mr. BROWN, Mr. WALLOP, Mr. KEMPTHORNE, Mr. BENNETT, Mr. LOTT, Mr. DOLE, and Mr. COVERDELL):

S. 102. A bill to provide for a line item veto; capital gains tax reduction; enterprise zones; raising the Social Security earnings limit; and workfare; to the Committee on Finance.

By Mr. NICKLES (for himself, Mrs. KASSEBAUM, Mr. PACKWOOD, Mr. BROWN, Mr. COATS, Mr. KEMPTHORNE, and Mr. COVERDELL):

S. 103. A bill to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress; to the Committee on Governmental Affairs.

By Mr. HATFIELD (for himself, Mr. KENNEDY, Mr. CHAFEE, and Mr. SIMON):

S. 104. A bill to establish a National Center for Sleep Disorders Research within the National Heart, Lung and Blood Institute, to coordinate sleep disorders research within the National Institutes of Health, to further facilitate the study of sleep disorders, and to establish a mechanism for education and training in sleep disorders, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. JEFFORDS (for himself, Mr. DURENBERGER, and Mrs. KASSEBAUM):

S. 105. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. ROCKEFELLER, Mr. ROTH, Mr. GRASSLEY, and Mr. DANFORTH):

S. 106. A bill to modernize the United States Customs Service; to the Committee on Finance.

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 107. A bill to mandate a study of the effectiveness of a National Drug Strategy and to provide for an accounting of funds devoted to its implementation, and for other purposes; to the Committee on Labor and Human Resources.

S. 108. A bill to prohibit the importation of semiautomatic assault weapons, large capacity ammunition feeding devices, and certain accessories; to the Committee on Finance.

S. 109. A bill to amend section 923 of title 18, United States Code, to require the keeping of records with respect to dispositions of ammunition, and to require a study of the use and possible regulation of sales of ammunition; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S. 110. A bill to require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes; to the Committee on Environment and Public Works.

S. 111. A bill to amend title IV of the Social Security Act to direct the Secretary of Health and Human Services to develop and implement an information gathering system to permit the measurement, analysis, and reporting of welfare dependency; to the Committee on Finance.

S. 112. A bill to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 113. A bill to amend title 18, United States Code, to require that persons comply

with State and local firearms licensing laws before receiving a Federal license to deal in firearms; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 114. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress; to the Committee on Governmental Affairs.

S. 115. A bill for the relief of Timothy Bostock; to the Committee on the Judiciary.

S. 116. A bill for the relief of Fanie Phily Mateo Angeles; to the Committee on the Judiciary.

S. 117. A bill for the relief of Susan Rebola Cardenas; to the Committee on the Judiciary.

S. 118. A bill to require the Commodity Credit Corporation to refund to first processors of sugarcane and sugar beets marketing assessments collected by the Corporation during fiscal year 1991, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 119. A bill to restore the traditional observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

S. 120. A bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for the purposes of benefits under programs administered by the Secretary of Veterans Affairs; to the Committee on Veterans Affairs.

S. 121. A bill to authorize a certificate of documentation for the vessel Enterprise; to the Committee on Commerce, Science, and Transportation.

S. 122. A bill to authorize a certificate of documentation for the vessel Kalena; to the Committee on Commerce, Science, and Transportation.

By Mr. INOUYE (for himself and Mr. SIMON):

S. 123. A bill to amend the Immigration and Nationality Act to provide for prompt parole in the United States of aliens in order to attend the funeral of an immediate blood relative in the United States and to delay parole status to aliens who are excluded from admission into the United States; to the Committee on the Judiciary.

By Mr. INOUYE:

S. 124. A bill to establish a temporary program under which parenteral diacetyl- morphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer, and for other purposes; to the Committee on Labor and Human Resources

S. 125. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

S. 126. A bill to amend title VII of the Public Health Service Act to establish a psychology postdoctoral fellowship program, and for other purposes; to the Committee on Labor and Human Resources.

S. 127. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in clinical psychology eligible to participate in various health professions loan programs, and for other purposes; to the Committee on Labor and Human Resources.

S. 128. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges; to the Committee on Armed Services.

S. 129. A bill to amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of members of the Armed Forces and certain civilians accompanying the Armed Forces outside the United States, and for other purposes; to the Committee on Armed Services.

S. 130. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

S. 131. A bill to amend title 10, United States Code, to exclude Nurse officers from the computation of authorized grade strength; to the Committee on Armed Services.

S. 132. A bill to amend section 1086 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under medicare, and for other purposes; to the Committee on Armed Services.

S. 133. A bill to amend title 10, United States Code, to authorize the appointment of health care professionals to the positions of the Surgeon General of the Army, the Surgeon General of the Navy, and the Surgeon General of the Air Force; to the Committee on Armed Services.

S. 134. A bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

S. 135. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

S. 136. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

S. 137. A bill to require the Administrator of the Environmental Protection Agency to conduct a study of algal blooms off the coast of Maui, Hawaii, and for other purposes; to the Committee on Environment and Public Works.

S. 138. A bill to prohibit a suspension of the Act of March 3, 1931 (commonly known as the "Davis-Bacon Act") in the State of Hawaii; to the Committee on Labor and Human Resources.

S. 139. A bill to amend the Internal Revenue Code of 1986 to extend the period for the rollover of gain from the sale of a principal residence to a principal residence located in a disaster area; to the Committee on Finance.

S. 140. A bill to provide that the State Health Insurance Program of Hawaii is eligible for reimbursement from certain funds appropriated to the Public Health and Social Services Emergency Fund, and for other purposes; to the Committee on Labor and Human Resources.

S. 141. A bill to waive certain limitations on assistance for losses resulting from Hurricane Andrew, Typhoon Omar, or Hurricane Iniki, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

S. 142. A bill to provide that the Secretary of Commerce shall not set minimum or maximum amounts on grants made for the purpose of providing financial assistance to States whose tourism promotion needs have increased due to Hurricane Andrew, Hurricane Iniki, or other disasters; to the Committee on Commerce, Science, and Transportation.

S. 143. A bill to recognize the organization known as the National Academies of Practice, and for other purposes; to the Committee on the Judiciary.

S. 144. A bill to waive certain requirements under the Small Business Act for disaster relief assistance; to the Committee on Small Business.

S. 145. A bill to amend chapter 74 of title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans Affairs.

S. 146. A bill to require that all Government records that contain information bearing on the last flight and disappearance of Amelia Earhart be transmitted to the Library of Congress and made available to the public; to the Committee on Governmental Affairs.

By Mr. SIMON:

S. 147. A bill to provide for the liquidation or reliquidation of certain entries of dog and cat treats as free of certain duties; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. HATCH, and Mr. WOFFORD):

S. 148. A bill to amend section 337 of the Tariff Act of 1930 and title 28 of the United States Code to provide effective procedures to deal with unfair practices in import trade and to conform section 337 and title 28 to the General Agreement on Tariffs and Trade, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Ms. MIKULSKI, Mr. HATCH, and Mr. WOFFORD):

S. 149. A bill to amend section 182 of the Trade Act of 1974 to permit the United States to respond to the actions of countries that do not provide adequate and effective patent protection to the United States nationals; to the Committee on Finance.

By Mr. KOHL:

S. 150. A bill to provide for assistance in the preservation of Taliesin in the State of Wisconsin, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH:

S. 151. A bill to amend title XIX of the Social Security Act to permit payments under a State plan to certain vaccine manufacturers; to the Committee on Finance.

By Mr. PRESSLER:

S. 152. A bill to amend the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. THURMOND:

S. 153. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Finance.

By Mr. GRAMM:

S. 154. A bill to insure that any peace dividend is invested in America's families and deficit reduction; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of Au-

gust 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. GRASSLEY, Mr. PACKWOOD, Mr. HARKIN, and Mr. BAUCUS):

S. 155. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company; to the Committee on Finance.

By Mr. DASCHLE:

S. 156. A bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax; to the Committee on Finance.

S. 157. A bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles; to the Committee on Finance.

S. 158. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. BURNS, Mr. DURENBERGER, Mr. HATCH, Mr. MACK, Mr. MCCAIN, Mr. MURKOWSKI, Mr. NICKLES, Mr. SHELBY, Mr. SIMPSON, Mr. STEVENS, Mr. SMITH, and Mrs. KASSEBAUM):

S. 159. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. PACKWOOD, Mr. PRESSLER, Mr. DOMENICI, Mr. DANFORTH, Mr. NICKLES, Mr. HATCH, Mr. SIMPSON, Mr. WALLOP, Mr. MACK, Mr. COCHRAN, and Mr. DURENBERGER):

S. 160. A bill to amend the Internal Revenue Code of 1986 to promote investment in small businesses by providing Federal Tax Relief and simplication for such businesses and their investors; to the Committee on Finance.

By Mr. SARBANES:

S. 161. A bill to provide for an endowment grant program to support college access programs nationwide, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE:

S. 162. A bill to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory; to the Committee on Finance.

S. 163. A bill to require the Secretary of the Treasury to perform a study of the structure, operation, practice and regulation of Japan's capital and securities markets, and their implications for the United States; to the Committee on Banking, Housing, and Urban Affairs.

S. 164. A bill to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WALLOP:

S. 165. A bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis; to the Committee on the Judiciary.

S. 166. A bill entitled "The Private Sector Whistleblowers' Protection Act of 1992"; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 167. A bill to create a bipartisan commission to recommend ways to strengthen the protection of classified information and eliminate the classification of nonsensitive information; to the Committee on Governmental Affairs.

By Mr. GLENN (for himself and Mr. AKAKA):

S. 168. A bill to provide for procedures for the review of Federal department and agency regulations, and for other purposes; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 169. A bill to prohibit the solicitation or diversion of funds to carry out activities forbidden by law; to the Committee on Foreign Relations.

By Mr. HOLLINGS (for himself, Mr. AKAKA, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. CONRAD, Mr. DANFORTH, Mr. DECONCINI, Mr. DURENBERGER, Mr. HATCH, Mr. HEFLIN, Mr. JOHNSTON, Mr. KOHL, Mr. LAUTENBERG, Mr. LEVIN, Mr. METZENBAUM, Mr. NUNN, Mr. REID, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. THURMOND, and Mr. WOFFORD):

S. 170. A bill to award a congressional gold medal in honor of the late John Birks "Dizzy" Gillespie; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GLENN (for himself, Mr. BOREN, Mr. BRADLEY, Mr. BRYAN, Mr. BUMPERS, Mr. COHEN, Mr. DODD, Mr. GRAHAM, Mr. JEFFORDS, Mr. KENNEDY, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, and Mr. SASSER):

S. 171. A bill to establish the Department of the Environment, provide for a Bureau of Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BRYAN (for himself and Mr. REID):

S. 172. A bill to establish the Spring Mountains National Recreation Area in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI (for himself, Mr. HARKIN, Mr. HEFLIN, Mr. HOLLINGS, Mr. SHELBY, Mr. DASCHLE, Mr. BURNS, Mr. PRESSLER, Mr. PELL, Ms. MIKULSKI, and Mr. BRYAN):

S. 173. A bill to amend title II of the Social Security Act to provide for a more gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in the years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such worker's benefits accordingly, and for other purposes; to the Committee on Finance.

By Mr. MOYNIHAN:

S. 174. A bill to end certain Cold War practices; to the Select Committee on Intelligence.

By Mr. DECONCINI:

S. 175. A bill to amend the Child Nutrition Act of 1966 to make the special supplemental food program for women, infants, and children (WIC) an entitlement program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOLE (for himself, Mr. MCCAIN, Mr. DANFORTH, Mr. GRASSLEY, Mr. DURENBERGER, Mrs. KASSEBAUM, Mr. CRAIG, Mr. NICKLES, Mr. JEFFORDS, Mr. BOND, Mr. PACKWOOD, Mr. BURNS, Mr. MCCONNELL, Mr. WALLOP, Mr. SHELBY, Mr. BOREN, and Mr. BAUCUS):

S. 176. A bill to amend title XVIII of the Social Security Act with respect to essential access community hospitals, the rural transition grant program, regional referral centers, medicare-dependent small rural hospitals, interpretation of electrocardiograms, payment for new physicians and practitioners, prohibitions on carrier forum shopping, treatment of nebulizers and aspirators, and rural hospital demonstrations; to the Committee on Finance.

By Mr. DOLE (for himself, Mr. CRAIG, Mr. WALLOP, Mr. GRAMM, Mr. SIMPSON, Mr. HELMS, Mr. NICKLES, Mr. BOND, Mr. MCCONNELL, Mr. STEVENS, and Mr. LOTT):

S. 177. A bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible; to the Committee on Governmental Affairs.

By Mr. MOYNIHAN:

S. 178. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

S. 179. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

By Mr. HELMS:

S.J. Res. 3. A joint resolution proposing an amendment to the Constitution of the United States restoring the right of Americans to pray in public school graduation ceremonies and athletic events.

By Mr. SPECTER:

S.J. Res. 4. A joint resolution proposing a constitutional amendment to authorize the President to exercise a line-item veto over individual items of appropriation; to the Committee on the Judiciary.

S.J. Res. 5. A joint resolution proposing a constitutional amendment to require a Federal balanced budget; to the Committee on the Judiciary.

By Mr. GRAMM (for himself and Mr. DOLE):

S.J. Res. 6. A joint resolution to provide for a Balanced Budget Constitutional Amendment; to the Committee on the Judiciary.

By Mr. GRAMM (for himself, Mr. LOTT, Mr. COVERDELL, Mr. PACKWOOD, Mr. MCCAIN, Mr. BOND, Mr. KEMPTHORNE, Mr. GORTON, Mr. GRASSLEY, Mr. DANFORTH, Mr. HELMS, Mr. MCCONNELL, Mr. LUGAR, and Mr. SMITH):

S.J. Res. 7. A joint resolution to provide for a Balanced Budget Constitutional Amendment; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. DECONCINI, and Mr. SIMPSON):

S.J. Res. 8. A joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. SIMPSON):

S.J. Res. 9. A joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

By Mr. HOLLINGS:

S.J. Res. 10. A joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect congressional and Presidential elections; to the Committee on the Judiciary.

By Mr. SARBANES (for himself, Mr. GLENN, Mr. D'AMATO, Mr. KENNEDY, Mr. DASCHLE, Mr. DORGAN, Mr. HOLLINGS, Ms. MIKULSKI, Mr. HATCH, and Mr. STEVENS):

S.J. Res. 11. A joint resolution to designate May 3, 1993, through May 9, 1993, as "Public Service Recognition Week"; to the Committee on the Judiciary.

By Mr. DECONCINI (for himself and Mr. EXON):

S.J. Res. 12. A joint resolution proposing a constitutional amendment to limit congressional terms; to the Committee on the Judiciary.

By Mr. THURMOND:

S.J. Res. 13. A joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

S.J. Res. 14. A joint resolution to designate the month of May 1993, as "National Foster Care Month"; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. SIMPSON):

S.J. Res. 15. A joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation; to the Committee on the Judiciary.

By Mr. HELMS:

S.J. Res. 16. A joint resolution proposing an amendment to the Constitution of the United States restoring the right of Americans to pray in public institutions, including public school graduation ceremonies and athletic events; to the Committee on the Judiciary.

By Mr. PELL:

S.J. Res. 17. A joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of office of the President, Vice President, and Members of Congress; to the Committee on the Judiciary.

By Mr. COATS:

S.J. Res. 18. A joint resolution proposing an amendment to the Constitution of the United States to limit the terms of office for Members of Congress; to the Committee on the Judiciary.

By Mr. AKAKA (for himself and Mr. INOUYE):

S.J. Res. 19. A joint resolution to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii; to the Select Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DECONCINI:

S. Res. 11. A resolution relating to Bosnia-Hercegovina's right to self-defense; to the Committee on Foreign Relations.

By Mr. PRESSLER (for himself, Mr. HEFLIN, and Mr. WALLOP):

S. Res. 12. A resolution expressing the sense of the Senate that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations; to the Committee on Finance.

By Mrs. KASSEBAUM (for herself, Mr. INOUYE, Mr. DASCHLE, Mr. DODD, Mr. LUGAR, Mr. MCCAIN, Mr. PELL, Mr. GORTON, Mr. SIMON, Mr. COHEN, and Mr. NUNN):

S. Res. 13. A resolution to amend the rules of the Senate to improve legislative efficiency, and for other purposes; to the Committee on Rules and Administration.

By Mr. MITCHELL:

S. Res. 14. A resolution to appoint the chairman of Environment and Public Works Committee and the Chairman of the Committee on Finance; considered and agreed to.

S. Res. 15. A resolution to appoint Mr. CONRAD to the Committee on Finance; considered and agreed to.

S. Res. 16. A resolution to appoint Mr. KRUEGER to the Committee on Commerce, Science and Transportation; considered and agreed to.

S. Res. 17. A resolution to amend paragraph 4 of Rule XXV of the Standing Rules of the Senate; considered and agreed to.

S. Res. 18. A resolution to amend paragraph 3 of Rule XXV; considered and agreed to.

S. Res. 19. A resolution to make majority party appointments to Senate Committees under paragraph 3 (a) and (b) of Rule XXV for the One Hundred and Third Congress; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 20. A resolution reappointing Kenneth U. Benjamin, Jr. as Deputy Senate Legal Counsel; considered and agreed to.

S. Res. 21. A resolution to authorize testimony and to authorize representation by the Senate Legal Counsel; considered and agreed to.

By Mr. DOLE:

S. Res. 22. A resolution to constitute the minority party's membership on certain committees for the 103rd Congress, or until their successors are chosen; considered and agreed to.

By Mr. COATS:

S. Res. 23. A resolution to establish a procedure for the appointment of independent counsels to investigate ethics violations in the Senate, transfer to the Committee on Rules and Administration the remaining authority of the Select Committee on Ethics, and abolish the Select Committee on Ethics; to the Committee on Rules and Administration.

By Mr. DANFORTH (for himself and Mrs. KASSEBAUM):

S. Res. 24. A resolution urging the criminal prosecution of persons committing crimes against humanity, including participation in mass rapes, in Bosnia-Herzegovina; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Con. Res. 4. A concurrent resolution to authorize printing of "Senators of the United States: A Historical Bibliography", as prepared by the Secretary of the Senate; considered and agreed to.

S. Con. Res. 5. A concurrent resolution to authorize printing of "Guide to Research Collections of Former United States Senators", as prepared by the Office of the Secretary of the Senate; considered and agreed to.

S. Con. Res. 6. A concurrent resolution to authorize printing of "Senate Election, Expulsion, and Censure Cases", as prepared by the Office of the Secretary of the Senate; considered and agreed to.

By Mr. WALLOP:

S. Con. Res. 7. A concurrent resolution to provide that each committee of the Congress that reports employee benefit legislation shall secure an objective analysis of the impact of such legislation on employment and international competitiveness, and include such analysis in the committee report; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KENNEDY (for himself, Mrs. BOXER, Mr. WELLSTONE, Mr. DODD, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. PELL, Mr. SIMON, Mr. WOFFORD, Mr. INOUYE, Mr. SARBANES, Ms. MOSELEY-BRAUN, Mr. LEAHY, Mr. RIEGLE, Mr. DURENBERGER, Mr. METZENBAUM

S. 1. A bill to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTES OF HEALTH REVITALIZATION ACT

Mr. KENNEDY. Mr. President, We stand at a unique point in medical history: As we have gained control over the past plagues of humanity, such as smallpox, diphtheria, and polio, we are confronted with newer and greater medical challenges from cancers, aging, AIDS, and other serious diseases. We seek not only means to control death, but to live with dignity and autonomy in the extra years that science has now granted. The reauthorization of the National Institutes of Health will guarantee Americans' health and American leadership in biomedical research through the end of this century.

I am today introducing the National Institutes of Health Reauthorization Act of 1993. The NIH is the best known biomedical research institute in the world—and with good reason. For a generation, its landmark discoveries have been the hallmark of modern medicine, and we must do all we can to maintain this high standard.

This year's bill is an improved version of the NIH conference agreement that passed the Senate on June 4 by a vote of 85–12, and was vetoed by President Bush. The House of Representatives failed by 14 votes to override the veto.

The most controversial issue continues to be fetal tissue transplantation research. It lifts the administration ban on such research. The bill contains all the safeguards in last year's bill to prevent abuses, including a clear separation between a woman's decision to have an abortion and her decision to donate the tissue for research.

The women's health provisions of this bill are critical to promote first rate health care for women. This legislation establishes permanent statutory authority for the Office of Research on Women's Health to oversee new plans and policies for addressing women's health concerns in each of the Institutes. It specifically requires women to be included in research projects supported or conducted by the NIH. In addition, the National Cancer Institute will develop a comprehensive plan to expand, intensify, and coordinate all

research efforts emphasizing prevention, early detection and treatment of breast cancer. The bill authorizes an additional $325 million to expand breast cancer research activities and an additional $75 million for ovarian, cervical, and other cancers of women's reproductive systems.

The bill also authorizes $40 million to intensify basic, clinical, and behavioral research on osteoporosis and related bone disorders, and to establish an information clearinghouse to enhance the understanding of bone disorders by health professionals and the public.

Major initiatives in children's health are also addressed, including:

A separate children's vaccine initiative to develop affordable new and improved vaccines for the prevention of other infectious diseases.

A study of the safety and effectiveness of HIV vaccines for treatment and prevention of HIV infection in infants, children, and their mothers.

A child health research center program to speed the transfer of knowledge from basic research to clinical applications that will benefit the health of children.

Centers for basic and clinical research on cardiovascular disease in children.

A Juvenile Arthritis Program to expand research into the cause, diagnosis, early detection, control, treatment, and rehabilitation of children suffering from arthritis and related diseases.

Prostate cancer has reached epidemic levels. The bill expands and strengthens prostate cancer research at the NIH.

The AIDS research provision in S. 1 have the potential of putting AIDS research at the NIH on track at last. AIDS research has been plagued for years by a lack of coordination, strategic planning, and evaluation. The reforms in S. 1 will provide for the substantial strengthening of the Office of Aids Research including budget authority across Institute lines, and mandate the office to create and implement a budget for AIDS research throughout the NIH, supported by a detailed, scientifically justified strategic plan. The proposals, which are based in part on a major study of the AIDS research effort completed by the Institute of Medicine in 1991, have received widespread support from, among others, major AIDs advocacy organizations, many research scientists, and the National Commission on AIDS. We look forward to the increased focus and sound management practices the proposals may bring to the NIH AIDS research effort.

The bill will also ensure the validity and future of the taxpayers' investment in research by improving the biomedical research infrastructure through:

Funding to provide a program to increase the competitiveness of research proposals in States whose facilities have experienced low success rates in obtaining research awards from the NIH.

A peer reviewed matching grant program for extramural facilities construction to repair the crumbling national biomedical infrastructure.

A National Research Service Award Program of training grants to scholars to assure a continuing supply of scientists.

New Federal policies on scientific misconduct, conflicts of interest, and prevention of retaliation against whistleblowers in connection with NIH research.

The NIH continues to produce significant advances in the health of people everywhere. Over the past 2 years, we have witnessed tremendous growth in our understanding of disease. NIH-supported research has resulted in numerous practical applications that bring the benefits of research to the bedside of the patient as rapidly as possible.

The National Institutes of Health Reauthorization Act is comprehensive and important legislation that will advance our knowledge of medical science. Its goal is to save lives and improve the health status of all Americans. There are few better investments in our future than the investment we make in biomedical research. This legislation will continue a long tradition of research excellence, and I urge the Senate to act on it as soon as possible.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Institutes of Health Revitalization Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS REGARDING TITLE IV OF PUBLIC HEALTH SERVICE ACT

Subtitle A—Research Freedom

PART I—REVIEW OF PROPOSALS FOR BIOMEDICAL AND BEHAVIORAL RESEARCH

Sec. 101. Establishment of certain provisions regarding research conducted or supported by National Institutes of Health.

PART II—RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

Sec. 111. Establishment of authorities.
Sec. 112. Purchase of human fetal tissue; solicitation or acceptance of tissue as directed donation for use in transplantation.
Sec. 113. Nullification of moratorium.
Sec. 114. Report by General Accounting Office on adequacy of requirements.

PART III—MISCELLANEOUS REPEALS

Sec. 121. Repeals.

Subtitle B—Clinical Research Equity Regarding Women and Minorities

PART I—WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH

Sec. 131. Requirement of inclusion in research.
Sec. 132. Peer review.
Sec. 133. Applicability to current projects.

PART II—OFFICE OF RESEARCH ON WOMEN'S HEALTH

Sec. 141. Establishment.

PART III—OFFICE OF RESEARCH ON MINORITY HEALTH

Sec. 151. Establishment.

Subtitle C—Scientific Integrity

Sec. 161. Establishment of Office of Scientific Integrity.
Sec. 162. Commission on Scientific Integrity.
Sec. 163. Protection of whistleblowers.
Sec. 164. Requirement of regulations regarding protection against financial conflicts of interest in certain projects of research.
Sec. 165. Effective dates.

TITLE II—NATIONAL INSTITUTES OF HEALTH IN GENERAL

Sec. 201. Health promotion research dissemination.
Sec. 202. Programs for increased support regarding certain States and researchers.
Sec. 203. Children's vaccine initiative.
Sec. 204. Plan for use of animals in research.
Sec. 205. Increased participation of women and members of underrepresented minorities in fields of biomedical and behavioral research.
Sec. 206. Requirements regarding surveys of sexual behavior.
Sec. 207. Discretionary fund of Director of National Institutes of Health.
Sec. 208. Miscellaneous provisions.

TITLE III—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

Sec. 301. Appointment and authority of Directors of national research institutes.
Sec. 302. Program of research on osteoporosis, Paget's disease, and related disorders.
Sec. 303. Establishment of interagency program for trauma research.

TITLE IV—NATIONAL CANCER INSTITUTE

Sec. 401. Expansion and intensification of activities regarding breast cancer.
Sec. 402. Expansion and intensification of activities regarding prostate cancer.
Sec. 403. Authorization of appropriations.

TITLE V—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Sec. 501. Education and training.
Sec. 502. Centers for the study of pediatric cardiovascular diseases.
Sec. 503. National Center on Sleep Disorders.
Sec. 504. Authorization of appropriations.

TITLE VI—NATIONAL INSTITUTE ON DIABETES AND DIGESTIVE AND KIDNEY DISEASES

Sec. 601. Provisions regarding nutritional disorders.

TITLE VII—NATIONAL INSTITUTE ON ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

Sec. 701. Juvenile arthritis.

TITLE VIII—NATIONAL INSTITUTE ON AGING
Sec. 801. Alzheimer's disease registry.
Sec. 802. Aging processes regarding women.
Sec. 803. Authorization of appropriations.
Sec. 804. Conforming amendment.
TITLE IX—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES
Sec. 901. Tropical diseases.
Sec. 902. Chronic fatigue syndrome.
TITLE X—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT
Subtitle A—Research Centers With Respect to Contraception and Research Centers With Respect to Infertility
Sec. 1001. Grants and contracts for research centers.
Sec. 1002. Loan repayment program for research with respect to contraception and infertility.
Subtitle B—Program Regarding Obstetrics and Gynecology
Sec. 1011. Establishment of program.
Subtitle C—Child Health Research Centers
Sec. 1021. Establishment of centers.
Subtitle D—Study Regarding Adolescent Health.
Sec. 1031. Prospective longitudinal study.
TITLE XI—NATIONAL EYE INSTITUTE
Sec. 1101. Clinical research on diabetes eye care.
TITLE XII—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE
Sec. 1201. Research on multiple sclerosis.
TITLE XIII—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES
Sec. 1301. Applied Toxicological Research and Testing Program.
TITLE XIV—NATIONAL LIBRARY OF MEDICINE
Subtitle A—General Provisions
Sec. 1401. Additional authorities.
Sec. 1402. Authorization of appropriations.
Subtitle B—Financial Assistance
Sec. 1411. Establishment of program of grants for development of education technologies.
Subtitle C—National Information Center on Health Services Research and Health Care Technology
Sec. 1421. Establishment of Center.
Sec. 1422. Conforming provisions.
TITLE XV—OTHER AGENCIES OF NATIONAL INSTITUTES OF HEALTH
Subtitle A—Division of Research Resources
Sec. 1501. Redesignation of Division as National Center for Research Resources.
Sec. 1502. Biomedical and behavioral research facilities.
Sec. 1503. Construction program for national primate research center.
Subtitle B—National Center for Nursing Research
Sec. 1511. Redesignation of National Center for Nursing Research as National Institute of Nursing Research.
Sec. 1512. Study on adequacy of number of nurses.
Subtitle C—National Center for Human Genome Research
Sec. 1521. Purpose of Center.
TITLE XVI—AWARDS AND TRAINING
Subtitle A—National Research Service Awards
Sec. 1601. Requirement regarding women and individuals from disadvantaged backgrounds.
Sec. 1602. Service payback requirements.
Subtitle B—Acquired Immune Deficiency Syndrome
Sec. 1611. Loan repayment program.
Subtitle C—Loan Repayment for Research Generally
Sec. 1621. Establishment of program.
Subtitle D—Scholarship and Loan Repayment Programs Regarding Professional Skills Needed by National Institutes of Health
Sec. 1631. Establishment of programs.
Sec. 1632. Funding.
Subtitle E—Funding for Awards and Training Generally
Sec. 1641. Authorization of appropriations.
TITLE XVII—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH
Sec. 1701. Establishment of Foundation.
TITLE XVIII—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME
Sec. 1801. Revision and extension of various programs.
TITLE XIX—STUDIES
Sec. 1901. Acquired immune deficiency syndrome.
Sec. 1902. Malnutrition in the elderly.
Sec. 1903. Research activities on chronic fatigue syndrome.
Sec. 1904. Report on medical uses of biological agents in development of defenses against biological warfare.
Sec. 1905. Personnel study of recruitment, retention and turnover.
Sec. 1906. Procurement.
Sec. 1907. Report concerning leading causes of death.
Sec. 1908. Relationship between the consumption of legal and illegal drugs.
TITLE XX—MISCELLANEOUS PROVISIONS
Sec. 2001. Designation of Senior Biomedical Research Service in honor of Silvio Conte, and limitation on number of members.
Sec. 2002. Technical corrections.
Sec. 2003. Biennial report on carcinogens.
Sec. 2004. Master plan for physical infrastructure for research.
Sec. 2005. Transfer of provisions of title xxvii.
Sec. 2006. Certain authorization of appropriations.
Sec. 2007. Prohibition against SHARP adult sex survey and the American teenage sex survey.
Sec. 2008. Support for bioengineering research.
TITLE XXI—EFFECTIVE DATES
Sec. 2101. Effective dates.
TITLE I—GENERAL PROVISIONS REGARDING TITLE IV OF PUBLIC HEALTH SERVICE ACT
Subtitle A—Research Freedom
PART I—REVIEW OF PROPOSALS FOR BIOMEDICAL AND BEHAVIORAL RESEARCH
SEC. 101. ESTABLISHMENT OF CERTAIN PROVISIONS REGARDING RESEARCH CONDUCTED OR SUPPORTED BY NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 492 the following new section:

"CERTAIN PROVISIONS REGARDING REVIEW AND APPROVAL OF PROPOSALS FOR RESEARCH

"SEC. 492A. (a) REVIEW AS PRECONDITION TO RESEARCH.—

"(1) PROTECTION OF HUMAN RESEARCH SUBJECTS.—

"(A) In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to review under section 491(a) by an Institutional Review Board unless the application has undergone review in accordance with such section and has been recommended for approval by a majority of the members of the Board conducting such review.

"(B) In the case of research that is subject to review under procedures established by the Secretary for the protection of human subjects in clinical research conducted by the National Institutes of Health, the Secretary may not authorize the conduct of the research unless the research has, pursuant to such procedures, been recommended for approval.

"(2) PEER REVIEW.—In the case of any application submitted to the Secretary for financial assistance to conduct research, the Secretary may not approve or fund any application that is subject to technical and scientific peer review under section 492(a) unless the application has undergone peer review in accordance with such section and has been recommended for approval by a majority of the members of the entity conducting such review.

"(b) ETHICAL REVIEW OF RESEARCH.—

"(1) PROCEDURES REGARDING WITHHOLDING OF FUNDS.—If research has been recommended for approval for purposes of subsection (a), the Secretary may not withhold funding for the research on ethical grounds unless—

"(A) the Secretary convenes an advisory board in accordance with paragraph (4) to study the ethical implications of the research; and

"(B) the majority of the advisory board recommends that, on ethical grounds, the Secretary withhold funds for the research.

"(2) APPLICABILITY.—The limitation established in paragraph (1) regarding the authority to withhold funds on ethical grounds shall apply without regard to whether the withholding of funds is characterized as a disapproval, a moratorium, a prohibition, or other description.

"(3) PRELIMINARY MATTERS REGARDING USE OF PROCEDURES.—

"(A) If the Secretary makes a determination that an advisory board should be convened for purposes of paragraph (1), the Secretary shall, through a statement published in the Federal Register, announce the intention of the Secretary to convene such a board.

"(B) A statement issued under subparagraph (A) shall include a request that interested individuals submit to the Secretary recommendations specifying the particular individuals who should be appointed to the advisory board involved. The Secretary shall consider such recommendations in making appointments to the board.

"(C) The Secretary may not make appointments to an advisory board under paragraph (1) until the expiration of the 30-day period beginning on the date on which the statement required in subparagraph (A) is made with respect to the board.

"(4) ETHICS ADVISORY BOARDS.—

"(A) Any advisory board convened for purposes of paragraph (1) shall be known as an ethics advisory board (hereafter in this paragraph referred to as an 'ethics board').

"(B)(i) An ethics board shall advise, consult with, and make recommendations to the Secretary regarding the ethics of the project of biomedical or behavioral research with respect to which the board has been convened.

"(ii) Not later than 180 days after the date on which the statement required in paragraph (3)(A) is made with respect to an ethics board, the board shall submit to the Secretary, and 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 describing the findings of the board regarding the project of research involved and making a recommendation under clause (i) of whether the Secretary should or should not withhold funds for the project. The report shall include the information considered in making the findings.

"(C) An ethics board shall be composed of no fewer than 14, and no more than 20, individuals who are not officers or employees of the United States. The Secretary shall make appointments to the board from among individuals with special qualifications and competence to provide advice and recommendations regarding ethical matters in biomedical and behavioral research. Of the members of the board—

"(i) no fewer than 1 shall be an attorney;

"(ii) no fewer than 1 shall be an ethicist;

"(iii) no fewer than 1 shall be a practicing physician;

"(iv) no fewer than 1 shall be a theologian; and

"(v) no fewer than one-third, and no more than one-half, shall be scientists with substantial accomplishments in biomedical or behavioral research.

"(D) The term of service as a member of an ethics board shall be for the life of the board. If such a member does not serve the full term of such service, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(E) A member of an ethics board shall be subject to removal from the board by the Secretary for neglect of duty or malfeasance or for other good cause shown.

"(F) The Secretary shall designate an individual from among the members of an ethics board to serve as the chair of the board.

"(G) In carrying out subparagraph (B)(i) with respect to a project of research, an ethics board shall conduct inquiries and hold public hearings.

"(H) With respect to information relevant to the duties described in subparagraph (B)(i), an ethics board shall have access to all such information possessed by the Department of Health and Human Services, or available to the Secretary from other agencies.

"(I) Members of an ethics board shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

"(J) The Secretary, acting through the Director of the National Institutes of Health, shall provide to each ethics board such staff and other assistance as may be necessary to carry out the duties of the board.

"(K) An ethics board shall terminate 30 days after the date on which the report required in subparagraph (B)(ii) is submitted to the Secretary and the congressional committees specified in such subparagraph.".

PART II—RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

SEC. 111. ESTABLISHMENT OF AUTHORITIES.

Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by inserting after section 498 the following new section:

"RESEARCH ON TRANSPLANTATION OF FETAL TISSUE

"SEC. 498A. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary may conduct or support research on the transplantation of human fetal tissue for therapeutic purposes.

"(2) SOURCE OF TISSUE.—Human fetal tissue may be used in research carried out under paragraph (1) regardless of whether the tissue is obtained pursuant to a spontaneous or induced abortion or pursuant to a stillbirth.

"(b) INFORMED CONSENT OF DONOR.—

"(1) IN GENERAL.—In research carried out under subsection (a), human fetal tissue may be used only if the woman providing the tissue makes a statement, made in writing and signed by the woman, declaring that—

"(A) the woman donates the fetal tissue for use in research described in subsection (a);

"(B) the donation is made without any restriction regarding the identity of individuals who may be the recipients of transplantations of the tissue; and

"(C) the woman has not been informed of the identity of any such individuals.

"(2) ADDITIONAL STATEMENT.—In research carried out under subsection (a), human fetal tissue may be used only if the attending physician with respect to obtaining the tissue from the woman involved makes a statement, made in writing and signed by the physician, declaring that—

"(A) in the case of tissue obtained pursuant to an induced abortion—

"(i) the consent of the woman for the abortion was obtained prior to requesting or obtaining consent for the tissue to be used in such research; and

"(ii) no alteration of the timing, method, or procedures used to terminate the pregnancy was made solely for the purposes of obtaining the tissue;

"(B) the tissue has been donated by the woman in accordance with paragraph (1); and

"(C) full disclosure has been provided to the woman with regard to—

"(i) such physician's interest, if any, in the research to be conducted with the tissue; and

"(ii) any known medical risks to the woman or risks to her privacy that might be associated with the donation of the tissue and that are in addition to risks of such type that are associated with the woman's medical care.

"(c) INFORMED CONSENT OF RESEARCHER AND DONEE.—In research carried out under subsection (a), human fetal tissue may be used only if the individual with the principal responsibility for conducting the research involved makes a statement, made in writing and signed by the individual, declaring that the individual—

"(1) is aware that—

"(A) the tissue is human fetal tissue;

"(B) the tissue may have been obtained pursuant to a spontaneous or induced abortion or subsequent to a stillbirth; and

"(C) the tissue was donated for research purposes;

"(2) has provided such information to other individuals with responsibilities regarding the research;

"(3) will require, prior to obtaining the consent of an individual to be a recipient of a transplantation of the tissue, written acknowledgment of receipt of such information by such recipient; and

"(4) has had no part in any decisions as to the timing, method, or procedures used to terminate the pregnancy made solely for the purposes of the research.

"(d) AVAILABILITY OF STATEMENTS FOR AUDIT.—

"(1) IN GENERAL.—In research carried out under subsection (a), human fetal tissue may be used only if the head of the agency or other entity conducting the research involved certifies to the Secretary that the statements required under subsections (a)(3), (b)(2), and (c) will be available for audit by the Secretary.

"(2) CONFIDENTIALITY OF AUDIT.—Any audit conducted by the Secretary pursuant to paragraph (1) shall be conducted in a confidential manner to protect the privacy rights of the individuals and entities involved in such research, including such individuals and entities involved in the donation, transfer, receipt, or transplantation of human fetal tissue. With respect to any material or information obtained pursuant to such audit, the Secretary shall—

"(A) use such material or information only for the purposes of verifying compliance with the requirements of this section;

"(B) not disclose or publish such material or information, except where required by Federal law, in which case such material or information shall be coded in a manner such that the identities of such individuals and entities are protected; and

"(C) not maintain such material or information after completion of such audit, except where necessary for the purposes of such audit.

"(e) APPLICABILITY OF STATE AND LOCAL LAW.—

"(1) RESEARCH CONDUCTED BY RECIPIENTS OF ASSISTANCE.—The Secretary may not provide support for research under subsection (a) conduct the research in accordance with applicable State and local law.

"(2) RESEARCH CONDUCTED BY SECRETARY.—The Secretary may conduct research under subsection (a) only in accordance with applicable State and local law.

"(f) DEFINITION.—For purposes of this section, the term 'human fetal tissue' means tissue or cells obtained from a dead human embryo or fetus after a spontaneous or induced abortion, or after a stillbirth.".

SEC. 112. PURCHASE OF HUMAN FETAL TISSUE; SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.

Part G of title IV of the Public Health Service Act, as amended by section 111 of this Act, is amended by inserting after section 498A the following new section:

"PROHIBITIONS REGARDING HUMAN FETAL TISSUE

"SEC. 498B. (a) PURCHASE OF TISSUE.—It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration if the transfer affects interstate commerce.

"(b) SOLICITATION OR ACCEPTANCE OF TISSUE AS DIRECTED DONATION FOR USE IN TRANSPLANTATION.—It shall be unlawful for any person to solicit or knowingly acquire, receive, or accept a donation of human fetal tissue for the purpose of transplantation of such tissue into another person if the donation affects interstate commerce, the tissue will be or is obtained pursuant to an induced abortion, and—

"(1) the donation will be or is made pursuant to a promise to the donating individual that the donated tissue will be transplanted into a recipient specified by such individual;

"(2) the donated tissue will be transplanted into a relative of the donating individual; or

"(3) the person who solicits or knowingly acquires, receives, or accepts the donation has provided valuable consideration for the costs associated with such abortion.

"(c) CRIMINAL PENALTIES FOR VIOLATIONS.—

"(1) IN GENERAL.—Any person who violates subsection (a) or (b) shall be fined in accordance with title 18, United States Code, subject to paragraph (2), or imprisoned for not more than 10 years, or both.

"(2) PENALTIES APPLICABLE TO PERSONS RECEIVING CONSIDERATION.—With respect to the imposition of a fine under paragraph (1), if the person involved violates subsection (a) or (b)(3), a fine shall be imposed in an amount not less than twice the amount of the valuable consideration received.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'human fetal tissue' has the meaning given such term in section 498A(f).

"(2) The term 'interstate commerce' has the meaning given such term in section 201(b) of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'valuable consideration' does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of human fetal tissue.".

SEC. 113. NULLIFICATION OF MORATORIUM.

(a) IN GENERAL.—Except as provided in subsection (c), no official of the executive branch may impose a policy that the Department of Health and Human Services is prohibited from conducting or supporting any research on the transplantation of human fetal tissue for therapeutic purposes. Such research shall be carried out in accordance with section 498A of the Public Health Service Act (as added by section 111 of this Act), without regard to any such policy that may have been in effect prior to the date of the enactment of this Act.

(b) PROHIBITION AGAINST WITHHOLDING OF FUNDS IN CASES OF TECHNICAL AND SCIENTIFIC MERIT.—

(1) IN GENERAL.—In the case of any proposal for research on the transplantation of human fetal tissue for therapeutic purposes, the Secretary of Health and Human Services may not withhold funds for the research if—

(A) the research has been approved for purposes of section 492A(a) of the Public Health Service Act (as added by section 101 of this Act);

(B) the research will be carried out in accordance with section 498A of such Act (as added by section 111 of this Act); and

(C) there are reasonable assurances that the research will not utilize any human fetal tissue that has been obtained in violation of section 498B(a) of such Act (as added by section 112 of this Act).

(2) STANDING APPROVAL REGARDING ETHICAL STATUS.—In the case of any proposal for research on the transplantation of human fetal tissue for therapeutic purposes, the issuance in December 1988 of the Report of the Human Fetal Tissue Transplantation Research Panel shall be deemed to be a report—

(A) issued by an ethics advisory board pursuant to section 492A(b)(4)(B)(ii) of the Public Health Service Act (as added by section 101 of this Act); and

(B) finding, on a basis that is neither arbitrary nor capricious, that there are no ethical grounds for withholding funds for the research.

(c) AUTHORITY FOR WITHHOLDING FUNDS FROM RESEARCH.—In the case of any research on the transplantation of human fetal tissue for therapeutic purposes, the Secretary of Health and Human Services may withhold funds for the research if any of the conditions specified in any of subparagraphs (A) through (C) of subsection (b)(1) are not met with respect to the research.

(d) DEFINITION.—For purposes of this section, the term "human fetal tissue" has the meaning given such term in section 498A(f) of the Public Health Service Act (as added by section 111 of this Act).

SEC. 114. REPORT BY GENERAL ACCOUNTING OFFICE ON ADEQUACY OF REQUIREMENTS.

(a) IN GENERAL.—With respect to research on the transplantation of human fetal tissue for therapeutic purposes, the Comptroller General of the United States shall conduct an audit for the purpose of determining—

(1) whether and to what extent such research conducted or supported by the Secretary of Health and Human Services has been conducted in accordance with section 498A of the Public Health Service Act (as added by section 111 of this Act); and

(2) whether and to what extent there have been violations of section 498B of such Act (as added by section 112 of this Act).

(b) REPORT.—Not later than May 19, 1995, the Comptroller General of the United States shall complete the audit required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made pursuant to the audit.

PART III—MISCELLANEOUS REPEALS

SEC. 121. REPEALS.

(a) CERTAIN BIOMEDICAL ETHICS BOARD.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by striking part J.

(b) OTHER REPEALS.—Part G of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended—

(1) in section 498, by striking subsection (c); and

(2) by striking section 499; and

(3) by redesignating section 499A as section 499.

(c) NULLIFICATION OF CERTAIN REGULATION.—The provisions of section 204(d) of part 46 of title 45 of the Code of Federal Regulations (45 CFR 46.204(d)) shall not have any legal effect.

Subtitle B—Clinical Research Equity Regarding Women and Minorities

PART I—WOMEN AND MINORITIES AS SUBJECTS IN CLINICAL RESEARCH

SEC. 131. REQUIREMENT OF INCLUSION IN RESEARCH.

Part G of title IV of the Public Health Service Act, as amended by section 101 of this Act, is amended by inserting after section 492A the following new section:

"INCLUSION OF WOMEN AND MINORITIES IN CLINICAL RESEARCH

"SEC. 492B. (a) In conducting or supporting clinical research for purposes of this title, the Director of NIH shall, subject to subsection (b), ensure that—

"(1) women are included as subjects in each project of such research; and

"(2) members of minority groups are included as subjects in such research.

"(b) The requirement established in subsection (a) regarding women and members of minority groups shall not apply to a project of clinical research if the inclusion, as subjects in the project, of women and members of minority groups, respectively—

"(1) is inappropriate with respect to the health of the subjects;

"(2) is inappropriate with respect to the purpose of the research; or

"(3) is inappropriate under such other circumstances as the Director of NIH may designate.

"(c) In the case of any project of clinical research in which women or members of minority groups will under subsection (a) be included as subjects in the research, the Director of NIH shall ensure that the project is designed and carried out in a manner sufficient to provide for a valid analysis of whether the variables being tested in the research affect women or members of minority groups, as the case may be, differently than other subjects in the research.

"(d)(1) The Director of NIH, in consultation with the Director of the Office of Research on Women's Health, shall establish guidelines regarding—

"(A) the circumstances under which the inclusion of women and minorities in projects of clinical research is inappropriate for purposes of subsection (b);

"(B) the manner in which such projects are required to be designed and carried out for purposes of subsection (c), including a specification of the circumstances in which the requirement of such subsection does not apply on the basis of impracticability; and

"(C) the conduct of outreach programs for the recruitment of women and members of minority groups as subjects in such research.

"(2) With respect to the circumstances under which the inclusion of women or members of minority groups (as the case may be) as subjects in clinical research is inappropriate for purposes of subsection (b), the guidelines established under paragraph (1)(A)—

"(A) shall provide that the costs of such inclusion in a project of clinical research is not a permissible consideration in determining whether such inclusion is inappropriate unless the data of comparable quality regarding women or members of minority groups, respectively, that would be obtained in such project in the event that such inclusion were required will be obtained through other means; and

"(B) may provide that such inclusion in a project of clinical research is not required if there is substantial scientific data demonstrating that there is no significant difference between—

"(i) the effects that the variables to be studied in the project have on women or members of minority groups, respectively; and

"(ii) the effects that the variables have on the individuals who would serve as subjects in the project in the event that such inclusion were not required.

"(3) The guidelines required in paragraph (1) shall be established and published in the Federal Register not later than 120 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.

"(4) For fiscal year 1994 and subsequent fiscal years, the Director of NIH may not approve any proposal of clinical research to be conducted or supported by any agency of the National Institutes of Health unless the proposal specifies the manner in which the research will comply with subsection (a).

"(e) The advisory council of each national research institute shall annually submit to the Director of NIH and the Director of the institute involved a report describing the manner in which the agency has complied with subsection (a).".

SEC. 132. PEER REVIEW.

Section 492 of the Public Health Service Act (42 U.S.C. 289a) is amended by adding at the end the following new subsection:

"(c)(1) In technical and scientific peer review under this section of proposals for clinical research, the consideration of any such proposal (including the initial consideration) shall, except as provided in paragraph (2), include an evaluation of the technical and scientific merit of the proposal regarding compliance with section 492B(a).

"(2) Paragraph (1) shall not apply to any proposal for clinical research that, pursuant to subsection (b) of section 492B, is not subject to the requirement of subsection (a) of such section regarding the inclusion of women and members of minority groups as subjects in clinical research.".

SEC. 133. APPLICABILITY TO CURRENT PROJECTS.

Section 492B of the Public Health Service Act, as added by section 131 of this Act, shall not apply with respect to projects of clinical research for which initial funding was provided prior to the date of the enactment of this Act. With respect to the inclusion of women and minorities as subjects in clinical research conducted or supported by the National Institutes of Health, any policies of the Secretary of Health and Human Services regarding such inclusion that are in effect on the day before the date of the enactment of this Act shall continue to apply to the projects referred to in the preceding sentence.

PART II—OFFICE OF RESEARCH ON WOMEN'S HEALTH

SEC. 141. ESTABLISHMENT.

(a) IN GENERAL.—Title IV of the Public Health Service Act, as amended by section 2 of Public Law 101-613, is amended—

(1) by redesignating section 486 as section 485A;

(2) by redesignating parts F through H as parts G through I, respectively; and

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

"PART F—RESEARCH ON WOMEN'S HEALTH

"SEC. 486. OFFICE OF RESEARCH ON WOMEN'S HEALTH.

"(a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Research on Women's Health (in this part referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

"(b) PURPOSE.—The Director of the Office shall—

"(1) identify projects of research on women's health that should be conducted or supported by the national research institutes;

"(2) identify multidisciplinary research relating to research on women's health that should be so conducted or supported;

"(3) carry out paragraphs (1) and (2) with respect to the aging process in women, with priority given to menopause;

"(4) promote coordination and collaboration among entities conducting research identified under any of paragraphs (1) through (3);

"(5) encourage the conduct of such research by entities receiving funds from the national research institutes;

"(6) recommend an agenda for conducting and supporting such research;

"(7) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research;

"(8) assist in the administration of section 492B with respect to the inclusion of women as subjects in clinical research; and

"(9) prepare the report required in section 486B.

"(c) COORDINATING COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish a committee to be known as the Coordinating Committee on Research on Women's Health (hereafter in this subsection referred to as the 'Coordinating Committee').

"(2) The Coordinating Committee shall be composed of the Directors of the national research institutes (or the designees of the Directors).

"(3) The Director of the Office shall serve as the chair of the Coordinating Committee.

"(4) With respect to research on women's health, the Coordinating Committee shall assist the Director of the Office in—

"(A) identifying the need for such research, and making an estimate each fiscal year of the funds needed to adequately support the research;

"(B) identifying needs regarding the coordination of research activities, including intramural and extramural multidisciplinary activities;

"(C) supporting the development of methodologies to determine the circumstances in which obtaining data specific to women (including data relating to the age of women and the membership of women in ethnic or racial groups) is an appropriate function of clinical trials of treatments and therapies;

"(D) supporting the development and expansion of clinical trials of treatments and therapies for which obtaining such data has been determined to be an appropriate function; and

"(E) encouraging the national research institutes to conduct and support such research, including such clinical trials.

"(d) ADVISORY COMMITTEE.—

"(1) In carrying out subsection (b), the Director of the Office shall establish an advisory committee to be known as the Advisory Committee on Research on Women's Health (hereafter in this subsection referred to as the 'Advisory Committee').

"(2)(A) The Advisory Committee shall be composed of no fewer than 12, and not more than 18 individuals, who are not officers or employees of the Federal Government. The Director of the Office shall make appointments to the Advisory Committee from among physicians, practitioners, scientists, and other health professionals, whose clinical practice, research specialization, or professional expertise includes a significant focus on research on women's health. A majority of the members of the Advisory Committee shall be women.

"(B) Members of the Advisory Committee shall receive compensation for each day engaged in carrying out the duties of the Committee, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS-18 of the General Schedule.

"(3) The Director of the Office shall serve as the chair of the Advisory Committee.

"(4) The Advisory Committee shall—

"(A) advise the Director of the Office on appropriate research activities to be undertaken by the national research institutes with respect to—

"(i) research on women's health;

"(ii) research on gender differences in clinical drug trials, including responses to pharmacological drugs;

"(iii) research on gender differences in disease etiology, course, and treatment;

"(iv) research on obstetrical and gynecological health conditions, diseases, and treatments; and

"(v) research on women's health conditions which require a multidisciplinary approach;

"(B) report to the Director of the Office on such research;

"(C) provide recommendations to such Director regarding activities of the Office (including recommendations on the development of the methodologies described in subsection (c)(4)(C) and recommendations on priorities in carrying out research described in subparagraph (A)); and

"(D) assist in monitoring compliance with section 492B regarding the inclusion of women in clinical research.

"(5)(A) The Advisory Committee shall prepare a biennial report describing the activities of the Committee, including findings made by the Committee regarding—

"(i) compliance with section 492B;

"(ii) the extent of expenditures made for research on women's health by the agencies of the National Institutes of Health; and

"(iii) the level of funding needed for such research.

"(B) The report required in subparagraph (A) shall be submitted to the Director of NIH for inclusion in the report required in section 403.

"(e) REPRESENTATION OF WOMEN AMONG RESEARCHERS.—The Secretary, acting through the Assistant Secretary for Personnel and in collaboration with the Director of the Office, shall determine the extent to which women are represented among senior physicians and scientists of the national research institutes and among physicians and scientists conducting research with funds provided by such institutes, and as appropriate, carry out activities to increase the extent of such representation.

"(f) DEFINITIONS.—For purposes of this part:

"(1) The term 'women's health conditions', with respect to women of all age, ethnic, and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

"(A) unique to, more serious, or more prevalent in women;

"(B) for which the factors of medical risk or types of medical intervention are different for women, or for which it is unknown whether such factors or types are different for women; or

"(C) with respect to which there has been insufficient clinical research involving women as subjects or insufficient clinical data on women.

"(2) The term 'research on women's health' means research on women's health conditions, including research on preventing such conditions.

"SEC. 486A. NATIONAL DATA SYSTEM AND CLEARINGHOUSE ON RESEARCH ON WOMEN'S HEALTH.

"(a) DATA SYSTEM.—

"(1) The Director of NIH, in consultation with the Director of the Office, shall establish a data system for the collection, storage, analysis, retrieval, and dissemination of information regarding research on women's health that is conducted or supported by the national research institutes. Information from the data system shall be available through information systems available to health care professionals and providers, researchers, and members of the public.

"(2) The data system established under paragraph (1) shall include a registry of clinical trials of experimental treatments that have been developed for research on women's health. Such registry shall include information on subject eligibility criteria, sex, age, ethnicity or race, and the location of the

trial site or sites. Principal investigators of such clinical trials shall provide this information to the registry within 30 days after it is available. Once a trial has been completed, the principal investigator shall provide the registry with information pertaining to the results, including potential toxicities or adverse effects associated with the experimental treatment or treatments evaluated.

"(b) CLEARINGHOUSE.—The Director of NIH, in consultation with the Director of the Office and with the National Library of Medicine, shall establish, maintain, and operate a program to provide information on research and prevention activities of the national research institutes that relate to research on women's health.

"SEC. 486B. BIENNIAL REPORT.

"(a) IN GENERAL.—With respect to research on women's health, the Director of the Office shall, not later than February 1, 1994, and biennially thereafter, prepare a report—

"(1) describing and evaluating the progress made during the preceding 2 fiscal years in research and treatment conducted or supported by the National Institutes of Health;

"(2) describing and analyzing the professional status of women physicians and scientists of such Institutes, including the identification of problems and barriers regarding advancements;

"(3) summarizing and analyzing expenditures made by the agencies of such Institutes (and by such Office) during the preceding 2 fiscal years; and

"(4) making such recommendations for legislative and administrative initiatives as the Director of the Office determines to be appropriate.

"(b) INCLUSION IN BIENNIAL REPORT OF DIRECTOR OF NIH.—The Director of the Office shall submit each report prepared under subsection (a) to the Director of NIH for inclusion in the report submitted to the President and the Congress under section 403.".

(b) REQUIREMENT OF SUFFICIENT ALLOCATION OF RESOURCES OF INSTITUTES.—Section 402(b) of the Public Health Service Act (42 U.S.C. 282(b)) is amended—

(1) in paragraph (10), by striking "and" after the semicolon at the end;

(2) in paragraph (11), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) after consultation with the Director of the Office of Research on Women's Health, shall ensure that resources of the National Institutes of Health are sufficiently allocated for projects of research on women's health that are identified under section 486(b).".

PART III—OFFICE OF RESEARCH ON MINORITY HEALTH

SEC. 151. ESTABLISHMENT.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"OFFICE OF RESEARCH ON MINORITY HEALTH

"SEC. 403A. (a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Research on Minority Health (in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of NIH.

"(b) PURPOSE.—The Director of the Office shall—

"(1) identify projects of research on minority health that should be conducted or supported by the national research institutes;

"(2) identify multidisciplinary research relating to research on minority health that should be so conducted or supported;

"(3) promote coordination and collaboration among entities conducting research identified under paragraph (1) or (2);

"(4) encourage the conduct of such research by entities receiving funds from the national research institutes;

"(5) recommend an agenda for conducting and supporting such research;

"(6) promote the sufficient allocation of the resources of the national research institutes for conducting and supporting such research; and

"(7) assist in the administration of section 492B with respect to the inclusion of members of minority groups as subjects in clinical research.".

Subtitle C—Scientific Integrity

SEC. 161. ESTABLISHMENT OF OFFICE OF SCIENTIFIC INTEGRITY.

(a) IN GENERAL.—Section 493 of the Public Health Service Act (42 U.S.C. 289b) is amended to read as follows:

"OFFICE OF SCIENTIFIC INTEGRITY

"SEC. 493. (a) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Secretary shall establish an office to be known as the Office of Scientific Integrity (hereafter referred to in this section as the 'Office'), which shall be established as an independent entity in the Department of Health and Human Services.

"(2) DIRECTOR.—The Office shall be headed by a Director, who shall be appointed by the Secretary, be experienced and specially trained in the conduct of research, and have experience in the conduct of investigations of scientific misconduct. The Secretary shall carry out this section acting through the Director of the Office. The Director shall report to the Secretary.

"(b) EXISTENCE OF ADMINISTRATIVE PROCESSES AS CONDITION OF FUNDING FOR RESEARCH.—The Secretary shall by regulation require that each entity that applies for a grant, contract, or cooperative agreement under this Act for any project or program that involves the conduct of biomedical or behavioral research submit in or with its application for such grant, contract, or cooperative agreement assurances satisfactory to the Secretary that such entity—

"(1) has established (in accordance with regulations which the Secretary shall prescribe) an administrative process to review reports of scientific misconduct in connection with biomedical and behavioral research conducted at or sponsored by such entity; and

"(2) will report to the Director any investigation of alleged scientific misconduct in connection with projects for which funds have been made available under this Act that appears substantial.

"(c) PROCESS FOR RESPONSE OF DIRECTOR.—The Secretary shall establish by regulation a process to be followed by the Director for the prompt and appropriate—

"(1) response to information provided to the Director respecting scientific misconduct in connection with projects for which funds have been made available under this Act;

"(2) receipt of reports by the Director of such information from recipients of funds under this Act;

"(3) conduct of investigations, when appropriate; and

"(4) taking of other actions, including appropriate remedies, with respect to such misconduct.

"(d) MONITORING BY DIRECTOR.—The Secretary shall by regulation establish procedures for the Director to monitor administrative processes and investigations that have been established or carried out under this section.

"(e) EFFECT ON PRESENT INVESTIGATIONS.—Nothing in this section shall affect investigations which have been or will be commenced prior to the promulgation of final regulations under this section.".

(b) ESTABLISHMENT OF DEFINITION OF SCIENTIFIC MISCONDUCT.—Not later than 90 days after the date on which the report required under section 152(d) is submitted to the Secretary of Health and Human Services, such Secretary shall by regulation establish a definition for the term "scientific misconduct" for purposes of section 493 of the Public Health Service Act, as amended by subsection (a) of this section.

SEC. 162. COMMISSION ON SCIENTIFIC INTEGRITY.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a commission to be known as the Commission on Scientific Integrity (in this section referred to as the "Commission").

(b) DUTIES.—The Commission shall develop recommendations for the Secretary of Health and Human Services on the administration of section 493 of the Public Health Service Act (as amended and added by section 161 of this Act).

(c) COMPOSITION.—The Commission shall be composed of 12 members to be appointed by the Secretary of Health and Human Services from among individuals who are not officers or employees of the United States. Of the members appointed to the Commission—

(1) three shall be scientists with substantial accomplishments in biomedical or behavioral research;

(2) three shall be individuals with experience in investigating allegations of misconduct with respect to scientific research;

(3) three shall be representatives of institutions of higher education at which biomedical or behavioral research is conducted; and

(4) three shall be individuals who are not described in paragraphs (1), (2), or (3), at least one of whom shall be an attorney and at least one of whom shall be an ethicist.

(d) COMPENSATION.—Members of the Commission shall receive compensation for each day engaged in carrying out the duties of the Commission, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

(e) REPORT.—Not later than 120 days after the date of enactment of this section, the Commission shall prepare and submit to the Secretary of Health and Human Services, 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 recommendations developed under subsection (b).

SEC. 163. PROTECTION OF WHISTLEBLOWERS.

Section 493 of the Public Health Service Act, as amended by section 161 of this Act, is amended by adding at the end the following new subsection:

"(f) PROTECTION OF WHISTLEBLOWERS.—

"(1) IN GENERAL.—In the case of any entity required to establish administrative processes under subsection (b), the Secretary shall by regulation establish standards for preventing, and for responding to the occurrence of retaliation by such entity, its offi-

cials or agents, against an employee in the terms and conditions of employment in response to the employee having in good faith—

"(A) made an allegation that the entity, its officials or agents, has engaged in or failed to adequately respond to an allegation of scientific misconduct; or

"(B) cooperated with an investigation of such an allegation.

"(2) MONITORING BY SECRETARY.—The Secretary shall establish by regulation procedures for the Director to monitor the implementation of the standards established by an entity under paragraph (1) for the purpose of determining whether the procedures have been established, and are being utilized, in accordance with the standards established under such paragraph.

"(3) NONCOMPLIANCE.—The Secretary shall by regulation establish remedies for noncompliance by an entity, its officials or agents, which has engaged in retaliation in violation of the standards established under paragraph (1). Such remedies may include termination of funding provided by the Secretary for such project or recovery of funding being provided by the Secretary for such project, or other actions as appropriate.

"(4) FINAL RULE FOR REGULATIONS.—The Secretary shall issue a final rule for the regulations required in paragraph (1) not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.

"(5) REQUIRED AGREEMENTS.—For any fiscal year beginning after the date on which the regulations required in paragraph (1) are issued, the Secretary may not provide a grant, cooperative agreement, or contract under this Act for biomedical or behavioral research unless the entity seeking such financial assistance agrees that the entity—

"(A) will maintain the procedures described in the regulations; and

"(B) will otherwise be subject to the regulations.".

SEC. 164. REQUIREMENT OF REGULATIONS REGARDING PROTECTION AGAINST FINANCIAL CONFLICTS OF INTEREST IN CERTAIN PROJECTS OF RESEARCH.

Part H of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act, is amended by inserting after section 493 the following new section:

"PROTECTION AGAINST FINANCIAL CONFLICTS OF INTEREST IN CERTAIN PROJECTS OF RESEARCH

"SEC. 493A. (a) ISSUANCE OF REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall define by regulation, the specific circumstances that constitute the existence of a financial interest in a project on the part of an entity or individual that will, or may be reasonably expected to, create a bias in favor of obtaining results in such project that are consistent with such financial interest. Such definition shall apply uniformly to each entity or individual conducting a research project under this Act. In the case of any entity or individual receiving assistance from the Secretary for a project of research described in paragraph (2), the Secretary shall by regulation establish standards for responding to, including managing, reducing, or eliminating, the existence of such a financial interest. The entity may adopt individualized procedures for implementing the standards.

"(2) RELEVANT PROJECTS.—A project of research referred to in paragraph (1) is a project of clinical research whose purpose is to evaluate the safety or effectiveness of a drug, medical device, or treatment and for which such entity is receiving assistance from the Secretary.

"(3) IDENTIFYING AND REPORTING TO THE DIRECTOR.—The Secretary shall ensure that the standards established under paragraph (1) specify that as a condition of receiving assistance from the Secretary for the project involved, an entity described in such subsection is required—

"(A) to have in effect at the time the entity applies for the assistance and throughout the period during which the assistance is received, a process for identifying such financial interests as defined in paragraph (1) that exist regarding the project; and

"(B) to report to the Director such financial interest as defined in paragraph (1) identified by the entity and how any such financial interest identified by the entity will be managed or eliminated such that the project in question will be protected from bias that may stem from such financial interest.

"(4) MONITORING OF PROCESS.—The Secretary shall monitor the establishment and conduct of the process established by an entity pursuant to paragraph (1).

"(5) RESPONSE.—In any case in which the Secretary determines that an entity has failed to comply with paragraph (3) regarding a project of research described in paragraph (1), the Secretary—

"(A) shall require that, as a condition of receiving assistance, the entity disclose the existence of a financial interest as defined in paragraph (1) in each public presentation of the results of such project; and

"(B) may take such other actions as the Secretary determines to be appropriate.

"(6) DEFINITION.—As used in this section:

"(A) The term 'financial interest' includes the receipt of consulting fees or honoraria and the ownership of stock or equity.

"(B) The term 'assistance', with respect to conducting a project of research, means a grant, contract, or cooperative agreement.

"(b) FINAL RULE FOR REGULATIONS.—The Secretary shall issue a final rule for the regulations required in subsection (a) not later than 180 days after the date of the enactment of the National Institutes of Health Revitalization Act of 1993.".

SEC. 165. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this subtitle shall become effective on the date that occurs 180 days after the date on which the final rule required under section 493(f)(4) of the Public Health Service Act, as amended by sections 161 and 163, is published in the Federal Register.

(b) AGREEMENTS AS A CONDITION OF FUNDING.—The requirements of subsection (f)(5) of section 493 of the Public Health Service Act, as amended by sections 161 and 163, with respect to agreements as a condition of funding shall not be effective in the case of projects of research for which initial funding under the Public Health Service Act was provided prior to the effective date described in subsection (a).

TITLE II—NATIONAL INSTITUTES OF HEALTH IN GENERAL

SEC. 201. HEALTH PROMOTION RESEARCH DISSEMINATION.

Section 402(f) of the Public Health Service Act (42 U.S.C. 282(f)) is amended by striking "other public and private entities." and all that follows through the end and inserting "other public and private entities, including elementary, secondary, and post-secondary schools. The Associate Director shall—

"(1) annually review the efficacy of existing policies and techniques used by the national research institutes to disseminate the results of disease prevention and behavioral research programs;

"(2) recommend, coordinate, and oversee the modification or reconstruction of such policies and techniques to ensure maximum dissemination, using advanced technologies to the maximum extent practicable, of research results to such entities; and

"(3) annually prepare and submit to the Director of NIH a report concerning the prevention and dissemination activities undertaken by the Associate Director, including—

"(A) a summary of the Associate Director's review of existing dissemination policies and techniques together with a detailed statement concerning any modification or restructuring, or recommendations for modification or restructuring, of such policies and techniques; and

"(B) a detailed statement of the expenditures made for the prevention and dissemination activities reported on and the personnel used in connection with such activities.".

SEC. 202. PROGRAMS FOR INCREASED SUPPORT REGARDING CERTAIN STATES AND RESEARCHERS.

Section 402 of the Public Health Service Act (42 U.S.C. 282) is amended by adding at the end the following new subsection:

"(g)(1)(A) In the case of entities described in subparagraph (B), the Director of NIH, acting through the Director of the National Center for Research Resources, shall establish a program to enhance the competitiveness of such entities in obtaining funds from the national research institutes for conducting biomedical and behavioral research.

"(B) The entities referred to in subparagraph (A) are entities that conduct biomedical and behavioral research and are located in a State in which the aggregate success rate for applications to the national research institutes for assistance for such research by the entities in the State has historically constituted a low success rate of obtaining such funds, relative to such aggregate rate for such entities in other States.

"(C) With respect to enhancing competitiveness for purposes of subparagraph (A), the Director of NIH, in carrying out the program established under such subparagraph, may—

"(i) provide technical assistance to the entities involved, including technical assistance in the preparation of applications for obtaining funds from the national research institutes;

"(ii) assist the entities in developing a plan for biomedical or behavioral research proposals; and

"(iii) assist the entities in implementing such plan.

"(2) The Director of NIH shall establish a program of supporting projects of biomedical or behavioral research whose principal researchers are individuals who have not previously served as the principal researchers of such projects supported by the Director.".

SEC. 203. CHILDREN'S VACCINE INITIATIVE.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"CHILDREN'S VACCINE INITIATIVE

"SEC. 404. (a) DEVELOPMENT OF NEW VACCINES.—The Secretary, in consulation with the Director of the National Vaccine Program under title XXI and acting through the Directors of the National Institute for Allergy and Infectious Diseases, the National Institute for Child Health and Human Development, the National Institute for Aging, and other public and private programs, shall carry out activities, which shall be consistent with the global Children's Vaccine Initiative, to develop affordable new and im-

proved vaccines to be used in the United States and in the developing world that will increase the efficacy and efficiency of the prevention of infectious diseases. In carrying out such activities, the Secretary shall, to the extent practicable, develop and make available vaccines that require fewer contacts to deliver, that can be given early in life, that provide long lasting protection, that obviate refrigeration, needles and syringes, and that protect against a larger number of diseases.

"(b) REPORT.—In the report required in section 2104, the Secretary, acting through the Director of the National Vaccine Program under title XXI, shall include information with respect to activities and the progress made in implementing the provisions of this section and achieving its goals.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated for activities of the type described in this section, there are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 204. PLAN FOR USE OF ANIMALS IN RESEARCH.

(a) IN GENERAL.—Part A of title IV of the Public Health Service Act, as amended by section 203 of this Act, is amended by adding at the end the following new section:

"PLAN FOR USE OF ANIMALS IN RESEARCH

"SEC. 404A. (a) The Director of NIH, after consultation with the committee established under subsection (e), shall prepare a plan—

"(1) for the National Institutes of Health to conduct or support research into—

"(A) methods of biomedical research and experimentation that do not require the use of animals;

"(B) methods of such research and experimentation that reduce the number of animals used in such research; and

"(C) methods of such research and experimentation that produce less pain and distress in such animals;

"(2) for establishing the validity and reliability of the methods described in paragraph (1);

"(3) for encouraging the acceptance by the scientific community of such methods that have been found to be valid and reliable; and

"(4) for training scientists in the use of such methods that have been found to be valid and reliable.

"(b) Not later than October 1, 1993, the Director of NIH shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, the plan required in subsection (a) and shall begin implementation of the plan.

"(c) The Director of NIH shall periodically review, and as appropriate, make revisions in the plan required under subsection (a). A description of any revision made in the plan shall be included in the first biennial report under section 403 that is submitted after the revision is made.

"(d) The Director of NIH shall take such actions as may be appropriate to convey to scientists and others who use animals in biomedical or behavioral research or experimentation information respecting the methods found to be valid and reliable under subsection (a)(2).

"(e)(1) The Director of NIH shall establish within the National Institutes of Health a committee to be known as the Interagency Coordinating Committee on the Use of Animals in Research (hereafter in this subsection referred to as the 'Committee').

"(2) The Committee shall provide advice to the Director of NIH on the preparation of the plan required in subsection (a).

"(3) The Committee shall be composed of—

"(A) the Directors of each of the national research institutes and the Director of the Center for Research Resources (or the designees of such Directors); and

"(B) representatives of the Environmental Protection Agency, the Food and Drug Administration, the Consumer Product Safety Commission, the National Science Foundation, and such additional agencies as the Director of NIH determines to be appropriate.".

(b) CONFORMING AMENDMENT.—Section 4 of the Health Research Extension Act of 1985 (Public Law 99-158; 99 Stat. 880) is repealed.

SEC. 205. INCREASED PARTICIPATION OF WOMEN AND MEMBERS OF UNDERREPRESENTED MINORITIES IN FIELDS OF BIOMEDICAL AND BEHAVIORAL RESEARCH.

Section 402 of the Public Health Service Act, as amended by section 202 of this Act, is amended by adding at the end the following new subsection:

"(h) The Secretary, acting through the Director of NIH and the Directors of the agencies of the National Institutes of Health, may conduct and support programs for research, research training, recruitment, and other activities to provide for an increase in the number of women and members of underrepresented minority groups in the fields of biomedical and behavioral research.".

SEC. 206. REQUIREMENTS REGARDING SURVEYS OF SEXUAL BEHAVIOR.

Part A of title IV of the Public Health Service Act, as amended by section 204 of this Act, is amended by adding at the end the following new section:

"REQUIREMENTS REGARDING SURVEYS OF SEXUAL BEHAVIOR

"SEC. 404B. With respect to any survey of human sexual behavior proposed to be conducted or supported through the National Institutes of Health, the survey may not be carried out unless—

"(1) the proposal has undergone review in accordance with any applicable requirements of sections 491 and 492; and

"(2) the Secretary, in accordance with section 492A, makes a determination that the information expected to be obtained through the survey will assist—

"(A) in reducing the incidence of sexually transmitted diseases, the incidence of infection with the human immunodeficiency virus, or the incidence of any other infectious disease; or

"(B) in improving reproductive health or other conditions of health.".

SEC. 207. DISCRETIONARY FUND OF DIRECTOR OF NATIONAL INSTITUTES OF HEALTH.

Section 402 of the Public Health Service Act, as amended by section 205 of this Act, is amended by adding at the end the following new subsection:

"(i)(1) There is established a fund, consisting of amounts appropriated under paragraph (3) and made available for the fund, for use by the Director of NIH to carry out the activities authorized in this Act for the National Institutes of Health. The purposes for which such fund may be expended include—

"(A) providing for research on matters that have not received significant funding relative to other matters, responding to new issues and scientific emergencies, and acting on research opportunities of high priority;

"(B) supporting research that is not exclusively within the authority of any single agency of such Institutes; and

"(C) purchasing or renting equipment and quarters for activities of such Institutes.

"(2) Not later than February 10 of each fiscal year, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities undertaken and expenditures made under this section during the preceding fiscal year. The report may contain such comments of the Secretary regarding this section as the Secretary determines to be appropriate.

"(3) For the purpose of carrying out this subsection, there are authorized to be appropriated $25,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 208. MISCELLANEOUS PROVISIONS.

(a) TERM OF OFFICE FOR MEMBERS OF ADVISORY COUNCILS.—Section 406(c) of the Public Health Service Act (42 U.S.C. 284a(c)) is amended in the second sentence by striking "until a successor has been appointed" and inserting the following: "for 180 days after the date of such expiration".

(b) LITERACY REQUIREMENTS.—Section 402(e) of the Public Health Service Act (42 U.S.C. 282(e)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period and inserting "; and"; and

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

"(5) ensure that, after January 1, 1994, at least one-half of all new or revised health education and promotion materials developed or funded by the National Institutes of Health is in a form that does not exceed a level of functional literacy, as defined in the National Literacy Act of 1991 (Public Law 102-73).".

(c) DAY CARE REGARDING CHILDREN OF EMPLOYEES.—Section 402 of the Public Health Service Act, as amended by section 207 of this Act, is amended by adding at the end the following new subsection:

"(i)(1) The Director of NIH may establish a program to provide day care service for the employees of the National Institutes of Health similar to those services provided by other Federal agencies (including the availability of day care service on a 24-hour-a-day basis).

"(2) Any day care provider at the National Institutes of Health shall establish a sliding scale of fees that takes into consideration the income and needs of the employee.

"(3) For purposes regarding the provision of day care service, the Director of NIH may enter into rental or lease purchase agreements.".

TITLE III—GENERAL PROVISIONS RESPECTING NATIONAL RESEARCH INSTITUTES

SEC. 301. APPOINTMENT AND AUTHORITY OF DIRECTORS OF NATIONAL RESEARCH INSTITUTES.

(a) ESTABLISHMENT OF GENERAL AUTHORITY REGARDING DIRECT FUNDING.—

(1) IN GENERAL.—Section 405(b)(2) of the Public Health Service Act (42 U.S.C. 284(b)(2)) is amended—

(A) in subparagraph (A), by striking "and" after the semicolon at the end;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) shall receive from the President and the Office of Management and Budget directly all funds appropriated by the Congress for obligation and expenditure by the Institute.".

(2) CONFORMING AMENDMENT.—Section 413(b)(9) of the Public Health Service Act (42 U.S.C. 285a-2(b)(9)) is amended—

(A) by striking "(A)" after "(9)"; and

(B) by striking "advisory council;" and all that follows and inserting "advisory council.".

(b) APPOINTMENT AND DURATION OF TECHNICAL AND SCIENTIFIC PEER REVIEW GROUPS.—Section 405(c) of the Public Health Service Act (42 U.S.C. 284(c)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) may, in consultation with the advisory council for the Institute and with the approval of the Director of NIH—

"(A) establish technical and scientific peer review groups in addition to those appointed under section 402(b)(6); and

"(B) appoint the members of peer review groups established under subparagraph (A); and"; and

(2) by adding after and below paragraph (4) the following:

"The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under paragraph (3).".

SEC. 302. PROGRAM OF RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.), as amended by section 121(b) of Public Law 102-321 (106 Stat. 358), is amended by adding at the end the following new section:

"RESEARCH ON OSTEOPOROSIS, PAGET'S DISEASE, AND RELATED BONE DISORDERS

"SEC. 410. (a) ESTABLISHMENT.—The Directors of the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Institute on Aging, and the National Institute of Diabetes, Digestive and Kidney Diseases, shall expand and intensify the programs of such Institutes with respect to research and related activities concerning osteoporosis, Paget's disease, and related bone disorders.

"(b) COORDINATION.—The Directors referred to in subsection (a) shall jointly coordinate the programs referred to in such subsection and consult with the Arthritis and Musculoskeletal Diseases Interagency Coordinating Committee and the Interagency Task Force on Aging Research.

"(c) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—In order to assist in carrying out the purpose described in subsection (a), the Director of NIH shall provide for the establishment of an information clearinghouse on osteoporosis and related bone disorders to facilitate and enhance knowledge and understanding on the part of health professionals, patients, and the public through the effective dissemination of information.

"(2) ESTABLISHMENT THROUGH GRANT OR CONTRACT.—For the purpose of carrying out paragraph (1), the Director of NIH shall enter into a grant, cooperative agreement, or contract with a nonprofit private entity involved in activities regarding the prevention and control of osteoporosis and related bone disorders.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 303. ESTABLISHMENT OF INTERAGENCY PROGRAM FOR TRAUMA RESEARCH.

(a) IN GENERAL.—Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended by adding at the end the following part:

"PART E—INTERAGENCY PROGRAM FOR TRAUMA RESEARCH

"SEC. 1251. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary, acting through the Director of the National Institutes of Health (hereafter in this section referred to as the 'Director'), shall establish a comprehensive program of conducting basic and clinical research on trauma (hereafter in this section referred to as the 'Program'). The Program shall include research regarding the diagnosis, treatment, rehabilitation, and general management of trauma.

"(b) PLAN FOR PROGRAM.—

"(1) IN GENERAL.—The Director, in consultation with the Trauma Research Interagency Coordinating Committee established under subsection (g), shall establish and implement a plan for carrying out the activities of the Program, including the activities described in subsection (d). All such activities shall be carried out in accordance with the plan. The plan shall be periodically reviewed, and revised as appropriate.

"(2) SUBMISSION TO CONGRESS.—Not later than June 1, 1993, the Director shall submit the plan required in paragraph (1) to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, together with an estimate of the funds needed for each of the fiscal years 1994 through 1996 to implement the plan.

"(c) PARTICIPATING AGENCIES; COORDINATION AND COLLABORATION.—The Director—

"(1) shall provide for the conduct of activities under the Program by the Directors of the agencies of the National Institutes of Health involved in research with respect to trauma;

"(2) shall ensure that the activities of the Program are coordinated among such agencies; and

"(3) shall, as appropriate, provide for collaboration among such agencies in carrying out such activities.

"(d) CERTAIN ACTIVITIES OF PROGRAM.—The Program shall include—

"(1) studies with respect to all phases of trauma care, including prehospital, resuscitation, surgical intervention, critical care, infection control, wound healing, nutritional care and support, and medical rehabilitation care;

"(2) basic and clinical research regarding the response of the body to trauma and the acute treatment and medical rehabilitation of individuals who are the victims of trauma; and

"(3) basic and clinical research regarding trauma care for pediatric and geriatric patients.

"(e) MECHANISMS OF SUPPORT.—In carrying out the Program, the Director, acting through the Directors of the agencies referred to in subsection (c)(1), may make grants to public and nonprofit entities, including designated trauma centers.

"(f) RESOURCES.—The Director shall assure the availability of appropriate resources to carry out the Program, including the plan established under subsection (b) (including the activities described in subsection (d)).

"(g) COORDINATING COMMITTEE.—

"(1) IN GENERAL.—There shall be established a Trauma Research Interagency Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee').

"(2) DUTIES.—The Coordinating Committee shall make recommendations regarding—

"(A) the activities of the Program to be carried out by each of the agencies represented on the Committee and the amount of funds needed by each of the agencies for such activities; and

"(B) effective collaboration among the agencies in carrying out the activities.

"(3) COMPOSITION.—The Coordinating Committee shall be composed of the Directors of each of the agencies that, under subsection (c), have responsibilities under the Program, and any other individuals who are practitioners in the trauma field as designated by the Director of the National Institutes of Health.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'designated trauma center' has the meaning given such term in section 1231(1).

"(2) The term 'Director' means the Director of the National Institutes of Health.

"(3) The term 'trauma' means any serious injury that could result in loss of life or in significant disability and that would meet pre-hospital triage criteria for transport to a designated trauma center.".

(b) CONFORMING AMENDMENT.—Section 402 of the Public Health Service Act, as amended by section 208(c) of this Act, is amended by adding at the end the following new subsection:

"(k) The Director of NIH shall carry out the program established in part E of title XII (relating to interagency research on trauma).".

TITLE IV—NATIONAL CANCER INSTITUTE

SEC. 401. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING BREAST CANCER.

Subpart 1 of part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end the following new section:

"BREAST AND GYNECOLOGICAL CANCERS

"SEC. 417. (a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on breast cancer, ovarian cancer, and other cancers of the reproductive system of women.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under subsection (a) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to breast cancer and other cancers of the reproductive system of women.

"(c) PROGRAMS FOR BREAST CANCER.—

"(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, breast cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

"(A) basic research concerning the etiology and causes of breast cancer;

"(B) clinical research and related activities concerning the causes, prevention, detection and treatment of breast cancer;

"(C) control programs with respect to breast cancer in accordance with section 412;

"(D) information and education programs with respect to breast cancer in accordance with section 413; and

"(E) research and demonstration centers with respect to breast cancer in accordance with section 414, including the development and operation of centers for breast cancer research to bring together basic and clinical,

biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on breast cancer.

Not less than six centers shall be operated under subparagraph (E). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

"(2) IMPLEMENTATION OF PLAN FOR PROGRAMS.—

"(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(B) Not later than May 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

"(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

"(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(d) OTHER CANCERS.—In carrying out subsection (a), the Director of the Institute shall conduct or support research on ovarian cancer and other cancers of the reproductive system of women. Activities under such subsection shall provide for the conduct and support of—

"(1) basic research concerning the etiology and causes of ovarian cancer and other cancers of the reproductive system of women;

"(2) clinical research and related activities into the causes, prevention, detection and treatment of ovarian cancer and other cancers of the reproductive system of women;

"(3) control programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 412;

"(4) information and education programs with respect to ovarian cancer and other cancers of the reproductive system of women in accordance with section 413; and

"(5) research and demonstration centers with respect to ovarian cancer and cancers of the reproductive system in accordance with section 414.

"(e) REPORT.—The Director of the Institute shall prepare, for inclusion in the biennial report submitted under section 407, a report that describes the activities of the National Cancer Institute under the research programs referred to in subsection (a), that shall include—

"(1) a description of the research plan with respect to breast cancer prepared under subsection (c);

"(2) an assessment of the development, revision, and implementation of such plan;

"(3) a description and evaluation of the progress made, during the period for which such report is prepared, in the research programs on breast cancer and cancers of the reproductive system of women;

"(4) a summary and analysis of expenditures made, during the period for which such report is made, for activities with respect to breast cancer and cancers of the reproductive system of women conducted and supported by the National Institutes of Health; and

"(5) such comments and recommendations as the Director considers appropriate.".

SEC. 402. EXPANSION AND INTENSIFICATION OF ACTIVITIES REGARDING PROSTATE CANCER.

Subpart 1 of part C of title IV of the Public Health Service Act, as amended by section 401 of this Act, is amended by adding at the end the following new section:

"PROSTATE CANCER

"SEC. 417A. (a) EXPANSION AND COORDINATION OF ACTIVITIES.—The Director of the Institute, in consultation with the National Cancer Advisory Board, shall expand, intensify, and coordinate the activities of the Institute with respect to research on prostate cancer.

"(b) COORDINATION WITH OTHER INSTITUTES.—The Director of the Institute shall coordinate the activities of the Director under subsection (a) with similar activities conducted by other national research institutes and agencies of the National Institutes of Health to the extent that such Institutes and agencies have responsibilities that are related to prostate cancer.

"(c) PROGRAMS.—

"(1) IN GENERAL.—In carrying out subsection (a), the Director of the Institute shall conduct or support research to expand the understanding of the cause of, and to find a cure for, prostate cancer. Activities under such subsection shall provide for an expansion and intensification of the conduct and support of—

"(A) basic research concerning the etiology and causes of prostate cancer;

"(B) clinical research and related activities concerning the causes, prevention, detection and treatment of prostate cancer;

"(C) prevention and control and early detection programs with respect to prostate cancer in accordance with section 412, particularly as it relates to intensifying research on the role of prostate specific antigen for the screening and early detection of prostate cancer;

"(D) an Inter-Institute Task Force, under the direction of the Director of the Institute, to provide coordination between relevant National Institutes of Health components of research efforts on prostate cancer;

"(E) control programs with respect to prostate cancer in accordance with section 412;

"(F) information and education programs with respect to prostate cancer in accordance with section 413; and

"(G) research and demonstration centers with respect to prostate cancer in accordance with section 414, including the development and operation of centers for prostate cancer research to bring together basic and clinical, biomedical and behavioral scientists to conduct basic, clinical, epidemiological, psychosocial, prevention and treatment research and related activities on prostate cancer.

Not less than six centers shall be operated under subparagraph (G). Activities of such centers should include supporting new and innovative research and training programs for new researchers. Such centers shall give priority to expediting the transfer of research advances to clinical applications.

"(2) IMPLEMENTATION OF PLAN FOR PROGRAMS.—

"(A) The Director of the Institute shall ensure that the research programs described in paragraph (1) are implemented in accordance with a plan for the programs. Such plan shall include comments and recommendations that the Director of the Institute considers appropriate, with due consideration provided to the professional judgment needs of the Institute as expressed in the annual budget estimate prepared in accordance with section 413(9). The Director of the Institute, in consultation with the National Cancer Advisory Board, shall periodically review and revise such plan.

"(B) Not later than May 1, 1993, the Director of the Institute shall submit a copy of the plan to the President's Cancer Panel, the Secretary and the Director of NIH.

"(C) The Director of the Institute shall submit any revisions of the plan to the President's Cancer Panel, the Secretary, and the Director of NIH.

"(D) The Secretary shall provide a copy of the plan submitted under subparagraph (A), and any revisions submitted under subparagraph (C), to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subpart 1 of part C of title IV of the Public Health Service Act, as amended by section 402 of this Act, is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 417B. (a) ACTIVITIES GENERALLY.—For the purpose of carrying out this subpart, there are authorized to be appropriated $2,200,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) BREAST CANCER AND GYNECOLOGICAL CANCERS.—

"(1) BREAST CANCER.—

"(A) For the purpose of carrying out subparagraph (A) of section 417(c)(1), there are authorized to be appropriated $225,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(B) For the purpose of carrying out subparagraphs (B) through (E) of section 417(c)(1), there are authorized to be appropriated $100,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(2) OTHER CANCERS.—For the purpose of carrying out subsection (d) of section 417, there are authorized to be appropriated $75,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(c) PROSTATE CANCER.—For the purpose of carrying out section 417A, there are authorized to be appropriated $72,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996. Such authorizations of appropriations are in addition to the authorizations of appropriations established in subsection (a) with respect to such purpose.

"(d) ALLOCATION REGARDING CANCER CONTROL.—Of the amounts appropriated for the

National Cancer Institute for a fiscal year, the Director of the Institute shall make available not less than 10 percent for carrying out the cancer control activities authorized in section 412 and for which budget estimates are made under section 413(b)(9) for the fiscal year.".

(b) SPECIAL RULE REGARDING FUNDS FOR SECTION 412 FOR FISCAL YEAR 1994.—Notwithstanding section 417B(d) of the Public Health Service Act, as added by subsection (a) of this section, the amount made available under such section for fiscal year 1994 for carrying out section 412 of such Act shall be an amount not less than an amount equal to 75 percent of the amount specified for activities under such section 412 in the budget estimate made under section 413(b)(9) of such Act for such fiscal year.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 408 of the Public Health Service Act (42 U.S.C. 284c) is amended—

(A) by striking subsection (a);

(B) by redesignating subsection (b) as subsection (a);

(C) by redesignating paragraph (5) of subsection (a) (as so redesignated) as subsection (b); and

(D) by amending the heading for the section to read as follows:

"CERTAIN USES OF FUNDS".

(2) CROSS-REFERENCE.—Section 464F of the Public Health Service Act (42 U.S.C. 285m–6) is amended by striking "section 408(b)(1)" and inserting "section 408(a)(1)".

TITLE V—NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

SEC. 501. EDUCATION AND TRAINING.

Section 421(b) of the Public Health Service Act (42 U.S.C. 285b–3(b)) is amended—

(1) in paragraph (3), by striking "and" after the semicolon at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) shall, in consultation with the advisory council for the Institute, conduct appropriate intramural training and education programs, including continuing education and laboratory and clinical research training programs.".

SEC. 502. CENTERS FOR THE STUDY OF PEDIATRIC CARDIOVASCULAR DISEASES.

Section 422(a)(1) of the Public Health Service Act (42 U.S.C. 285b–4(a)(1)) is amended—

(1) in subparagraph (B), by striking "and" at the end;

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) three centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment (including genetic studies, intrauterine environment studies, postnatal studies, heart arrhythmias, and acquired heart disease and preventive cardiology) for cardiovascular diseases in children.".

SEC. 503. NATIONAL CENTER ON SLEEP DISORDERS.

Subpart 2 of part C of title IV of the Public Health Service Act (42 U.S.C. 285b et seq.) is amended by adding at the end the following new section:

"NATIONAL CENTER ON SLEEP DISORDERS

"SEC. 424. (a) Not later than 1 year after the date of the enactment of the National Institutes of Health Revitalization Act of 1993, the Director of the Institute shall establish the National Center on Sleep Disorders (in this section referred to as the 'Center'). The Center shall headed by a director, who shall be appointed by the Director of the Institute.

"(b) The general purpose of the Center is the conduct and support of research, training, health information dissemination, and other activities with respect to sleep disorders.".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Subpart 2 of part C of title IV of the Public Health Service Act, as amended by section 503 of this Act, is amended by adding at the end the following section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 425. (a) For the purpose of carrying out this subpart, there are authorized to be appropriated $1,500,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) Of the amounts appropriated under paragraph (1) for a fiscal year, the Director of the Institute shall make available not less than 10 percent for carrying out community-based prevention and control activities that include clinical investigations, clinical trials, epidemiologic studies, and prevention demonstration and education projects.".

TITLE VI—NATIONAL INSTITUTE ON DIABETES AND DIGESTIVE AND KIDNEY DISEASES

SEC. 601. PROVISIONS REGARDING NUTRITIONAL DISORDERS.

Subpart 3 of part C of title IV of the Public Health Service Act (42 U.S.C. 285c et seq.) is amended by adding at the end the following new section:

"NUTRITIONAL DISORDERS PROGRAM

"SEC. 434. (a) The Director of the Institute shall establish a program of conducting and supporting research, training, health information dissemination, and other activities with respect to nutritional disorders, including obesity.

"(b) In carrying out the program established under subsection (a), the Director of the Institute shall conduct and support each of the activities described in such subsection. The Director of NIH shall ensure that, as appropriate, the other national research institutes and agencies of the National Institutes of Health have responsibilities regarding such activities.

"(c) In carrying out the program established under subsection (a), the Director of the Institute shall carry out activities to facilitate and enhance knowledge and understanding of nutritional disorders, including obesity, on the part of health professionals, patients, and the public through the effective dissemination of information.".

(b) DEVELOPMENT AND EXPANSION OF RESEARCH AND TRAINING CENTERS.—Section 431 of the Public Health Service Act (42 U.S.C. 285c–5) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) The Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the development or substantial expansion of centers for research and training regarding nutritional disorders, including obesity.

"(2) The Director of the Institute shall carry out paragraph (1) in collaboration with the Director of the National Cancer Institute and with the Directors of such other agencies of the National Institutes of Health as the Director of NIH determines to be appropriate.

"(3) Each center developed or expanded under paragraph (1) shall—

"(A) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director;

"(B) conduct basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of nutritional disorders, including obesity and the impact of nutrition and diet on child development;

"(C) conduct training programs for physicians and allied health professionals in current methods of diagnosis and treatment of such diseases and complications, and in research in such disorders; and

"(D) conduct information programs for physicians and allied health professionals who provide primary care for patients with such disorders or complications.".

TITLE VII—NATIONAL INSTITUTE ON ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

SEC. 701. JUVENILE ARTHRITIS.

(a) PURPOSE.—Section 435 of the Public Health Service Act (42 U.S.C. 285d) is amended by striking "and other programs" and all that follows and inserting the following: "and other programs with respect to arthritis and musculoskeletal and skin diseases (including sports-related disorders), with particular attention to the effect of these diseases on children.".

(b) PROGRAMS.—Section 436 (42 U.S.C. 285d–1) is amended—

(1) in subsection (a), by inserting after the second sentence, the following: "The plan shall place particular emphasis upon expanding research into better understanding the causes and the development of effective treatments for arthritis affecting children."; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) research into the causes of arthritis affecting children and the development, trial, and evaluation of techniques, drugs and devices used in the diagnosis, treatment (including medical rehabilitation), and prevention of arthritis in children.".

(c) CENTERS.—Section 441 of the Public Health Service Act (42 U.S.C. 286d–6) is amended by adding at the end thereof the following new subsection:

"(f) Not later than October 1, 1994, the Director shall establish a multipurpose arthritis and musculoskeletal disease center for the purpose of expanding the level of research into the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.".

(d) ADVISORY BOARD.—

(1) TITLE.—Section 442(a) of the Public Health Service Act (42 U.S.C. 285d–7(a)) is amended by inserting after "Arthritis" the the first place such term appears the following: "and Musculoskeletal and Skin Diseases".

(2) COMPOSITION.—Section 442(b) of the Public Health Service Act (42 U.S.C. 285d–7(b)) is amended—Section 442(b) of the Public Health Service Act (42 U.S.C. 285d–7(b)) is amended—

(A) in the matter preceding paragraph (1), by striking "eighteen" and inserting "twenty"; and

(B) in paragraph (1)(B)—

(i) by striking "six" and inserting "eight"; and

(ii) by striking "including" and all that follows and inserting the following: "including one member who is a person who has such a disease, one person who is the parent of an adult with such a disease, and two members who are parents of children with arthritis.".

(3) ANNUAL REPORT.—Section 442(j) of the Public Health Service Act (42 U.S.C. 285d-7(j)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

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

"(5) contains recommendations for expanding the Institute's funding of research directly applicable to the cause, diagnosis, early detection, prevention, control, and treatment of, and rehabilitation of children with arthritis and musculoskeletal diseases.".

TITLE VIII—NATIONAL INSTITUTE ON AGING

SEC. 801. ALZHEIMER'S DISEASE REGISTRY.

(a) IN GENERAL.—Section 12 of Public Law 99-158 (99 Stat. 885) is—

(1) transferred to subpart 5 of part C of title IV of the Public Health Service Act (42 U.S.C. 285e et seq.);

(2) redesignated as section 445G; and

(3) inserted after section 445F of such Act.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 445G of the Public Health Service Act, as transferred and inserted by subsection (a) of this section, is amended—

(1) by striking the section heading and all that follows through "may make a grant" in subsection (a) and inserting the following:

"ALZHEIMER'S DISEASE REGISTRY

"SEC. 445G. (a) IN GENERAL.—The Director of the Institute may make a grant"; and

(2) by striking subsection (c).

SEC. 802. AGING PROCESSES REGARDING WOMEN.

Subpart 5 of part C of title IV of the Public Health Service Act, as amended by section 801 of this Act, is amended by adding at the end the following new section:

"AGING PROCESSES REGARDING WOMEN

"SEC. 445H. The Director of the Institute, in addition to other special functions specified in section 444 and in cooperation with the Directors of the other national research institutes and agencies of the National Institutes of Health, shall conduct research into the aging processes of women, with particular emphasis given to the effects of menopause and the physiological and behavioral changes occurring during the transition from pre- to post-menopause, and into the diagnosis, disorders, and complications related to aging and loss of ovarian hormones in women.".

SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

Subpart 5 of part C of title IV of the Public Health Service Act, as amended by section 802 of this Act, is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 445I. For the purpose of carrying out this subpart, there are authorized to be appropriated $500,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 804. CONFORMING AMENDMENT.

Section 445C of the Public Health Service Act (42 U.S.C. 285e-5(b)) is amended—

(1) in subsection (b)(1), in the first sentence, by inserting after "Council" the following: "on Alzheimer's Disease (hereafter in this section referred to as the 'Council')"; and

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

"(d) For purposes of this section, the term 'Council on Alzheimer's Disease' means the council established in section 911(a) of Public Law 99-660.".

TITLE IX—NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

SEC. 901. TROPICAL DISEASES.

Section 446 of the Public Health Service Act (42 U.S.C. 285f) is amended by inserting before the period the following: ", including tropical diseases".

SEC. 902. CHRONIC FATIGUE SYNDROME.

(a) RESEARCH CENTERS.—Subpart 6 of part C of title IV of the Public Health Service Act (42 U.S.C. 285f) is amended by adding at the end the following new section:

"RESEARCH CENTERS REGARDING CHRONIC FATIGUE SYNDROME

"SEC. 447. (a) The Director of the Institute, after consultation with the advisory council for the Institute, may make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct basic and clinical research on chronic fatigue syndrome.

"(b) Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.".

(b) EXTRAMURAL STUDY SECTION.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an extramural study section for chronic fatigue syndrome research.

(c) REPRESENTATIVES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall ensure that appropriate individuals with expertise in chronic fatigue syndrome or neuromuscular diseases and representative of a variety of disciplines and fields within the research community are appointed to appropriate National Institutes of Health advisory committees and boards.

TITLE X—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

Subtitle A—Research Centers With Respect to Contraception and Research Centers With Respect to Infertility

SEC. 1001. GRANTS AND CONTRACTS FOR RESEARCH CENTERS.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 3 of Public Law 101-613, is amended by adding at the end the following new section:

"RESEARCH CENTERS WITH RESPECT TO CONTRACEPTION AND INFERTILITY

"SEC. 452A. (a) The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of improving methods of diagnosis and treatment of infertility.

"(b) In carrying out subsection (a), the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

"(c)(1) Each center assisted under this section shall, in carrying out the purpose of the center involved—

"(A) conduct clinical and other applied research, including—

"(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and females (including barrier methods); and

"(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in males and females;

"(B) develop protocols for training physicians, scientists, nurses, and other health and allied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals and the public.

"(2) A center may use funds provided under subsection (a) to provide stipends for health and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

"(d) The Director of the Institute shall, as appropriate, provide for the coordination of information among the centers assisted under this section.

"(e) Each center assisted under subsection (a) shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Director of the Institute.

"(f) Support of a center under subsection (a) may be for a period not exceeding 5 years. Such period may be extended for one or more additional periods not exceeding 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(g) For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 1002. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act, is amended by inserting after section 487A the following section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY

"SEC. 487B. (a) The Secretary, in consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program of entering into agreements with qualified health professionals (including graduate students) under which such health professionals agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(b) The provisions of sections 338B, 338C, and 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III.

"(c) Amounts appropriated for carrying out this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

Subtitle B—Program Regarding Obstetrics and Gynecology

SEC. 1011. ESTABLISHMENT OF PROGRAM.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1001 of this Act, is amended by adding at the end the following new section:

"PROGRAM REGARDING OBSTETRICS AND GYNECOLOGY

"SEC. 452B. The Director of the Institute shall establish and maintain within the Institute an intramural laboratory and clinical research program in obstetrics and gynecology.".

Subtitle C—Child Health Research Centers

SEC. 1021. ESTABLISHMENT OF CENTERS.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1011 of this Act, is amended by adding at the end the following new section:

"CHILD HEALTH RESEARCH CENTERS

"SEC. 452C. The Director of the Institute shall develop and support centers for conducting research with respect to child health. Such centers shall give priority to the expeditious transfer of advances from basic science to clinical applications and improving the care of infants and children.".

Subtitle D—Study Regarding Adolescent Health

SEC. 1031. PROSPECTIVE LONGITUDINAL STUDY.

Subpart 7 of part C of title IV of the Public Health Service Act, as amended by section 1021 of this Act, is amended by adding at the end the following new section:

"PROSPECTIVE LONGITUDINAL STUDY ON ADOLESCENT HEALTH

"SEC. 452D. (a) IN GENERAL.—The Director of the Institute shall conduct a study for the purpose of providing information on the general health and well-being of adolescents in the United States, including, with respect to such adolescents, information on—

"(1) the behaviors that promote health and the behaviors that are detrimental to health; and

"(2) the influence on health of factors particular to the communities in which the adolescents reside.

"(b) DESIGN OF STUDY.—

"(1) IN GENERAL.—The study required in subsection (a) shall be a longitudinal study in which a substantial number of adolescents participate as subjects. With respect to the purpose described in such subsection, the study shall monitor the subjects throughout the period of the study to determine the health status of the subjects and any change in such status over time.

"(2) POPULATION-SPECIFIC ANALYSES.—The study required in subsection (a) shall be conducted with respect to the population of adolescents who are female, the population of adolescents who are male, various socioeconomic populations of adolescents, and various racial and ethnic populations of adolescents. The study shall be designed and conducted in a manner sufficient to provide for a valid analysis of whether there are significant differences among such populations in health status and whether and to what extent any such differences are due to factors particular to the populations involved.

"(c) COORDINATION WITH WOMEN'S HEALTH INITIATIVE.—With respect to the national study of women being conducted by the Secretary and known as the Women's Health Initiative, the Secretary shall ensure that such study is coordinated with the component of the study required in subsection (a) that concerns adolescent females, including coordination in the design of the 2 studies.

"(d) ALLOCATION OF FUNDS FOR STUDY.—Of the amounts appropriated for each of the fiscal years 1994 through 1996 for the National Institute of Child Health and Human Development, the Secretary of Health and Human Services, acting through the Director of such Institute, shall reserve $3,000,000 to conduct the study required in subsection (a). The amounts so reserved shall remain available until expended.".

TITLE XI—NATIONAL EYE INSTITUTE

SEC. 1101. CLINICAL RESEARCH ON DIABETES EYE CARE.

(a) IN GENERAL.—Subpart 9 of part C of title IV of the Public Health Service Act (42 U.S.C. 285i) is amended by adding at the end the following new section:

"CLINICAL RESEARCH ON EYE CARE AND DIABETES

"SEC. 456. (a) PROGRAM OF GRANTS.—The Director of the Institute, in consultation with the advisory council for the Institute, may award not more than three grants for the establishment and support of centers for clinical research on eye care for individuals with diabetes.

"(b) AUTHORIZED EXPENDITURES.—The purposes for which a grant under subsection (a) may be expended include equipment for the research described in such subsection and the construction and modernization of facilities for such research.".

(b) CONFORMING AMENDMENT.—Section 455 of the Public Health Service Act (42 U.S.C. 285i) is amended in the second sentence by striking "The Director" and inserting "Subject to section 456, the Director".

TITLE XII—NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

SEC. 1201. RESEARCH ON MULTIPLE SCLEROSIS.

Subpart 10 of part C of title IV of the Public Health Service Act (42 U.S.C. 285j et seq.) is amended by adding at the end the following new section:

"RESEARCH ON MULTIPLE SCLEROSIS

"SEC. 460. The Director of the Institute shall conduct and support research on multiple sclerosis, especially research on effects of genetics and hormonal changes on the progress of the disease.".

TITLE XIII—NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

SEC. 1301. APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM.

(a) IN GENERAL.—Subpart 12 of part C of title IV of the Public Health Service Act (42 U.S.C. 285l) is amended by adding at the end the following new section:

"APPLIED TOXICOLOGICAL RESEARCH AND TESTING PROGRAM

"SEC. 463A. (a) There is established within the Institute a program for conducting applied research and testing regarding toxicology, which program shall be known as the Applied Toxicological Research and Testing Program.

"(b) In carrying out the program established under subsection (a), the Director of the Institute shall, with respect to toxicology, carry out activities—

"(1) to expand knowledge of the health effects of environmental agents;

"(2) to broaden the spectrum of toxicology information that is obtained on selected chemicals;

"(3) to develop and validate assays and protocols, including alternative methods that can reduce or eliminate the use of animals in acute or chronic safety testing;

"(4) to establish criteria for the validation and regulatory acceptance of alternative testing and to recommend a process through which scientifically validated alternative methods can be accepted for regulatory use;

"(5) to communicate the results of research to government agencies, to medical, scientific, and regulatory communities, and to the public; and

"(6) to integrate related activities of the Department of Health and Human Services.".

(b) TECHNICAL AMENDMENT.—Section 463 of the Public Health Service Act (42 U.S.C. 285l) is amended by inserting after "Sciences" the following: "(hereafter in this subpart referred to as the 'Institute')".

TITLE XIV—NATIONAL LIBRARY OF MEDICINE

Subtitle A—General Provisions

SEC. 1401. ADDITIONAL AUTHORITIES.

(a) IN GENERAL.—Section 465(b) of the Public Health Service Act (42 U.S.C. 286(b)) is amended—

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

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by inserting after paragraph (5) the following new paragraphs:

"(6) publicize the availability from the Library of the products and services described in any of paragraphs (1) through (5);

"(7) promote the use of computers and telecommunications by health professionals (including health professionals in rural areas) for the purpose of improving access to biomedical information for health care delivery and medical research; and".

(b) LIMITATION REGARDING GRANTS.—Section 474(b)(2) of the Public Health Service Act (42 U.S.C. 286b–S(b)(2)) is amended by striking "$750,000" and inserting "$1,000,000".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) REPEAL OF CERTAIN AUTHORITY.—Section 215 of the Department of Health and Human Services Appropriations Act, 1988, as contained in section 101(h) of Public Law 100–202 (101 Stat. 1329–275), is repealed.

(2) APPLICABILITY OF CERTAIN NEW AUTHORITY.—With respect to the authority established for the National Library of Medicine in section 465(b)(6) of the Public Health Service Act, as added by subsection (a) of this section, such authority shall be effective as if the authority had been established on December 22, 1987.

SEC. 1402. AUTHORIZATION OF APPROPRIATIONS.

(a) ESTABLISHMENT OF SINGLE AUTHORIZATION.—Subpart 1 of part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 468. (a) For the purpose of carrying out this part, there are authorized to be appropriated $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) Amounts appropriated under subsection (a) and made available for grants or contracts under any of sections 472 through 476 shall remain available until the end of the fiscal year following the fiscal year for which the amounts were appropriated.".

(b) CONFORMING AMENDMENTS.—Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by striking section 469 and section 478(c).

Subtitle B—Financial Assistance

SEC. 1411. ESTABLISHMENT OF PROGRAM OF GRANTS FOR DEVELOPMENT OF EDUCATION TECHNOLOGIES.

Section 473 of the Public Health Service Act (42 U.S.C. 286b–4) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall make grants to public or nonprofit private institutions for the purpose of carrying out projects of research on, and development and demonstration of, new education technologies.

"(2) The purposes for which a grant under paragraph (1) may be made include projects concerning—

"(A) computer-assisted teaching and testing of clinical competence at health professions and research institutions;

"(B) the effective transfer of new information from research laboratories to appropriate clinical applications;

"(C) the expansion of the laboratory and clinical uses of computer-stored research databases; and

"(D) the testing of new technologies for training health care professionals.

"(3) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to make the projects available with respect to—

"(A) assisting in the training of health professions students; and

"(B) enhancing and improving the capabilities of health professionals regarding research and teaching.".

Subtitle C—National Information Center on Health Services Research and Health Care Technology

SEC. 1421. ESTABLISHMENT OF CENTER.

Part D of title IV of the Public Health Service Act (42 U.S.C. 286 et seq.) is amended by adding at the end the following new subpart:

"Subpart 4—National Information Center on Health Services Research and Health Care Technology

"NATIONAL INFORMATION CENTER

"SEC. 478A. (a) There is established within the Library an entity to be known as the National Information Center on Health Services Research and Health Care Technology (in this section referred to as the 'Center').

"(b) The purpose of the Center is the collection, storage, analysis, retrieval, and dissemination of information on health services research, clinical practice guidelines, and on health care technology, including the assessment of such technology. Such purpose includes developing and maintaining data bases and developing and implementing methods of carrying out such purpose.

"(c) The Director of the Center shall ensure that information under subsection (b) concerning clinical practice guidelines is collected and maintained electronically and in a convenient format. Such Director shall develop and publish criteria for the inclusion of practice guidelines and technology assessments in the information center database.

"(d) The Secretary, acting through the Center, shall coordinate the activities carried out under this section through the Center with related activities of the Administrator for Health Care Policy and Research.".

SEC. 1422. CONFORMING PROVISIONS.

(a) IN GENERAL.—Section 903 of the Public Health Service Act, as amended by section 3 of Public Law 102–410 (106 Stat. 2094), is is amended to read as follows:

"(e) REQUIRED INTERAGENCY AGREEMENT.—The Administrator and the Director of the National Library of Medicine shall enter into an agreement providing for the implementation of section 478A.".

(b) RULE OF CONSTRUCTION.—The amendments made by section 3 of Public Law 102–410 (106 Stat. 2094), by section 1421 of this Act, and by subsection (a) of this section may not be construed as terminating the information center on health care technologies and health care technology assessment established under section 904 of the Public Health Service Act, as in effect on the day before the date of the enactment of Public Law 102–410. Such center shall be considered to be the center established in section 478A of the Public Health Service Act, as added by section 1421 of this Act, and shall be subject to the provisions of such section 478A.

TITLE XV—OTHER AGENCIES OF NATIONAL INSTITUTES OF HEALTH

Subtitle A—Division of Research Resources

SEC. 1501. REDESIGNATION OF DIVISION AS NATIONAL CENTER FOR RESEARCH RESOURCES.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 401(b)(2)(B), by amending such subparagraph to read as follows:

"(B) The National Center for Research Resources."; and

(2) in part E—

(A) in the heading for subpart 1, by striking "Division of" and inserting "National Center for";

(B) in section 479, by striking "the Division of Research Resources" and inserting the following: "the National Center for Research Resources (hereafter in this subpart referred to as the 'Center')";

(C) in sections 480 and 481, by striking "the Division of Research Resources" each place such term appears and inserting "the Center"; and

(D) in sections 480 and 481, as amended by subparagraph (C), by striking "the Division" each place such term appears and inserting "the Center".

SEC. 1502. BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES.

Subpart 1 of part E of title IV of the Public Health Service Act (42 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

"BIOMEDICAL AND BEHAVIORAL RESEARCH FACILITIES

"SEC. 481A. (a) MODERNIZATION AND CONSTRUCTION OF FACILITIES.—

"(1) IN GENERAL.—The Director of NIH, acting through the Director of the Center, may make grants to public and nonprofit private entities to expand, remodel, renovate, or alter existing research facilities or construct new research facilities, subject to the provisions of this section.

"(2) CONSTRUCTION AND COST OF CONSTRUCTION.—For purposes of this section, the terms 'construction' and 'cost of construction' include the construction of new buildings and the expansion, renovation, remodeling, and alteration of existing buildings, including architects' fees, but do not include the cost of acquisition of land or off-site improvements.

"(b) SCIENTIFIC AND TECHNICAL REVIEW BOARDS FOR MERIT-BASED REVIEW OF PROPOSALS.—

"(1) IN GENERAL; APPROVAL AS PRECONDITION TO GRANTS.—

"(A) There is established within the Center a Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities (hereafter referred to in this section as the 'Board').

"(B) The Director of the Center may approve an application for a grant under subsection (a) only if the Board has under paragraph (2) recommended the application for approval.

"(2) DUTIES.—

"(A) The Board shall provide advice to the Director of the Center and the advisory council established under section 480 (hereafter in this section referred to as the 'Advisory Council') on carrying out this section.

"(B) In carrying out subparagraph (A), the Board shall make a determination of the merit of each application submitted for a grant under subsection (a), after consideration of the requirements established in subsection (c), and shall report the results of the determination to the Director of the Center and the Advisory Council. Such determinations shall be conducted in a manner consistent with procedures established under section 492.

"(C) In carrying out subparagraph (A), the Board shall, in the case of applications recommended for approval, make recommendations to the Director and the Advisory Council on the amount that should be provided in the grant.

"(D) In carrying out subparagraph (A), the Board shall prepare an annual report for the Director of the Center and the Advisory Council describing the activities of the Board in the fiscal year for which the report is made. Each such report shall be available to the public, and shall—

"(i) summarize and analyze expenditures made under this section;

"(ii) provide a summary of the types, numbers, and amounts of applications that were recommended for grants under subsection (a) but that were not approved by the Director of the Center; and

"(iii) contain the recommendations of the Board for any changes in the administration of this section.

"(3) MEMBERSHIP.—

"(A) Subject to subparagraph (B), the Board shall be composed of such appointed and ex officio members as the Director of the Center may determine.

"(B) Not more than 3 individuals who are officers or employees of the Federal Government may serve as members of the Board.

"(C) Of the members of the Board—

"(i) 12 shall be appointed by the Director of the Center (without regard to the civil service laws); and

"(ii) 1 shall be an official of the National Science Foundation designated by the National Science Board.

"(4) CERTAIN REQUIREMENTS REGARDING MEMBERSHIP.—In selecting individuals for membership on the Board, the Director of the Center shall ensure that the members are individuals who, by the virtue of their training or experience, are eminently qualified to perform peer review functions. In selecting such individuals for such membership, the Director of the Center shall ensure that the members of the Board collectively—

"(A) are experienced in the planning, construction, financing, and administration of entities that conduct biomedical or behavioral research sciences;

"(B) are knowledgeable in making determinations of the need of entities for biomedical or behavioral research facilities, including such facilities for the dentistry, nursing, pharmacy, and allied health professions;

"(C) are knowledgeable in evaluating the relative priorities for applications for grants under subsection (a) in view of the overall research needs of the United States; and

"(D) are experienced with emerging centers of excellence, as described in subsection (c)(3).

"(5) CERTAIN AUTHORITIES.—

"(A) In carrying out paragraph (2), the Board may establish subcommittees, convene workshops and conferences, and collect data as the Board considers appropriate.

"(B) In carrying out paragraph (2), the Board may establish subcommittees within the Board. Such subcommittees may hold meetings as determined necessary to enable the subcommittee to carry out its duties.

"(6) TERMS.—

"(A) Except as provided in subparagraph (B), each appointed member of the Board shall hold office for a term of 4 years. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of the term of the predecessor.

"(B) Of the initial members appointed to the Board (as specified by the Director of the Center when making the appointments)—

"(i) 3 shall hold office for a term of 3 years;

"(ii) 3 shall hold office for a term of 2 years; and

"(iii) 3 shall hold office for a term of 1 year.

"(C) No member is eligible for reappointment to the Board until 1 year has elapsed after the end of the most recent term of the member.

"(7) COMPENSATION.—Members of board who are not officers or employees of the United States shall receive compensation for each day engaged in carrying out the duties of the board, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

"(c) REQUIREMENTS FOR GRANTS.—

"(1) IN GENERAL.—The Director of the Center may make a grant under subsection (a) only if the applicant for the grant meets the following conditions:

"(A) The applicant is determined by such Director to be competent to engage in the type of research for which the proposed facility is to be constructed.

"(B) The applicant provides assurances satisfactory to the Director that—

"(i) for not less than 20 years after completion of the construction, the facility will be used for the purposes of research for which it is to be constructed;

"(ii) sufficient funds will be available to meet the non-Federal share of the cost of constructing the facility;

"(iii) sufficient funds will be available, when construction is completed, for the effective use of the facility for the research for which it is being constructed; and

"(iv) the proposed construction will expand the applicant's capacity for research, or is necessary to improve or maintain the quality of the applicant's research.

"(C) The applicant meets reasonable qualifications established by the Director with respect to—

"(i) the relative scientific and technical merit of the applications, and the relative effectiveness of the proposed facilities, in expanding the capacity for biomedical or behavioral research and in improving the quality of such research;

"(ii) the quality of the research or training, or both, to be carried out in the facilities involved;

"(iii) the need of the applicant for such facilities in order to maintain or expand the applicant's research and training mission;

"(iv) the congruence of the research activities to be carried out within the facility with the research and investigator manpower needs of the United States; and

"(v) the age and condition of existing research facilities and equipment.

"(D) The applicant has demonstrated a commitment to enhancing and expanding the research productivity of the applicant.

"(2) CONSIDERATION OF CERTAIN FACTORS.—In making grants under subsection (a), the Director of the Center may, in addition to the requirements established in paragraph (1), consider the following factors:

"(A) To what extent the applicant has the capacity to broaden the scope of research and research training programs of the applicant by promoting—

"(i) interdisciplinary research;

"(ii) research on emerging technologies, including those involving novel analytical techniques or computational methods; or

"(iii) other novel research mechanisms or programs.

"(B) To what extent the applicant has broadened the scope of research and research training programs of qualified institutions by promoting genomic research with an emphasis on interdisciplinary research, including research related to pediatric investigations.

"(3) INSTITUTIONS OF EMERGING EXCELLENCE.—Of the amounts appropriated under subsection (i) for a fiscal year, the Director of the Center shall make available 25 percent for grants under subsection (a) to applicants that, in addition to meeting the requirements established in paragraph (1), have demonstrated emerging excellence in biomedical or behavioral research, as follows:

"(A) The applicant has a plan for research or training advancement and possesses the ability to carry out the plan.

"(B) The applicant carries out research and research training programs that have a special relevance to a problem, concern, or unmet health need of the United States.

"(C) The applicant has been productive in research or research development and training.

"(D) The applicant—

"(i) has been designated as a center of excellence under section 739;

"(ii) is located in a geographic area a significant percentage of whose population has a health-status deficit, and the applicant provides health services to such population; or

"(iii) is located in a geographic area in which a deficit in health care technology, services, or research resources may adversely affect health status of the population of the area in the future, and the applicant is carrying out activities with respect to protecting the health status of such population.

"(d) REQUIREMENT OF APPLICATION.—The Director of the Center may make a grant under subsection (a) only if an application for the grant is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(e) AMOUNT OF GRANT; PAYMENTS.—

"(1) AMOUNT.—The amount of any grant awarded under subsection (a) shall be determined by the Director of the Center, except that such amount shall not exceed—

"(A) 50 percent of the necessary cost of the construction of a proposed facility as determined by the Director; or

"(B) in the case of a multipurpose facility, 40 percent of that part of the necessary cost of construction that the Director determines to be proportionate to the contemplated use of the facility.

"(2) RESERVATION OF AMOUNTS.—On approval of any application for a grant under subsection (a), the Director of the Center shall reserve, from any appropriation available therefore, the amount of such grant, and shall pay such amount, in advance or by way of reimbursement, and in such installments consistent with the construction progress, as the Director may determine appropriate. The reservation of the Director of any amount by the Director under this paragraph may be amended by the Director, either on the approval of an amendment of the application or on the revision of the estimated cost of construction of the facility.

"(3) EXCLUSION OF CERTAIN COSTS.—In determining the amount of any grant under this subsection (a), there shall be excluded from the cost of construction an amount equal to the sum of—

"(A) the amount of any other Federal grant that the applicant has obtained, or is assured of obtaining, with respect to construction that is to be financed in part by a grant authorized under this section; and

"(B) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(4) WAIVER OF LIMITATIONS.—The limitations imposed by paragraph (1) may be waived at the discretion of the Director for applicants meeting the conditions described in paragraphs (1) and (2) of subsection (c).

"(f) RECAPTURE OF PAYMENTS.—If, not later than 20 years after the completion of construction for which a grant has been awarded under subsection (a)—

"(1) the applicant or other owner of the facility shall cease to be a public or nonprofit private entity; or

"(2) the facility shall cease to be used for the research purposes for which it was constructed (unless the Director determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility the amount bearing the same ratio to the current value (as determined by an agreement between the parties or by action brought in the United States District Court for the district in which such facility is situated) of the facility as the amount of the Federal participation bore to the cost of the construction of such facility.

"(g) NONINTERFERENCE WITH ADMINISTRATION OF ENTITIES.—Except as otherwise specifically provided in this section, nothing contained in this part shall be construed as authorizing any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or impose any requirement or condition with respect to the administration of any entity funded under this part.

"(h) GUIDELINES.—Not later than 6 months after the date of the enactment of this section, the Director of the Center, after consultation with the Advisory Council, shall issue guidelines with respect to grants under subsection (a).

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 1503. CONSTRUCTION PROGRAM FOR NATIONAL PRIMATE RESEARCH CENTER.

Subpart 1 of part E of title IV of the Public Health Service Act, as amended by section 1502 of this Act, is amended by adding at the end the following new section:

"CONSTRUCTION OF REGIONAL CENTERS FOR RESEARCH ON PRIMATES

"SEC. 481B. (a) With respect to activities carried out by the National Center for Research Resources to support regional centers for research on primates, the Director of NIH shall, for each of the fiscal years 1994 through 1996, reserve from the amounts appropriated under section 481A(i) $7,000,000 for the purpose of making awards of grants and contracts to public or nonprofit private entities to construct, renovate, or otherwise improve such regional centers. The reservation of such amounts for any fiscal year is subject to the availability of qualified applicants for such awards.

"(b) The Director of NIH may not make a grant or enter into a contract under subsection (a) unless the applicant for such assistance agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such assistance.".

Subtitle B—National Center for Nursing Research

SEC. 1511. REDESIGNATION OF NATIONAL CENTER FOR NURSING RESEARCH AS NATIONAL INSTITUTE OF NURSING RESEARCH.

(a) IN GENERAL.—Subpart 3 of part E of title IV of the Public Health Service Act (42 U.S.C. 287c et seq.) is amended—

(1) in section 483—

(A) in the heading for the section, by striking "CENTER" and inserting "INSTITUTE"; and

(B) by striking "The general purpose" and all that follows through "is" and inserting the following: "The general purpose of the National Institute of Nursing Research (hereafter in this subpart referred to as the 'Institute') is";

(2) in section 484, by striking "Center" each place such term appears and inserting "Institute";

(3) in section 485—

(A) in subsection (a), in each of paragraphs (1) through (3), by striking "Center" each place such term appears and inserting "Institute";

(B) in subsection (b)—

(i) in paragraph (2)(A), by striking "Center" and inserting "Institute"; and

(ii) in paragraph (3)(A), in the first sentence, by striking "Center" and inserting "Institute"; and

(C) in subsections (d) through (g), by striking "Center" each place such term appears and inserting "Institute"; and

(4) in section 485A (as redesignated by section 141(a)(1) of this Act), by striking "Center" each place such term appears and inserting "Institute".

(b) CONFORMING AMENDMENTS.—

(1) ORGANIZATION OF NATIONAL INSTITUTES OF HEALTH.—Section 401(b) of the Public Health Service Act (42 U.S.C. 281(b)) is amended—

(A) in paragraph (1), by adding at the end the following new subparagraph:

"(Q) The National Institute of Nursing Research."; and

(B) in paragraph (2), by striking subparagraph (D).

(2) TRANSFER OF STATUTORY PROVISIONS.—Sections 483 through 485A of the Public Health Service Act, as amended by subsection (a) of this section—

(A) are transferred to part C of title IV of such Act;

(B) are redesignated as sections 464V through 464Y of such part; and

(C) are inserted, in the appropriate sequence, at the end of such part.

(3) HEADING FOR NEW SUBPART.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended—

(A) in part C, by inserting before section 464V the following new heading:

"Subpart 17—National Institute of Nursing Research"; and

(B) by striking the heading for subpart 3 of part E.

(4) CROSS-REFERENCES.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended in subpart 17 of part C—

(A) in section 464W, by striking "section 483" and inserting "section 464V";

(B) in section 464X(g), by striking "section 486" and inserting "section 464Y"; and

(C) in section 464Y, in the last sentence, by striking "section 485(g)" and inserting "section 464X(g)".

SEC. 1512. STUDY ON ADEQUACY OF NUMBER OF NURSES.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institute of Nursing Research, shall enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining whether and to what extent there is a need for an increase in the number of nurses in hospitals and nursing homes in order to promote the quality of patient care and reduce the incidence among nurses of work-related injuries and stress.

(b) NATIONAL ACADEMY OF SCIENCES.—The Secretary shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described in such subsection. If such Institute declines to conduct the study, the Secretary shall carry out such subsection through another public or nonprofit private entity.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "nurse" means a registered nurse, a licensed practical nurse, a licensed vocational nurse, and a nurse assistant.

(2) The term "Secretary" means the Secretary of Health and Human Services.

(d) REPORT.—The Secretary shall ensure that, not later than October 1, 1994, the study required in subsection (a) is completed and a report describing the findings made as a result of the study is submitted to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate.

Subtitle C—National Center for Human Genome Research

SEC. 1521. PURPOSE OF CENTER.

Title IV of the Public Health Service Act, as amended by sections 141(a)(1) and 1611(b)(1)(B) of this Act, is amended—

(1) in section 401(b)(2), by adding at the end the following new subparagraph:

"(D) The National Center for Human Genome Research."; and

(2) in part E, by adding at the end the following new subpart:

"Subpart 4—National Center for Human Genome Research

"PURPOSE OF THE CENTER

"SEC. 485B. (a) The general purpose of the National Center for Human Genome Research (hereafter in this subpart referred to as the 'Center') is to characterize the structure and function of the human genome, including the mapping and sequencing of individual genes. Such purpose includes—

"(1) planning and coordinating the research goal of the genome project;

"(2) reviewing and funding research proposals;

"(3) developing training programs;

"(4) coordinating international genome research;

"(5) communicating advances in genome science to the public; and

"(6) reviewing and funding proposals to address the ethical issues associated with the genome project.

"(b)(1) Except as provided in paragraph (2), of the amounts appropriated to carry out subsection (a) for a fiscal year, the Director of the Center shall make available not less than 5 percent for carrying out paragraph (6) of such subsection.

"(2) With respect to providing funds under subsection (a)(6) for proposals to address the ethical issues associated with the genome project, paragraph (1) shall not apply for a fiscal year if the Director of the Center certifies to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, that the Director has determined that an insufficient number of such proposals meet the applicable requirements of sections 491 and 492.".

TITLE XVI—AWARDS AND TRAINING

Subtitle A—National Research Service Awards

SEC. 1601. REQUIREMENT REGARDING WOMEN AND INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Section 487(a) of the Public Health Service Act (42 U.S.C. 288(a)(4)) is amended by adding at the end the following paragraph:

"(4) The Secretary shall carry out paragraph (1) in a manner that will result in the recruitment of women, and members from underrepresented minority groups, into fields of biomedical or behavioral research and in the provision of research training to women and such individuals.".

SEC. 1602. SERVICE PAYBACK REQUIREMENTS.

Paragraph (2) of section 487(c) of the Public Health Service Act (42 U.S.C. 288(c)(2)) is amended to read as follows:

"(2)(A) For the initial year for which an individual receives a National Research Service Award for the conduct of postdoctoral training or research, such individual shall engage in one year of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or complete a second year of training or research under such Award.

"(B) Service obligations for National Research Service Awards that are less than 12 months may be satisfied—

"(i) by the conduct of health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment for a period of time equal to the amount of time under the Award; or

"(ii) by reimbursing the Federal government for the amounts provided to such individual under the Award.

Subtitle B—Acquired Immune Deficiency Syndrome

SEC. 1611. LOAN REPAYMENT PROGRAM.

Section 487A of the Public Health Service Act (42 U.S.C. 288-1) is amended to read as follows:

"LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 487A. (a) IN GENERAL.—

"(1) AUTHORITY FOR PROGRAM.—Subject to paragraph (2), the Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, research with respect to acquired immune deficiency syndrome in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B)(i) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988; or

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.".

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) FUNDING; REIMBURSABLE TRANSFERS.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(2) TRANSFERS FOR RELATED PROGRAM.—The Commissioner of Food and Drugs may carry out for the Food and Drug Administration a program similar to the program established in subsection (a), which program shall be carried out with respect to the review of applications concerning acquired immune deficiency syndrome that are submitted to such Commissioner. From the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may transfer amounts to the Commissioner for the purpose of carrying out such program. The Commissioner shall provide a reimbursement to the Secretary for the amount so transferred, and the reimbursement shall be available only for the program established in subsection (a). Any transfer and reimbursement made for purposes of this paragraph for a fiscal year shall be completed by April 1 of such year.".

Subtitle C—Loan Repayment for Research Generally

SEC. 1621. ESTABLISHMENT OF PROGRAM.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act and as amended by section 1002 of this Act, is amended by inserting after section 487B the following new section:

"LOAN REPAYMENT PROGRAM FOR RESEARCH GENERALLY

"SEC. 487C. (a) IN GENERAL.—

"(1) AUTHORITY FOR PROGRAM.—Subject to paragraph (2), the Secretary shall carry out a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct research, as employees of the National Institutes of Health, in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter into an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B)(i) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988; or

"(ii) agrees to serve as an employee of such Institutes for purposes of paragraph (1) for a period of not less than 3 years.

"(b) APPLICABILITY OF CERTAIN PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section other than with respect to acquired immune deficiency syndrome, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.".

Subtitle D—Scholarship and Loan Repayment Programs Regarding Professional Skills Needed by Certain Agencies

SEC. 1631. ESTABLISHMENT OF PROGRAMS FOR NATIONAL INSTITUTES OF HEALTH.

Part G of title IV of the Public Health Service Act, as redesignated by section 141(a)(2) of this Act and as amended by section 1621 of this Act, is amended by inserting after section 487C the following new sections:

"UNDERGRADUATE SCHOLARSHIP PROGRAM REGARDING PROFESSIONS NEEDED BY NATIONAL RESEARCH INSTITUTES

"SEC. 487D. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Subject to section 487(a)(1)(C), the Secretary, acting through the Director of NIH, may carry out a program of entering into contracts with individuals described in paragraph (2) under which—

"(A) the Director of NIH agrees to provide to the individuals scholarships for pursuing, as undergraduates at accredited institutions of higher education, academic programs appropriate for careers in professions needed by the National Institutes of Health; and

"(B) the individuals agree to serve as employees of the National Institutes of Health, for the period described in subsection (c), in positions that are needed by the National Institutes of Health and for which the individuals are qualified.

"(2) INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—The individuals referred to in paragraph (1) are individuals who—

"(A) are enrolled or accepted for enrollment as full-time undergraduates at accredited institutions of higher education; and

"(B) are from minority groups that are underrepresented in the fields of biomedical or behavioral research.

"(b) FACILITATION OF INTEREST OF STUDENTS IN CAREERS AT NATIONAL INSTITUTES OF HEALTH.—In providing employment to individuals pursuant to contracts under subsection (a)(1), the Director of NIH shall carry out activities to facilitate the interest of the individuals in pursuing careers as employees of the National Institutes of Health.

"(c) PERIOD OF OBLIGATED SERVICE.—

"(1) DURATION OF SERVICE.—For purposes of subparagraph (B) of subsection (a)(1), the period of service for which an individual is obligated to serve as an employee of the National Institutes of Health is 12 months for each academic year for which the scholarship under such subsection is provided.

"(2) SCHEDULE FOR SERVICE.—

"(A) Subject to subparagraph (B), the Director of NIH may not provide a scholarship under subsection (a) unless the individual applying for the scholarship agrees that—

"(i) the individual will serve as an employee of the National Institutes of Health full-time for not less than 10 consecutive weeks of each year during which the individual is attending the educational institution involved and receiving such a scholarship;

"(ii) the period of service as such an employee that the individual is obligated to provide under clause (i) is in addition to the period of service as such an employee that the individual is obligated to provide under subsection (a)(1)(B); and

"(iii) not later than 60 days after obtaining the educational degree involved, the individual will begin serving full-time as such an employee in satisfaction of the period of service that the individual is obligated to provide under subsection (a)(1)(B).

"(B) The Director of NIH may defer the obligation of an individual to provide a period of service under subsection (a)(1)(B), if the Director determines that such a deferral is appropriate.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO APPOINTMENT AND COMPENSATION.—For any period in which an individual provides service as an employee of the National Institutes of Health in satisfaction of the obligation of the individual under subsection (a)(1)(B) or paragraph (2)(A)(i), the individual may be appointed as such an employee without regard to the provisions of title 5, United States Code, relating to appointment and compensation.

"(d) PROVISIONS REGARDING SCHOLARSHIP.—

"(1) APPROVAL OF ACADEMIC PROGRAM.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year unless—

"(A) the individual applying for the scholarship has submitted to the Director a proposed academic program for the year and the Director has approved the program; and

"(B) the individual agrees that the program will not be altered without the approval of the Director.

"(2) ACADEMIC STANDING.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year unless the individual applying for the scholarship agrees to maintain an acceptable level of academic standing, as determined by the educational institution involved in accordance with regulations issued by the Secretary.

"(3) LIMITATION ON AMOUNT.—The Director of NIH may not provide a scholarship under subsection (a) for an academic year in an amount exceeding $20,000.

"(4) AUTHORIZED USES.—A scholarship provided under subsection (a) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living

expenses incurred in attending the school involved.

"(5) CONTRACT REGARDING DIRECT PAYMENTS TO INSTITUTION.—In the case of an institution of higher education with respect to which a scholarship under subsection (a) is provided, the Director of NIH may enter into a contract with the institution under which the amounts provided in the scholarship for tuition and other educational expenses are paid directly to the institution. Payments to the institution under the contract may be made without regard to section 3324 of title 31, United States Code.

"(e) PENALTIES FOR BREACH OF SCHOLARSHIP CONTRACT.—The provisions of section 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 338B.

"(f) REQUIREMENT OF APPLICATION.—The Director of NIH may not provide a scholarship under subsection (a) unless an application for the scholarship is submitted to the Director and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(g) AVAILABILITY OF AUTHORIZATION OF APPROPRIATIONS.—Amounts appropriated for a fiscal year for scholarships under this section shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.

"LOAN REPAYMENT PROGRAM REGARDING CLINICAL RESEARCHERS FROM DISADVANTAGED BACKGROUNDS

"SEC. 487E. (a) IMPLEMENTATION OF PROGRAM.—

"(1) IN GENERAL.—Subject to section 487(a)(1)(C), the Secretary, acting through the Director of NIH may, subject to paragraph (2), carry out a program of entering into contracts with appropriately qualified health professionals who are from disadvantaged backgrounds under which such health professionals agree to conduct clinical research as employees of the National Institutes of Health in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of the health professionals.

"(2) LIMITATION.—The Director of NIH may not enter into a contract with a health professional pursuant to paragraph (1) unless such professional has a substantial amount of education loans relative to income.

"(3) APPLICABILITY OF CERTAIN PROVISIONS REGARDING OBLIGATED SERVICE.—Except to the extent inconsistent with this section, the provisions of sections 338C and 338E shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in section 338B.

"(b) AVAILABILITY OF AUTHORIZATION OF APPROPRIATIONS.—Amounts appropriated for a fiscal year for contracts under subsection (a) shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

SEC. 1632. FUNDING.

Section 487(a)(1) of the Public Health Service Act (42 U.S.C. 288(a)(1)) is amended—

(1) in subparagraph (A), by striking "and" after the semicolon at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

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

"(C) provide contracts for scholarships and loan repayments in accordance with sections 487D and 487E, subject to providing not more than an aggregate 50 such contracts during the fiscal years 1994 through 1996.".

Subtitle D—Funding

SEC. 1641. AUTHORIZATION OF APPROPRIATIONS.

Section 487(d) of the Public Health Service Act (42 U.S.C. 288(d)) is amended—

(1) in the first sentence, by amending the sentence to read as follows: "For the purpose of carrying out this section, there are authorized to be appropriated $400,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996."; and

(2) in paragraph (3)—

(A) by striking "one-half of one percent" each place such term appears and inserting "1 percent"; and

(B) by striking "780, 784, or 786" and inserting "747, 748, or 749".

TITLE XVII—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

SEC. 1701. ESTABLISHMENT OF FOUNDATION.

Section 499 of the Public Health Service Act, as redesignated by section 121(b), is amended to read as follows:

"SEC. 499A. ESTABLISHMENT AND DUTIES OF FOUNDATION.

"(a) IN GENERAL.—The Secretary shall establish a nonprofit corporation to be known as the National Foundation for Biomedical Research (hereafter in this section referred to as the 'Foundation'). The Foundation shall not, except for the purposes of the Ethics in Government Act and the Technology Transfer Act, be an agency or instrumentality of the United States Government.

"(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation shall be to conduct and support research with respect to any particular disease or groups of diseases or any other aspect of human health.

"(c) ENDOWMENT FUND.—

"(1) IN GENERAL.—In carrying out subsection (b), the Foundation shall establish a fund whose primary purpose shall be to provide endowments for positions at the National Institutes of Health to conduct biomedical research, and dedicated to the purpose described in such subsection. Such positions may be held by scientists without regard to whether the scientists are employees of the Federal Government. Subject to subsection (g)(1)(B), the fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Foundation and the fund) as the Foundation may elect to transfer to the fund.

"(2) AUTHORIZED EXPENDITURES OF FUND.—The provision of endowments under paragraph (1) shall be the primary function of the fund established under such paragraph. Such endowments may be expended only for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions, and for recruiting individuals to hold the positions endowed by the fund.

"(d) CERTAIN ACTIVITIES OF FOUNDATION.—In carrying out subsection (b), and subject to subsection (c), the Foundation may provide for the following with respect to the purpose described in such subsection:

"(1) Endowed chairs for distinguished senior investigators.

"(2) Positions for support of visiting scientists in mid-career who participate in the National Institutes of Health Scholars program.

"(3) Studies, projects, and research conducted by scientists under paragraphs (1) and (2).

"(4) Forums for the exchange of information between scientists. Participants in such forums may include institutions of higher education and appropriate private and public organizations.

"(5) Meetings, conferences, courses, and training workshops.

"(6) Programs to improve the collection and analysis of data.

"(7) Programs for writing, editing, printing, and publishing of books and other materials.

"(8) Other activities to carry out the purpose described in subsection (b).

"(e) POWERS.—In carrying out subsection (b), the Foundation shall—

"(1) operate under the direction of its Board;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(3) provide for 1 or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Foundation;

"(5) prescribe by its Board its bylaws, as described in subsection (g)(1)(A);

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this section;

"(7) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(9) establish a mechanism for the selection of candidates, subject to the approval of the Director of the National Institutes of Health for the endowed scientific positions within the organizational structure of the intramural research programs of the National Institutes of Health and candidates for participation in the National Institutes of Health Scholars program;

"(10) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

"(11) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

"(12) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

"(13) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation;

"(14) appoint other groups of advisors as may be determined necessary from time to time to carry out the functions of the Foundation; and

"(15) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subtitle.

"(f) GENERAL STRUCTURE OF FOUNDATION; NONPROFIT STATUS.—

"(1) BOARD OF DIRECTORS.—The Foundation shall have a board of directors (in this part

referred to as the 'Board'), which shall be established and conducted in accordance with subsection (g). The Board shall establish the general policies of the Foundation for carrying out subsection (b), including the establishment of the bylaws of the Foundation.

"(2) EXECUTIVE DIRECTOR.—The Foundation shall have an executive director (in this part referred to as the 'Director'), who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation in carrying out subsection (b).

"(3) NONPROFIT STATUS.—In carrying out subsection (b), the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

"(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986; and

"(B) is, under subsection (a) of such section, exempt from taxation.

"(4) LIAISON.—The Director of the National Institutes of Health shall serve as the liaison representative of the National Institutes of Health to the Board and the Foundation.

"(g) BOARD OF DIRECTORS.—

"(1) CERTAIN BYLAWS.—

"(A) In establishing bylaws under subsection (f)(1), the Board shall ensure that the bylaws of the Foundation include bylaws for the following:

"(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

"(ii) Policies for the acquisition, holding, and transfer of property.

"(iii) Policies, including ethical standards, for the acceptance and disposition of donations to the Foundation and for the disposition of the assets of the Foundation.

"(iv) Policies for the conduct of the general operations of the Foundation.

"(v) Policies for writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation.

"(B) In establishing bylaws under subsection (f)(1), the Board shall ensure that the bylaws of the Foundation (and activities carried out under the bylaws) do not—

"(i) reflect unfavorably upon the ability of the Foundation, or the National Institutes of Health, to carry out its responsibilities or official duties in a fair and objective manner; or

"(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such program.

"(2) COMPOSITION.—

"(A) The Foundation shall have a Board of Directors (hereafter referred to in this section as the 'Board'), which shall initially be composed of ex officio and appointed members in accordance with this subsection until such time as all the appointed members, including the Chairperson, are fully appointed by the Board under paragraph (4).

"(B) The ex officio members of the Council shall be—

"(i) the Chairperson and ranking minority member of the Subcommittee on Health and the Environment (Committee on Energy and Commerce) or their designees, in the case of the House of Representatives;

"(ii) the Chairperson and ranking minority member of the Committee on Labor and Human Resources or their designees, in the case of the Senate; and

"(iii) the Director of the National Institutes of Health.

"(C) The ex officio members of the Board under subparagraph (B) shall appoint to the Council 9 individuals. Of such appointed members—

"(i) 2 shall be representative of the general biomedical field;

"(ii) 2 shall be representatives of the general biobehavioral field; and

"(iii) 3 shall be representatives of the general public.

"(3) CHAIRPERSON.—The ex officio members of the Board under paragraph (2)(B) shall designate an appointed member of the Board to serve as the first Chairperson of the Board. Subsequently, the Chairperson of the Board shall be chosen by the Board according to its bylaws.

"(4) APPOINTMENTS, VACANCIES, AND TERMS.—The following shall apply to the Board:

"(A) Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chairperson and the Director regarding the appointments. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

"(B) The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years, except that the terms of office for the initial appointed members of the Board shall expire as determined by the Chairperson of the Board, in consultation with the Director of the National Institutes of Health.

"(C) A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(5) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

"(h) INCORPORATION.—The initial members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

"(i) GENERAL PROVISIONS.—

"(1) ADMINISTRATIVE CONTROL.—No officer, employee, or member of the Board of the Foundation may exercise any administrative or managerial control over any Federal employee.

"(2) APPLICABILITY OF CERTAIN STANDARDS TO NON-FEDERAL EMPLOYEES.—In the case of any individual who is not an employee of the Federal Government and who serves with financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Director of the National Institutes of Health specifying that the individual—

"(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by the National Institutes of Health, including standards under this Act, the Ethics in Government Act, and the Technology Transfer Act; and

"(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18, United States Code (relating to conflicts of interest), as the Director of the National Institutes of Health determines is appropriate, except such memorandum may not provide that the individual shall be subject to the standards of section 209 of such chapter.

"(3) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board of the Foundation may not directly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

"(A) any direct or indirect financial interest of the individual; or

"(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

"(4) AUDITS; AVAILABILITY OF RECORDS.—The Foundation shall—

"(A) provide for biennial audits of the financial condition of the Foundation; and

"(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

"(5) REPORTS.—

"(A) Not later than February 1 of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

"(B) With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all gifts to the Foundation of real or personal property, and the source and amount of all gifts to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts to the Foundation may be used.

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

"(j) FEDERAL FUNDING.—

"(1) AUTHORITY FOR ANNUAL GRANTS.—

"(A) The Secretary, acting through the Director of the National Institutes of Health, shall for each of the fiscal years 1994 through 1996, make a grant to the Foundation.

"(B) A grant under subparagraph (A) may be expended only for the purpose of the administrative expenses of the Foundation.

"(C) A grant under subparagraph (A) may not be expended to provide amounts for the fund established under subsection (c).

"(2) FUNDING FOR GRANTS.—

"(A) For the purpose of grants under paragraph (1), there is authorized to be appropriated $500,000 for each of the fiscal years 1994 through 1996.

"(B) For the purpose of grants under paragraph (1), the Secretary may for each fiscal year make available not more than $500,000 from the amounts appropriated for the fiscal year for the programs of the National Institutes of Health. Such amounts may be made available without regard to whether amounts have been appropriated under subparagraph (A).".

TITLE XVIII—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 1801. REVISION AND EXTENSION OF VARIOUS PROGRAMS.

Title XXIII of the Public Health Service Act (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304(c)(1)—

(A) in the matter preceding subparagraph (A), by inserting after "Director of such Institute" the following: "(and may provide advice to the Directors of other agencies of the National Institutes of Health, as appropriate)"; and

(B) in subparagraph (A), by inserting before the semicolon the following: ", including recommendations on the projects of research with respect to diagnosing immune deficiency and with respect to predicting, diagnosing, preventing, and treating opportunistic cancers and infectious diseases";

(2) in section 2311(a)(1), by inserting before the semicolon the following: ", including evaluations of methods of diagnosing immune deficiency and evaluations of methods of predicting, diagnosing, preventing, and treating opportunistic cancers and infectious diseases";

(3) in section 2315—

(A) in subsection (a)(2), by striking "international research" and all that follows and inserting "international research and training concerning the natural history and pathogenesis of the human immunodeficiency virus and the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome and opportunistic infections."; and

(B) in subsection (f), by striking "and 1991" and inserting "through 1996";

(4) in section 2318—

(A) in subsection (a)(1)—

(i) by inserting after "The Secretary" the following: ", acting through the Director of the National Institutes of Health and after consultation with the Administrator for Health Care Policy and Research,"; and

(ii) by striking "syndrome" and inserting "syndrome, including treatment and prevention of HIV infection and related conditions among women"; and

(B) in subsection (e), by striking "1991." and inserting the following: "1991, and such sums as may be necessary for each of the fiscal years 1994 through 1996.";

(5) in section 2320(b)(1)(A), by striking "syndrome" and inserting "syndrome and the natural history of such infection";

(6) in the part heading for part D, by striking "DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH" and inserting "OFFICE OF AIDS RESEARCH";

(7) in section 2351—

(A) by redesignating subsections (a), (b) and (c) as subsections (b), (d) and (e), respectively;

(B) by striking subsection (a) and inserting the following new subsection:

"(a) IN GENERAL.—In carrying out research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health—

"(1) shall establish an office to be known as the Office of AIDS Research, which Office shall be headed by a Director who shall be—

"(A) appointed by the Secretary;

"(B) determined by the Secretary to be an individual who is an outstanding scientist and a highly skilled administrator; and

"(C) the primary Federal official responsible for the conduct of AIDS-related research at the National Institutes of Health; and

"(2) shall provide administrative support and support services to the Director of such Office.";

(C) in subsection (b) (as so redesignated)—

(i) by striking the subsection designation and all that follows through paragraph (1) and inserting in lieu thereof the following:

"(b) ACTIVITIES OF THE OFFICE OF AIDS RESEARCH.—

"(1) IN GENERAL.—The Secretary, acting through the director of the Office of AIDS Research, shall ensure that AIDS research activities are coordinated across and throughout the institutes, centers, and divisions of the National Institutes of Health.

"(2) GENERAL DUTIES.—The Director of the Office of AIDS Research shall, based upon a strategic plan as defined in paragraph (3), develop and implement a budget for AIDS-related research at the National Institutes of Health and coordinate all AIDS-related research activities conducted at the institutes, centers, and divisions of the National Institutes of Health, and conduct evaluations on all such programs.

"(3) STRATEGIC PLAN.—

"(A) DEVELOPMENT.—The Director of the Office of AIDS Research shall, with the advice of the directors of the institutes, centers, and divisions of the National Institutes of Health, and in consultation with the advisory council established in paragraph (5) and the coordinating groups established in subparagraph (B), develop and implement a comprehensive, long-range plan for the conduct and support of such research by the National Institutes of Health. Such plan shall be updated annually, and shall—

"(i) determine and prioritize among critical scientific AIDS-related questions;

"(ii) based upon such determinations, specify the range of objectives to be achieved, the date the objectives are expected to be achieved, and provide an estimate of the resources needed to achieve the objectives by such date;

"(iii) evaluate the sufficiency of existing AIDS research programs to meet such objectives, and establish standard evaluation criteria, timelines and objectives for future program evaluation activities; and

"(iv) make recommendations for changes and necessary resource allocation in and among such programs.

"(B) COORDINATING GROUPS.—The Director of the Office of AIDS Research shall establish AIDS coordinating groups for each research discipline within the AIDS research program, composed of representatives of relevant agencies of the National Institutes of Health and qualified extramural scientists, to evaluate and assess the efforts of the AIDS Research Program at the National Institutes of Health, to advise on the development of the strategic plan described in subparagraph (A), and to determine the extent to which such efforts are in accordance with such strategic plan.

"(4) COORDINATION.—The Director of the Office of AIDS Research shall act as the primary Federal official with responsibility for overseeing all AIDS-related research efforts undertaken by the National Institutes of Health, and

"(A) shall serve to represent the National Institutes of Health AIDS Research Program at all relevant Executive branch task forces and committees; and

"(B) shall maintain communications with all relevant Public Health Service agencies and with various other departments of the Federal Government, to ensure the timely transmission of information concerning advances in AIDS-related research and the clinical treatment of AIDS and its related conditions, to these various agencies for dissemination to affected communities and health care providers.

"(5) ADVISORY COUNCIL.—

"(A) ESTABLISHMENT.—The Director of the Office of AIDS Research shall establish an advisory council to be known as the Office of AIDS Research Advisory Council (hereafter referred to as the "Council"), which shall serve to replace the AIDS Program Advisory Committee which is operating on the date of enactment of this subsection.

"(B) COMPOSITION.—The Council shall be composed of biomedical, behavioral, and social scientists, and representatives of diverse HIV affected communities, and shall be appointed by the Director.

"(C) AUTHORITY.—The Council shall, consistent with section 406—

"(i) advise the Director of the Office of AIDS Research and make recommendations concerning the development of the AIDS-related research budget, and the development and implementation of the strategic plan for AIDS-related research at the National Institutes of Health;

"(ii) provide the second level of peer review for awards made directly to the Office of AIDS Research from the discretionary fund described in paragraph (7); and

"(iii) carry out such other activities determined appropriate by the Director of the Office of AIDS Research.

"(6) BUDGETARY AUTHORITY.—The Director of the Office of AIDS Research shall—

"(A) in consultation with the advisory council established under paragraph (5) and based upon budget requests and additional advice from the directors of the institutes, centers, and divisions of the National Institutes of Health, prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate for the AIDS-related research program conducted within the agencies of the National Institutes of Health, after reasonable opportunity for comment (but without change) by the Secretary and the Director of the National Institutes of Health;

"(B) receive from the President and the Office of Management and Budget directly all AIDS-related research funds appropriated by Congress for obligation and expenditure by the agencies of the National Institutes of Health in accordance with the strategic plan developed under paragraph (3)(A); and

"(C) distribute AIDS research funding to the various institutes, centers, and divisions of the National Institutes of Health in accordance with the strategic plan.

"(7) DISCRETIONARY FUND.—

"(A) AVAILABILITY OF FUNDS.—The Secretary shall ensure that not to exceed 25 percent of the funds available in excess of the amount of baseline AIDS research spending during the previous fiscal year, but in no event less than $50,000,000 each fiscal year, be made available to the Director of the Office of AIDS Research for the establishment of an AIDS research discretionary fund.

"(B) USE.—The Director of the Office of AIDS Research, in consultation with the advisory council established under paragraph (5), shall use amounts in the AIDS research discretionary fund to—

"(i) fund emergency AIDS research programs;

"(ii) fund programs for the conduct of research aimed at filling gaps that exist in existing research programs;

"(iii) conduct conferences, convene committees, hold meetings or carry out other activities determined appropriate by the Director.

"(C) REDUCTION IN ADMINISTRATIVE IMPEDIMENTS.—Notwithstanding any other provision of law, with respect to the number of full-time equivalent individuals employed, the Director of the Office of AIDS Research shall be permitted to authorize the employment of such full-time equivalent individuals to perform AIDS-related research through the agencies of the National Institutes of Health.

"(c) OTHER DUTIES.—The director of the office—"; and

(ii) by redesignating paragraphs (2) through (8) (as such paragraphs existed one day prior to the date of enactment of this Act) as paragraphs (1) through (7), respectively; and

(C) in subsection (c) (as added by the amendment made by subparagraph (B)) by striking "for the appropriate national research institute of the National Institutes of Health" in paragraph (4) (as so designated by the amendments made by subparagraph (B));

(8) in section 2361, by striking "For purposes" and all that follows and inserting the following:

"For purposes of this title:

"(1) The term 'infection', with respect to the etiologic agent for acquired immune deficiency syndrome, includes opportunistic cancers and infectious diseases and any other conditions arising from infection with such etiologic agent.

"(2) The term 'treatment', with respect to the etiologic agent for acquired immune deficiency syndrome, includes primary and secondary prophylaxis.";

(9) in section 2315(f), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year.";

(10) in section 2320(e)(1), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year."; and

(11) in section 2341(d), by striking "there are authorized" and all that follows and inserting "there are authorized to be appropriated such sums as may be necessary for each fiscal year.".

TITLE XIX—STUDIES

SEC. 1901. ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) CERTAIN DRUG-RELEASE MECHANISMS.—

(1) The Secretary of Health and Human Services shall, subject to paragraph (2), enter into a contract with a public or nonprofit private entity to conduct a study for the purpose of determining, with respect to acquired immune deficiency syndrome, the impact of parallel-track drug-release mechanisms on public and private clinical research, and on the activities of the Commissioner of Food and Drugs regarding the approval of drugs.

(2) The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under paragraph (1) to conduct the study described in such paragraph. If such Institute declines to conduct the study, the Secretary shall carry out paragraph (1) through another public or nonprofit private entity.

(b) THIRD-PARTY PAYMENTS REGARDING CERTAIN CLINICAL TRIALS.—The Secretary of Health and Human Services shall conduct a study for the purpose of—

(1) determining the policies of third-party payors regarding the payment of the costs of appropriate health services that are provided incident to the participation of individuals as subjects in clinical trials conducted in the development of drugs with respect to acquired immune deficiency syndrome; and

(2) developing recommendations regarding such policies.

(c) ADVISORY COMMITTEES.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of determining—

(1) whether the activities of the various advisory committees established in the National Institutes of Health regarding acquired immune deficiency syndrome are being coordinated sufficiently; and

(2) whether the functions of any of such advisory committees should be modified in order to achieve greater efficiency.

(d) VACCINES FOR HUMAN IMMUNODEFICIENCY VIRUS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Institutes of Health, shall develop a plan for the appropriate inclusion of HIV-infected women, including pregnant women, HIV-infected infants, and HIV-infected children in studies conducted by or through the National Institutes of Health concerning the safety and efficacy of HIV vaccines for the treatment and prevention of HIV infection. Such plan shall ensure the full participation of other Federal agencies currently conducting HIV vaccine studies and require that such studies conform fully to the requirements of part 46 of title 45, Code of Federal Regulations.

(2) REPORT.—Not later than 180 days after the date of the 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 concerning the plan developed under paragraph (1).

(3) IMPLEMENTATION.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement the plan developed under paragraph (1), including measures for the full participation of other Federal agencies currently conducting HIV vaccine studies.

(4) For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

SEC. 1902. MALNUTRITION IN THE ELDERLY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the "Secretary"), acting through the National Institute on Aging, coordinating with the Agency for Health Care Policy and Research and, to the degree possible, in consultation with the head of the National Nutrition Monitoring System established under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178), shall conduct a 3-year nutrition screening and intervention activities study of the elderly.

(2) EFFICACY AND COST-EFFECTIVENESS OF NUTRITION SCREENING AND INTERVENTION ACTIVITIES.—In conducting the study, the Secretary shall determine the efficacy and cost-effectiveness of nutrition screening and intervention activities conducted in the elderly health and long-term care continuum, and of a program that would institutionalize nutrition screening and intervention activities. In evaluating such a program, the Secretary shall determine—

(A) if health or quality of life is measurably improved for elderly individuals who receive routine nutritional screening and treatment;

(B) if federally subsidized home or institutional care is reduced because of increased independence of elderly individuals resulting from improved nutritional status;

(C) if a multidisciplinary approach to nutritional care is effective in addressing the nutritional needs of elderly individuals; and

(D) if reimbursement for nutrition screening and intervention activities is a cost-effective approach to improving the health status of elderly individuals.

(3) POPULATIONS.—The populations of elderly individuals in which the study will be conducted shall include populations of elderly individuals who are—

(A) living independently, including—

(i) individuals who receive home and community-based services or family support;

(ii) individuals who do not receive additional services and support;

(iii) individuals with low incomes; and

(iv) individuals who are minorities;

(B) hospitalized, including individuals admitted from home and from institutions; and

(C) institutionalized in residential facilities such as nursing homes and adult homes.

(b) MALNUTRITION STUDY.—The Secretary, acting through the National Institute on Aging, shall conduct a 3-year study to determine the extent of malnutrition in elderly individuals in hospitals and long-term care facilities and in elderly individuals who are living independently.

(c) REPORT.—The Secretary shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives containing the findings resulting from the studies described in subsections (a) and (b), including a determination regarding whether a program that would institutionalize nutrition screening and intervention activities should be adopted, and the rationale for the determination.

(d) ADVISORY PANEL.—

(1) ESTABLISHMENT.—The Secretary, acting through the Director of the National Institute on Aging, shall establish an advisory panel that shall oversee the design, implementation, and evaluation of the studies described in subsections (a) and (b).

(2) COMPOSITION.—The advisory panel shall include representatives appointed for the life of the panel by the Secretary from the Health Care Financing Administration, the Social Security Administration, the National Center for Health Statistics, the Administration on Aging, the National Council on the Aging, the American Dietetic Association, the American Academy of Family Physicians, and such other agencies or organizations as the Secretary determines to be appropriate.

(3) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Each member of the advisory panel who is not an employee of the Federal Government shall receive compensation for each day engaged in carrying out the duties of the panel, including time engaged in traveling for purposes of such duties. Such compensation may not be provided in an amount in excess of the maximum rate of basic pay payable for GS–18 of the General Schedule.

(B) TRAVEL EXPENSES.—Each member of the advisory panel shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(4) DETAIL OF FEDERAL EMPLOYEES.—On the request of the advisory panel, the head of any Federal agency shall detail, without reimbursement, any of the personnel of the agency to the advisory panel to assist the advisory panel in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) TECHNICAL ASSISTANCE.—On the request of the advisory panel, the head of a Federal agency shall provide such technical assistance to the advisory panel as the advisory panel determines to be necessary to carry out its duties.

(6) TERMINATION.—Notwithstanding section 15 of the Federal Advisory Committee Act (5 U.S.C. App.), the advisory panel shall terminate 3 years after the date of enactment of this Act.

SEC. 1903. RESEARCH ACTIVITIES ON CHRONIC FATIGUE SYNDROME.

The Secretary of Health and Human Services shall, not later than May 1, 1993, and annually thereafter for the next 3 years, 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 that summarizes the research activities conducted or supported by the National Institutes of Health concerning chronic fatigue syndrome. Such report should include information concerning grants made, cooperative agreements or contracts entered into, intramural activities, research priorities and needs, and a plan to address such priorities and needs.

SEC. 1904. REPORT ON MEDICAL USES OF BIOLOGICAL AGENTS IN DEVELOPMENT OF DEFENSES AGAINST BIOLOGICAL WARFARE.

The Secretary of Health and Human Services, in consultation with other appropriate executive agencies, shall report to the House Energy and Commerce Committee and the Senate Labor and Human Resources Committee on the appropriateness and impact of the National Institutes of Health assuming responsibility for the conduct of all Federal research, development, testing, and evaluation functions relating to medical countermeasures against biowarfare threat agents. In preparing the report, the Secretary shall identify the extent to which such activities are carried out by agencies other than the National Institutes of Health, and assess the impact (positive and negative) of the National Institutes of Health assuming responsibility for such activities, including the impact under the Budget Enforcement Act and the Omnibus Budget Reconciliation Act of 1990 on existing National Institutes of Health research programs as well as other programs within the category of domestic discretionary spending. The Secretary shall submit the report not later than 12 months after the date of the enactment of this Act.

SEC. 1905. PERSONNEL STUDY OF RECRUITMENT, RETENTION AND TURNOVER.

(a) STUDY OF PERSONNEL SYSTEM.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study to review the retention, recruitment, vacancy and turnover rates of support staff, including firefighters, law enforcement, procurement officers, technicians, nurses and clerical employees, to ensure that the National Institutes of Health is adequately supporting the conduct of efficient, effective and high quality research for the American public. The Director of NIH shall work in conjunction with appropriate employee organizations and representatives in developing such a study.

(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of the 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 to the Committee on Labor and Human Resources of the Senate, a report containing the study conducted under subsection (a) together with the recommendations of the Secretary concerning the enactment of legislation to implement the results of such study.

SEC. 1906. PROCUREMENT.

(a) IN GENERAL.—The Director of the National Institutes of Health and the Administrator of the General Services Administration shall jointly conduct a study to develop a streamlined procurement system for the National Institutes of Health that complies with the requirements of Federal law.

(b) REPORT.—Not later than March 1, 1994, the officials specified in subsection (a) shall complete the study required in such subsection and shall 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 describing the findings made as a result of the study.

SEC. 1907. REPORT CONCERNING LEADING CAUSES OF DEATH.

(a) REPORT.—The Secretary of Health and Human Services shall, not later than February 1, 1993, prepare a report that lists—

(1) the 20 illnesses that, in terms of mortality, number of years of expected life lost, and of number of preventable years of life lost, are the leading causes of death in the United States and the number of deaths from each such cause, the age-specific and age-adjusted death rates for each such cause, the death rate per 100,000 population for each such cause, the percentage of change in cause specific death rates for each age group, and the percentage of total deaths for each such cause;

(2) the amount expended by the Department of Health and Human Services for research, prevention, and education with respect to each of the 20 illnesses described in paragraph (1) for the most recent year for which the actual expenditures are known;

(3) an estimate by the Secretary of the amount to be expended on research, prevention, and education with respect to each of the 20 illnesses described in paragraph (1) for the year for which the report is prepared; and

(4) with respect to the years specified in paragraphs (2) and (3), the percentage of the total of the annual expenditures for research, prevention, and education on the 20 illnesses described in paragraph (1) that are attributable to each illness.

(b) SUBMISSION TO CONGRESS.—The Secretary of Health and Human Services shall submit the report required under subsection (a), together with relevant budget information, to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate.

SEC. 1908. RELATIONSHIP BETWEEN THE CONSUMPTION OF LEGAL AND ILLEGAL DRUGS.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall review and consider all existing relevant data and research concerning whether there is a relationship between an individual's receptivity to use or consume legal drugs and the consumption or abuse by the individual of illegal drugs. On the basis of such review, the Secretary shall determine whether additional research is necessary. If the Secretary determines additional research is required, the Secretary shall conduct a study of those subjects where the Secretary's review indicates additional research is needed, including, if necessary, a review of—

(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 determines appropriate.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate, a report containing the results of the review conducted under subsection (b). If the Secretary determines additional research is required, no later than 2 years after the date of enactment of this Act, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and Committee on Labor and Human Resources of the Senate, a report containing the results of the additional research conducted under subsection (b).

TITLE XX—MISCELLANEOUS PROVISIONS

SEC. 2001. DESIGNATION OF SENIOR BIOMEDICAL RESEARCH SERVICE IN HONOR OF SILVIO O. CONTE, AND LIMITATION ON NUMBER OF MEMBERS.

(a) IN GENERAL.—Section 228(a) of the Public Health Service Act (42 U.S.C. 237(a)), as added by section 304 of Public Law 101-509, is amended to read as follows:

"(a)(1) There shall be in the Public Health Service a Silvio O. Conte Senior Biomedical Research Service, not to exceed 750 members.

"(2) The authority established in paragraph (1) regarding the number of members in the Silvio O. Conte Senior Biomedical Research Service is in addition to any authority established regarding the number of members in the commissioned Regular Corps, in the Reserve Corps, and in the Senior Executive Service. Such paragraph may not be construed to require that the number of members in the commissioned Regular Corps, in the Reserve Corps, or in the Senior Executive Service be reduced to offset the number of members serving in the Silvio O. Conte Senior Biomedical Research Service (hereafter in this section referred to as the 'Service').".

(b) CONFORMING AMENDMENT.—Section 228 of the Public Health Service Act (42 U.S.C. 237), as added by section 304 of Public Law 101-509, is amended in the heading for the section by amending the heading to read as follows:

"SILVIO O. CONTE SENIOR BIOMEDICAL RESEARCH SERVICE".

SEC. 2002. TECHNICAL CORRECTIONS.

(a) TITLE III.—Subsection (c) of section 316 of the Public Health Service Act (42 U.S.C. 247a(c)) is repealed.

(b) TITLE IV.—Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 406—

(A) in subsection (b)(2)(A), by striking "Veterans' Administration" each place such term appears and inserting "Department of Veterans Affairs"; and

(B) in subsection (h)(2)(A)(v), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(2) in section 408, in subsection (b) (as redesignated by section 501(c)(1)(C) of this Act), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(3) in section 421(b)(1), by inserting a comma after "may";

(4) in section 428(b), in the matter preceding paragraph (1), by striking "the the" and inserting "the";

(5) in section 430(b)(2)(A)(i), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(6) in section 439(b), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(7) in section 442(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(8) in section 464D(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(9) in section 464E—

(A) in subsection (d), in the first sentence, by inserting "Coordinating" before "Committee"; and

(B) in subsection (e), by inserting "Coordinating" before "Committee" the first place such term appears;

(10) in section 464P(b)(6) (as added by section 123 of Public Law 102-321 (106 Stat. 362)), by striking "Administration" and inserting "Institute";

(11) in section 466(a)(1)(B), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(12) in section 480(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(13) in section 485(b)(2)(A), by striking "Veterans' Administration" and inserting "Department of Veterans Affairs";

(14) in section 487(d)(3), by striking "section 304(a)(3)" and inserting "section 304(a)"; and

(15) in section 496(a), by striking "Such appropriations," and inserting the following: "Appropriations to carry out the purposes of this title,".

(c) TITLE XXIII.—Part A of title XXIII of the Public Health Service Act (42 U.S.C. 300cc et seq.) is amended—

(1) in section 2304—

(A) in the heading for the section, by striking "**clinical research review committee**" and inserting "**research advisory committee**"; and

(B) in subsection (a), by striking "AIDS Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(2) in section 2312(a)(2)(A), by striking "AIDS Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(3) in section 2314(a)(1), in the matter preceding subparagraph (A), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee";

(4) in section 2317(d)(1), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee established under section 2304"; and

(5) in section 2318(b)(3), by striking "Clinical Research Review Committee" and inserting "AIDS Research Advisory Committee".

(d) SECRETARY.—Section 2(c) of the Public Health Service Act (42 U.S.C. 201(c)) is amended by striking "Health, Education, and Welfare" and inserting "Health and Human Services".

(e) DEPARTMENT.—Section 201 of the Public Health Service Act (42 U.S.C. 202) is amended—

(1) by striking "Health, Education, and Welfare" and inserting "Health and Human Services"; and

(2) by striking "Surgeon General" and inserting "Assistant Secretary for Health".

(f) DEPARTMENT.—Section 202 of the Public Health Service Act (42 U.S.C. 203) is amended—

(1) by striking "Health, Education, and Welfare" and inserting "Health and Human Services";

(2) by striking "Surgeon General" the second and subsequent times that such term appears and inserting "Secretary"; and

(3) by inserting ", and the Agency for Health Care Policy and Research" before the first period.

(g) VOLUNTEER SERVICES.—Section 223 of the Public Health Service Act (42 U.S.C. 217b) is amended by striking "Health, Education, and Welfare" and inserting "Health and Human Services".

SEC. 2003. BIENNIAL REPORT ON CARCINOGENS.

Section 301(b)(4) of the Public Health Service Act (42 U.S.C. 241(b)(4)) is amended by striking "an annual" and inserting in lieu thereof "a biennial".

SEC. 2004. MASTER PLAN FOR PHYSICAL INFRASTRUCTURE FOR RESEARCH.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall present to the Congress a master plan to provide for the replacement or refurbishment of less than adequate buildings, utility equipment and distribution systems (including the resources that provide electrical and other utilities, chilled water, air handling, and other services that the Secretary, acting through the Director, deems necessary), roads, walkways, parking areas, and grounds that underpin the laboratory and clinical facilities of the National Institutes of Health. Such plan may make recommendations for the undertaking of new projects that are consistent with the objectives of this section, such as encircling the National Institutes of Health Federal enclave with an adequate chilled water conduit.

SEC. 2005. TRANSFER OF PROVISIONS OF TITLE XXVII.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 101 of Public Law 101-381 and section 304 of Public Law 101-509, is amended—

(1) by transferring sections 2701 through 2714 to title II;

(2) by redesignating such sections as sections 231 through 244, respectively;

(3) by inserting such sections, in the appropriate sequence, after section 228;

(4) by inserting before section 201 the following new heading:

"PART A—ADMINISTRATION"; and

(5) by inserting before section 231 (as redesignated by paragraph (2) of this subsection) the following new heading:

"Part B—Miscellaneous Provisions".

(b) CONFORMING AMENDMENTS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in the heading for title II, by inserting "AND MISCELLANEOUS PROVISIONS" after "ADMINISTRATION";

(2) in section 406(a)(2), by striking "2701" and inserting "231";

(3) in section 465(f), by striking "2701" and inserting "231";

(4) in section 480(a)(2), by striking "2701" and inserting "231";

(5) in section 485(a)(2), by striking "2701" and inserting "231";

(6) in section 497, by striking "2701" and inserting "231";

(7) in section 505(a)(2), by striking "2701" and inserting "231";

(8) in section 926(b), by striking "2711" each place such term appears and inserting "241"; and

(9) in title XXVII, by striking the heading for such title.

SEC. 2006. CERTAIN AUTHORIZATION OF APPROPRIATIONS.

Section 399L(a) of the Public Health Service Act (42 U.S.C. 280e-4(a)), as added by Public Law 102-515 (106 Stat. 3376), is amended—

(1) in the first sentence, by striking "the Secretary" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1997."; and

(2) in the second sentence, by striking "Out of any amounts used" and inserting "Of the amounts appropriated under the preceding sentence".

SEC. 2007. PROHIBITION AGAINST SHARP ADULT SEX SURVEY AND THE AMERICAN TEENAGE SEX SURVEY.

The Secretary of Health and Human Services may not during fiscal year 1993 or any subsequent fiscal year conduct or support the SHARP survey of adult sexual behavior or the American Teenage Study of adolescent sexual behavior. This section becomes effective April 15, 1993.

SEC. 2008. SUPPORT FOR BIOENGINEERING RESEARCH.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Director of the National Institutes of Health, shall conduct a study for the purpose of—

(1) determining the sources and amounts of public and private funding devoted to basic research in bioengineering and biomaterials sciences;

(2) evaluating whether that commitment is sufficient to maintain the innovative edge that the United States has in these technologies; and

(3) evaluating the need to modify the structure of the National Institutes of Health or any other Federal agency to achieve a greater commitment to innovation in bioengineering, and evaluating the need for better coordination and collaboration among Federal agencies and between the public and private sectors.

In conducting such study, the Director shall work in conjunction with appropriate organizations and representatives including academics, industry leaders, bioengineering societies, and public agencies (such as the National Science Foundation, Veterans Administration, Department of Defense, National Aeronautics and Space Administration, and the White House Office of Science and Technology Policy).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report containing the findings of the study conducted under subsection (a) together with recommendations concerning the enactment of legislation to implement the results of such study.

TITLE XXI—EFFECTIVE DATES

SEC. 2101. EFFECTIVE DATES.

Subject to section 155, this Act and the amendments made by this Act take effect upon the date of the enactment of this Act.

Mr. PELL. Mr. President, I am pleased to join in introducing S. 1, the National Institutes of Health Reauthorization Act of 1993. This important legislation, which will reauthorize certain programs at NIH and provide congressional guidance for others, enjoyed very strong support in the 102d Congress but was vetoed by President Bush. True to his word and keeping faith with the millions of Americans whose lives depend on federally supported biomedical research, the majority leader allow the NIH bill to be introduced as the first bill of this new Congress.

As a member of the Senate Labor and Human Resources Committee, I have followed the progress of this bill with care, concern, and until today, disappointment. This bill contains important and needed changes in policy that, in my view, have hindered the progress of scientific research in this Nation and throughout the world. Today I am invigorated by the bill's prospects in this Congress and the promise that the Clinton-Gore administration holds for biomedical research specifically, and for science in general.

Mr. President, I am most pleased with the legislation that is pending before us today. It will revitalize many programs at NIH, including research on breast and prostate cancer, AIDS, and women's health needs. It also recognizes and addresses a disease of growing importance to many Rhode Islanders and others across this Nation, chronic fatigue syndrome [CFS], also known as chronic fatigue immunodeficiency syndrome [CFIDS].

I strongly support the provisions in this bill that provide additional support to the National Cancer Institute, and in particular, to its research and cancer control programs. As the author of the legislation that created the NCI's International Cancer Research Data Bank [ICRDB], which assists in the exchange of information on the diagnosis and treatment of cancer between clinicians here and abroad, I urge the NCI to explore further ways to serve the ICRDB's services and needs.

Mr. President, I am particularly pleased that the legislation before us today will overturn the Bush administration's ban on fetal tissue transplantation research. Last year, 77 Senators agreed that the Federal Government should resume funding this vital research that holds great promise for victims of many debilitating and painful diseases, including Parkinson's disease. President Clinton has made it clear that he also opposes this ban and is expected to overturn it by Executive order. In my view, it makes sense for Congress not only to codify the President's decision in this regard, but also to establish legislatively the very sensible safeguards that have been recommended.

I urge my colleagues to support this important legislation and hope that the President will act expeditiously to sign it.

• Mr. DURENBERGER. Mr. President, I am pleased today to join my distinguished colleague from Massachusetts in introducing S. 1, The Reauthorization of the National Institutes of Health.

Mr. President, I have stated many times in this chamber how much respect I have for the National Institutes of Health. NIH is a national treasure. The work of its scientists and the research that it supports in universities form the cornerstone of our contributions to the reduction of suffering and disease in America and throughout the world.

I might add, too, that I have enormous respect for the Director of NIH, Dr. Bernadine Healy, who has exhibited impressive leadership in biomedical research.

Mr. President, this reauthorization has been a long time coming. The Senate twice passed bills in the last Congress to reauthorize the NIH. However, these bills were vetoed by the President.

I strongly support this bill, particularly the efforts to coordinate research on women's health. I am also pleased that the bill contains provisions for a new study on the status of basic biomedical engineering research. I have asked NIH to study this problem and report to Congress on its findings. I request permission to include a brief statement on this problem into the RECORD.

I have been a strong supporter of AIDS research and enhancing our commitment to find a cure for this dread disease. This bill, in its present form, includes some expansion of authority to address this issue.

I believe that it is important that we coordinate all our efforts in this area, so that the research can proceed efficiently and with dispatch. However, I have some reservations about how the institutional arrangements have been drafted. In particular, I hope we can avoid fragmentation of the general NIH research effort, prevent increased bureaucracy, and allow for the orderly research processes at NIH. I am assured by the chairman of the Labor and Human Resources Committee that my concerns and those of my colleagues about this provision can be accommodated before final passage of the bill.

I urge my colleagues to support the passage of S. 1 so that the important work of the NIH can proceed, and I ask unanimous consent that a factsheet on the bill be printed in the RECORD.

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

FACTSHEET ON EMERGING TECHNOLOGIES IN BIOMEDICAL ENGINEERING

WHAT IS BIOENGINEERING?

Biomedical engineering uses principles of science and engineering to solve problems in biology and medicine. It is a relatively new field, and one that is highly innovative and rapidly growing. Bioengineering contributes to basic health sciences in the following ways:

Biomaterials and biocompatibility.—Studies of materials that are used in implantable devices and their compatibility with the human body. Heart valves and hip and joint replacements are just two examples. We need major breakthroughs in materials science to realize the enormous potential of this field.

Biomechanics.—Dynamics of human motion leading to development of prosthetic devices and robotic systems to help handicapped people, especially disabled veterans.

Membrane technology and artificial organs.—Research includes filtering and separating molecules and engineering cells and tissues to carry out certain biochemical functions. On the horizon are artificial livers, nerve grafts for victims of Parkinson's disease and Alzheimer's disease.

Medical devices and instrumentation.—Designing and developing instruments for research and clinical use such as biosensors that convert biological information into electronic signals used for diagnosis and therapy. There are potential breakthroughs in osteoporosis, and other degenerative diseases.

Imaging and modeling technologies.—Studying physical and biochemical properties of body tissues, organs, and cells through tools such as CT scans, PET scans, ultrasonography, and MRI. These technologies may allow us to see metabolic dysfunctions to diagnose diseases such as cancer and cardiovascular problems far earlier than we can now.

WHY IS BASIC RESEARCH ESSENTIAL?

Basic research in this field is essential to innovation in medicine. As medical device products proliferate, basic scientific understanding is critical to adequate evaluation of their safety and efficacy. Bioengineering research can make major contributions to decreasing the costs of health care and to improving the quality of care, particularly in the area of restoration of body functions.

Basic research will enhance the U.S. leadership role in the development of medical devices. This field is central to our economic growth and international competitiveness, particularly when global competitors are developing R&D strategies to enter the medical devices field.

WHY HAS RESEARCH SUPPORT BEEN OVERLOOKED?

Due to the interdisciplinary nature of biomaterials, biomedical imaging and biomedical engineering research, the development of a national infrastructure is necessary to support basic research. While we have a strong tradition of government support for basic science through the NIH, bioengineering has not received comparable support. Total support for all bioengineering projects at NIH totalled $40.07 million out of a budget of $8 billion.

WHAT CAN WE DO ABOUT IT?

An NIH sponsored study is necessary to determine the status of bioengineering research, the levels of present funding and support, and to offer proposals to Congress for improving the present funding policies. The reauthorization of the National Institutes of

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Health provides an opportunity to ask NIH to conduct this vital study.

Attached is proposed language to include in the Reauthorization Bill.●

● Mrs. BOXER. Mr. President, I support the National Institutes of Health Reauthorization Act because the health of our citizens is a priority that has not received adequate attention.

It is time to declare war on heart disease, cancer, AIDS, osteoporosis, and Alzheimer's disease—the real enemies we face today. We are a nation rich in resources; we must dedicate these resources to fighting these diseases.

I am especially proud to be an original cosponsor of this bill because it will begin to rectify the gender imbalance in health research. This bill would permanently establish the Office for Research on Women's Health, mandate the inclusion of women in clinical trials, establish contraception and infertility research centers, and authorize critically needed funds for research on breast cancer, ovarian, and other reproductive cancers.

Mr. President, it is time to listen to the people. I urge my colleagues to support this important bill.●

By Mr. FORD: (for himself, Mr. HATFIELD, Mr. MITCHELL, Mr. LAUTENBERG, Mr. WELLSTONE, Mr. SARBANES, Ms. MOSELEY-BRAUN, Mr. CONRAD, Mr. HARKIN, Mr. LEAHY, Mr. PELL, Mr. MOYNIHAN, and Mr. RIEGLE

S. 2. A bill to establish national voter registration procedures for Federal elections, and for other purposes; to the Committee on Rules and Administration.

NATIONAL VOTER REGISTRATION ACT OF 1993

Mr. FORD. Mr. President, today, I am introducing the National Voter Registration Act of 1993. This bill, commonly referred to as the motor-voter bill, will establish universal voter registration procedures for Federal elections. I am pleased to be joined in this effort by the distinguished senior Senator from Oregon [Mr. HATFIELD].

The bill which Senator HATFIELD and I are introducing is the same bill which passed both Houses of Congress in the 102d Congress. It is the same bill which was introduced in the House of Representatives earlier this month. And, it is the same bill which has the endorsement of President Clinton.

Mr. President, the motor-voter bill is the culmination of long term effort to reform the burdensome and confusing registration practices that exist in the States. Throughout our Nation's history, through constitutional amendment and various other laws, the Congress has sought to expand the franchise to more and more citizens. Because of those efforts, there are no more poll taxes or literacy tests. Women are no longer prohibited from voting. The right to vote has been expanded to include those who are 18 years of age and older. And it is required that the polling place be accessible to disabled and elderly citizens.

Unfortunately, despite these historic efforts to secure the right to vote for all Americans, there remains one final roadblock to full citizen participation. And that is the confusing array of registration practices. It is these registration practices that are frustrating people from getting to the ballot box.

The reform of archaic and antiquated voter registration practices is long overdue. That is what the motor-voter bill is all about.

Mr. President, I think we are all encouraged by the fact that in the 1992 election, 55 percent of the eligible voters in this country went to the polls. This represents an increase of 4 percentage points from the 1988 Presidential election. But the reality is that almost 70 million Americans are unable to vote because they are not registered.

Mr. President, the right to vote is the fundamental right of every eligible citizen in this country. Yet, too many people are being denied that right because they have not successfully maneuvered the confusing maze of registration practices that continue to exist. If the right to vote is a fundamental right, why is the burden to register placed upon the citizen? It should be the role of government to see that every eligible citizen is offered the change to register in the most convenient and accessible manner possible. And that is what the motor-voter bill is all about.

Motor-voter creates an active voter registration program that is in tune with our ever mobile and busy Nation. It seeks to create a program of voter registration that will reach almost all of the eligible voters.

What does the motor-voter bill do exactly?

It establishes national voter registration procedures for elections to Federal office.

States will be required to establish voter registration procedures: First, simultaneously with an application for a drivers license; second, by uniform mail application; and third, by application in person, either at an appropriate registration office, or at a Federal, State or private sector location, the so-called agency based registration.

The bill prohibits purging for nonvoting and requires that the name of a registered voter may only be removed from the list of eligible voters at the request of the voter; by reason of death; by a change of residence; or for criminal conviction or mental incapacity, as provided by State law.

Further, the bill provides that any State program or activity to protect the integrity of the electoral process by ensuring an accurate and current voter registration roll must be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965.

States must conduct a general program that makes a reasonable effort to remove the name of ineligible voters by reason of death or a change of residence. The State must complete such a program at least 90 days before a Federal election.

No State may remove the name of a voter from the rolls due to a possible change of address unless the registrant confirms in writing or has failed to respond to a mail notice and has not appeared to vote in two Federal general elections following the date of the notice.

Mr. President, the motor-voter bill creates a balanced three-tier approach to voter registration. It expands the opportunities for eligible citizens to vote while protecting the integrity of the voter rolls with proven and effective safeguards against fraud. It clearly establishes that fraud in voting and voter registration is a Federal crime. And it applies the same Federal criminal penalties as in the Voting Rights Act of 1965.

Mr. President, motor-voter exists in some form in 28 States, including the District of Columbia. Mail registration exists in 28 States and the District of Columbia. Their experiences have proven that active voter registration programs are effective in increasing the rolls of eligible voters. And these programs have also proven effective in safeguarding the integrity of our voter rolls.

Mr. President, in the 102d Congress, the motor-voter bill received widespread support. There were several editorials in newspapers across the country calling on the Congress and then-President Bush to sign this legislation. One editorial in particular, which appeared in the Pittsburgh Post-Gazette, summarized in a very clear manner the reasons for this legislation:

> This increasingly mobile nation has left too much to chance in enrolling people in the democratic process. In an era of fast food, instant gratification and see-it-now TV, it's appalling that government requires people to jump through hoops and scale ladders to register to vote. What the United States needs is an active voter registration policy, one that is bent on including people rather than leaving certain ones out.

Mr. President, both Senator HATFIELD and I have said that we cannot guarantee an increase in voter turnout with this bill. But, I am encouraged by the fact that registered voters do vote.

Last fall, an article appeared in the Brookings Review by Ruy Teixeira, pronounced Roy Tess-era, entitled "Voter Turnout in America: Ten Myths." The author dispels 10 myths about low voter turnout with 10 realities. The 10th myth, according to the author, is that "there is nothing we can do to increase voter turnout, given the current sorry state of American politics." But the author explains in

his reality that "there are quite a few things we could do to increase voter turnout, some of which are virtually certain to work."

Among those things that are certain to work, Mr. Teixeira says that:

Simply making it easier to vote, by reforming the personal registration system, would probably result in increased levels of voter turnout. * * * My estimate is an increase of about 8 percentage points, which translates into adding about 15 million voters to the electorate—a substantial expansion of citizen participation by any reasonable standard.

Motor-voter is not the cure to reverse the trend of low voter turnout. But we strongly believe that is one step in the right direction toward increasing the chances of higher voter participation.

By ensuring that almost every eligible citizen will be registered to vote, we can ensure that every eligible citizen will have the opportunity to go to the polls on election day. No one will have to stay home simply because they are not registered. Mr. President, democracy is not a spectator sport. It requires the participation of all citizens, in order to make our Nation work better. Motor-voter is the season ticket to participate in our democratic system. You may not always want to participate or become involved in an election; however, ensuring that you are registered to vote guarantees that when you do want to make your voice heard, you will have that opportunity.

Mr. President, the vitality of our Republic depends on the strength of our participation. The National Voter Registration Act strengthens democracy by making voter registration an automatic right of citizenship.

With the support of our new President, I am more confident than ever before that motor-voter will become law.

I urge my colleagues to join Senator HATFIELD and myself in supporting this legislation. As the New York Times has noted in the past, "support democracy by supporting motor-voter."

Mr. President, I ask unanimous consent that the bill and a summary be printed in the RECORD.

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Voter Registration Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the right of citizens of the United States to vote is a fundamental right;

(2) it is the duty of the Federal, State, and local governments to promote the exercise of that right; and

(3) discriminatory and unfair registration laws and procedures can have a direct and damaging effect on voter participation in elections for Federal office and disproportionately harm voter participation by various groups, including racial minorities.

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

(1) to establish procedures that will increase the number of eligible citizens who register to vote in elections for Federal office;

(2) to make it possible for Federal, State, and local governments to implement this Act in a manner that enhances the participation of eligible citizens as voters in elections for Federal office;

(3) to protect the integrity of the electoral process; and

(4) to ensure that accurate and current voter registration rolls are maintained.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "election" has the meaning stated in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1));

(2) the term "Federal office" has the meaning stated in section 301(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(3));

(3) the term "motor vehicle driver's license" includes any personal identification document issued by a State motor vehicle authority;

(4) the term "State" means a State of the United States and the District of Columbia; and

(5) the term "voter registration agency" means an office designated under section 7(a)(1) to perform voter registration activities.

SEC. 4. NATIONAL PROCEDURES FOR VOTER REGISTRATION FOR ELECTIONS FOR FEDERAL OFFICE.

(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other Federal or State law, in addition to any other method of voter registration provided for under State law, each State shall establish procedures to register to vote in elections for Federal office—

(1) by application made simultaneously with an application for a motor vehicle driver's license pursuant to section 5;

(2) by mail application pursuant to section 6; and

(3) by application in person—

(A) at the appropriate registration site designated with respect to the residence of the applicant in accordance with State law; and

(B) at a Federal, State, or nongovernmental office designated under section 7.

(b) NONAPPLICABILITY TO CERTAIN STATES.—This Act does not apply to a State described in either or both of the following paragraphs:

(1) A State in which there is no voter registration requirement for any voter in the State with respect to an election for Federal office.

(2) A State in which all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

SEC. 5. SIMULTANEOUS APPLICATION FOR VOTER REGISTRATION AND APPLICATION FOR MOTOR VEHICLE DRIVER'S LICENSE.

(a) IN GENERAL.—(1) Except as provided in subsection (b), each State motor vehicle driver's license application (including any renewal application) submitted to the appropriate State motor vehicle authority under State law shall serve as an application for voter registration with respect to elections for Federal office.

(2) An application for voter registration submitted under paragraph (1) shall be considered as updating any previous voter registration by the applicant.

(b) DECLINATION TO REGISTER.—(1) An applicant for a State motor vehicle driver's license may decline in writing to be registered by means of the motor vehicle driver's license application.

(2) No information relating to a declination pursuant to paragraph (1) may be used for any purpose other than voter registration.

(c) FORMS AND PROCEDURES.—(1) Each State shall include a voter registration application form for elections for Federal office as part of an application for a State motor vehicle driver's license.

(2) The voter registration application portion of an application for a State motor vehicle driver's license—

(A) may not require any information that duplicates information required in the driver's license portion of the form (other than a second signature or other information necessary under subparagraph (C));

(B) shall include a means by which an applicant may decline to register to vote pursuant to subsection (b);

(C) may require only the minimum amount of information necessary to—

(i) prevent duplicate voter registrations; and

(ii) enable State election officials to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(D) shall include a statement that—

(i) states each eligibility requirement (including citizenship);

(ii) contains an attestation that the applicant meets each such requirement; and

(iii) requires the signature of the applicant, under penalty of perjury; and

(E) shall be made available (as submitted by the applicant, or in machine readable or other format) to the appropriate State election official as provided by State law.

(d) CHANGE OF ADDRESS.—Any change of address form submitted in accordance with State law for purposes of a State motor vehicle driver's license shall serve as notification of change of address for voter registration with respect to elections for Federal office for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes.

SEC. 6. MAIL REGISTRATION.

(a) FORM.—(1) Each State shall accept and use the mail voter registration application form prescribed by the Federal Election Commission pursuant to section 9(a)(2) for the registration of voters in elections for Federal office.

(2) In addition to accepting and using the form described in paragraph (1), a State may develop and use a mail voter registration form that meets all of the criteria stated in section 9(b) for the registration of voters in elections for Federal office.

(3) A form described in paragraph (1) or (2) shall be accepted and used for notification of a registrant's change of address.

(b) AVAILABILITY OF FORMS.—The chief State election official of a State shall make the forms described in subsection (a) available for distribution through governmental and private entities, with particular emphasis on making them available for organized voter registration programs.

(c) FIRST-TIME VOTERS.—(1) Subject to paragraph (2), a State may by law require a person to vote in person if—

(A) the person was registered to vote in a jurisdiction by mail; and

(B) the person has not previously voted in that jurisdiction.

(2) Paragraph (1) does not apply in the case of a person—

(A) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff–1 et seq.);

(B) who is provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee–1(b)(2)(B)(ii)); or

(C) who is entitled to vote otherwise than in person under any other Federal law.

SEC. 7. VOTER REGISTRATION AGENCIES.

(a) DESIGNATION.—(1) Each State shall designate agencies for the registration of voters in elections for Federal office.

(2) Each State shall designate as voter registration agencies—

(A) all offices in the State that provide public assistance, unemployment compensation, or related services; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

(3)(A) In addition to voter registration agencies designated under paragraph (2), each State shall designate other offices within the State as voter registration agencies.

(B) Voter registration agencies designated under subparagraph (A) may include—

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.

(4)(A) At each voter registration agency, the following services shall be made available:

(i) Distribution of mail voter registration application forms in accordance with paragraph (6).

(ii) Assistance to applicants in completing voter registration application forms.

(iii) Acceptance of completed voter registration application forms for transmittal to the appropriate State election official.

(B) If a voter registration agency designated under paragraph (2)(B) provides services to a person with a disability at the person's home, the agency shall provide the services described in subparagraph (A) at the person's home.

(5) A person who provides service described in paragraph (4) shall not—

(A) seek to influence an applicant's political preference or party registration;

(B) display any such political preference or party allegiance; or

(C) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote.

(6) A voter registration agency that is an office that provides service or assistance in addition to conducting voter registration shall—

(A) distribute with each application for such service or assistance, and with each recertification, renewal, or change of address form relating to such service or assistance—

(i) the mail voter registration application form described in section 9(a)(2); or

(ii) the office's own form if it is substantially equivalent to the form described in section 9(a)(2),

unless the applicant, in writing, declines to register to vote;

(B) to the greatest extent practicable, incorporate in application forms and other forms used at those offices for purposes other than voter registration a means by which a person who completes the form may decline, in writing, to register to vote in elections for Federal office; and

(C) provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the registration application form as is provided by the office with regard to the completion of its own forms.

(7) No information relating to a declination to register to vote in connection with an application made at an office described in paragraph (6) may be used for any purpose other than voter registration.

(b) FEDERAL GOVERNMENT AND PRIVATE SECTOR COOPERATION.—All departments, agencies, and other entities of the executive branch of the Federal Government shall, to the greatest extent practicable, cooperate with the States in carrying out subsection (a), and all nongovernmental entities are encouraged to do so.

(c) TRANSMITTAL DEADLINE.—(1) Subject to paragraph (2), a completed registration application accepted at a voter registration agency shall be transmitted to the appropriate State election official not later than 10 days after the date of acceptance.

(2) If a registration application is accepted within 5 days before the last day for registration to vote in an election, the application shall be transmitted to the appropriate State election official not later than 5 days after the date of acceptance.

SEC. 8. REQUIREMENTS WITH RESPECT TO ADMINISTRATION OF VOTER REGISTRATION.

(a) IN GENERAL.—In the administration of voter registration for elections for Federal office, each State shall—

(1) ensure that any eligible applicant is registered to vote in an election—

(A) in the case of registration with a motor vehicle application under section 5, if the valid voter registration form of the applicant is submitted to the appropriate State motor vehicle authority not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(B) in the case of registration by mail under section 6, if the valid voter registration form of the applicant is postmarked not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(C) in the case of registration at a voter registration agency, if the valid voter registration form of the applicant is accepted at the voter registration agency not later than the lesser of 30 days, or the period provided by State law, before the date of the election; and

(D) in any other case, if the valid voter registration form of the applicant is received by the appropriate State election official not later than the lesser of 30 days, or the period provided by State law, before the date of the election;

(2) require the appropriate State election official to send notice to each applicant of the disposition of the application;

(3) provide that the name of a registrant may not be removed from the official list of eligible voters except—

(A) at the request of the registrant;

(B) as provided by State law, by reason of criminal conviction or mental incapacity; or

(C) as provided under paragraph (4);

(4) conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of—

(A) the death of the registrant; or

(B) a change in the residence of the registrant, in accordance with subsections (b), (c), and (d);

(5) inform applicants under sections 5, 6, and 7 of—

(A) voter eligibility requirements; and

(B) penalties provided by law for submission of a false voter registration application; and

(6) ensure that the identity of the voter registration agency through which any particular voter is registered is not disclosed to the public.

(b) CONFIRMATION OF VOTER REGISTRATION.—Any State program or activity to protect the integrity of the electoral process by ensuring the maintenance of an accurate and current voter registration roll for elections for Federal office—

(1) shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.); and

(2) shall not result in the removal of the name of any person from the official list of voters registered to vote in an election for Federal office by reason of the person's failure to vote.

(c) VOTER REMOVAL PROGRAMS.—(1) A State may meet the requirement of subsection (a)(4) by establishing a program under which—

(A) change-of-address information supplied by the Postal Service through its licensees is used to identify registrants whose addresses may have changed; and

(B) if it appears from information provided by the Postal Service that—

(i) a registrant has moved to a different residence address in the same registrar's jurisdiction in which the registrant is currently registered, the registrar changes the registration records to show the new address and sends the registrant a notice of the change by forwardable mail and a postage prepaid pre-addressed return form by which the registrant may verify or correct the address information; or

(ii) the registrant has moved to a different residence address not in the same registrar's jurisdiction, the registrar uses the notice procedure described in subsection (d)(2) to confirm the change of address.

(2)(A) A State shall complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters.

(B) Subparagraph (A) shall not be construed to preclude—

(i) the removal of names from official lists of voters on a basis described in paragraph (3) (A) or (B) or (4)(A) of subsection (a); or

(ii) correction of registration records pursuant to this Act.

(d) REMOVAL OF NAMES FROM VOTING ROLLS.—(1) A State shall not remove the name of a registrant from the official list of eligible voters in elections for Federal office on the ground that the registrant has changed residence unless the registrant—

(A) confirms in writing that the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered; or

(B)(i) has failed to respond to a notice described in paragraph (2); and

(ii) has not voted or appeared to vote (and, if necessary, correct the registrar's record of the registrant's address) in an election during the period beginning on the date of the

notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice.

(2) A notice is described in this paragraph if it is a postage prepaid and pre-addressed return card, sent by forwardable mail, on which the registrant may state his or her current address, together with a notice to the following effect:

(A) If the registrant did not change his or her residence, or changed residence but remained in the registrar's jurisdiction, the registrant should return the card not later than the time provided for mail registration under subsection (a)(1)(B). If the card is not returned, affirmation or confirmation of the registrant's address may be required before the registrant is permitted to vote in a Federal election during the period beginning on the date of the notice and ending on the day after the date of the second general election for Federal office that occurs after the date of the notice, and if the registrant does not vote in an election during that period the registrant's name will be removed from the list of eligible voters.

(B) If the registrant has changed residence to a place outside the registrar's jurisdiction in which the registrant is registered, information concerning how the registrant can continue to be eligible to vote.

(3) A voting registrar shall correct an official list of eligible voters in elections for Federal office in accordance with change of residence information obtained in conformance with this subsection.

(e) PROCEDURE FOR VOTING FOLLOWING FAILURE TO RETURN CARD.—(1) A registrant who has moved from an address in the area covered by a polling place to an address in the same area shall, notwithstanding failure to notify the registrar of the change of address prior to the date of an election, be permitted to vote at that polling place upon oral or written affirmation by the registrant of the change of address before an election official at that polling place.

(2)(A) A registrant who has moved from an address in the area covered by one polling place to an address in an area covered by a second polling place within the same registrar's jurisdiction and the same congressional district and who has failed to notify the registrar of the change of address prior to the date of an election, at the option of the registrant—

(i) shall be permitted to correct the voting records and vote at the registrant's former polling place, upon oral or written affirmation by the registrant of the new address before an election official at that polling place; or

(ii)(I) shall be permitted to correct the voting records and vote at a central location within the same registrar's jurisdiction designated by the registrar where a list of eligible voters is maintained, upon written affirmation by the registrant of the new address on a standard form provided by the registrar at the central location; or

(II) shall be permitted to correct the voting records for purposes of voting in future elections at the appropriate polling place for the current address and, if permitted by State law, shall be permitted to vote in the present election, upon confirmation by the registrant of the new address by such means as are required by law.

(B) If State law permits the registrant to vote in the current election upon oral or written affirmation by the registrant of the new address at a polling place described in subparagraph (A)(ii)(II), voting at the former polling place as described in subparagraph (A)(i) and at a central location as described in subparagraph (A)(ii)(I) need not be provided as alternative options.

(3) If the registration records indicate that a registrant has moved from an address in the area covered by a polling place, the registrant shall, upon oral or written affirmation by the registrant before an election official at that polling place that the registrant continues to reside at the address previously made known to the registrar, be permitted to vote at that polling place.

(f) CHANGE OF VOTING ADDRESS WITHIN A JURISDICTION.—In the case of a change of address, for voting purposes, of a registrant to another address within the same registrar's jurisdiction, the registrar shall correct the voting registration list accordingly, and the registrant's name may not be removed from the official list of eligible voters by reason of such a change of address except as provided in subsection (d).

(g) CONVICTION IN FEDERAL COURT.—(1) On the conviction of a person of a felony in a district court of the United States, the United States attorney shall give written notice of the conviction to the chief State election official designated under section 10 of the State of the person's residence.

(2) A notice given pursuant to paragraph (1) shall include—

(A) the name of the offender;

(B) the offender's age and residence address;

(C) the date of entry of the judgment;

(D) a description of the offenses of which the offender was convicted; and

(E) the sentence imposed by the court.

(3) On request of the chief State election official of a State or other State official with responsibility for determining the effect that a conviction may have on an offender's qualification to vote, the United States attorney shall provide such additional information as the United States attorney may have concerning the offender and the offense of which the offender was convicted.

(4) If a conviction of which notice was given pursuant to paragraph (1) is overturned, the United States attorney shall give the official to whom the notice was given written notice of the vacation of the judgment.

(5) The chief State election official shall notify the voter registration officials of the local jurisdiction in which an offender resides of the information received under this subsection.

(h) REDUCED POSTAL RATES.—(1) Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for voter registration purposes

"The Postal Service shall make available to a State or local voting registration official the rate for any class of mail that is available to a qualified nonprofit organization under section 3626 for the purpose of making a mailing that the official certifies is required or authorized by the National Voter Registration Act of 1992.".

(2) Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)–(h)" and inserting "3626(a)–(h), and 3629".

(3) Section 3627 of title 39, United States Code, is amended by striking "or 3626 of this title," and inserting ", 3626, or 3629 of this title".

(4) The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for voter registration purposes.".

(i) PUBLIC DISCLOSURE OF VOTER REGISTRATION ACTIVITIES.—(1) Each State shall maintain for at least 2 years and shall make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters, except to the extent that such records relate to a declination to register to vote or to the identity of a voter registration agency through which any particular voter is registered.

(2) The records maintained pursuant to paragraph (1) shall include lists of the names and addresses of all persons to whom notices described in subsection (d)(2) are sent, and information concerning whether or not each such person has responded to the notice as of the date that inspection of the records is made.

(j) DEFINITION.—For the purposes of this section, the term "registrar's jurisdiction" means—

(1) an incorporated city, town, borough, or other form of municipality;

(2) if voter registration is maintained by a county, parish, or other unit of government that governs a larger geographic area than a municipality, the geographic area governed by that unit of government; or

(3) if voter registration is maintained on a consolidated basis for more than one municipality or other unit of government by an office that performs all of the functions of a voting registrar, the geographic area of the consolidated municipalities or other geographic units.

SEC. 9. FEDERAL COORDINATION AND REGULATIONS.

(a) IN GENERAL.—The Federal Election Commission—

(1) in consultation with the chief election officers of the States, the heads of the departments, agencies, and other entities of the executive branch of the Federal Government, and representatives of nongovernmental entities, shall prescribe such regulations as are necessary to carry out this Act;

(2) in consultation with the chief election officers of the States, shall develop a mail voter registration application form for elections for Federal office;

(3) not later than June 30 of each odd-numbered year, shall submit to the Congress a report assessing the impact of this Act on the administration of elections for Federal office during the preceding 2-year period and including recommendations for improvements in Federal and State procedures, forms, and other matters affected by this Act; and

(4) shall provide information to the States with respect to the responsibilities of the States under this Act.

(b) CONTENTS OF MAIL VOTER REGISTRATION FORM.—The mail voter registration form developed under subsection (a)(2)—

(1) may require only such identifying information (including the signature of the applicant) and other information (including data relating to previous registration by the applicant), as is necessary to enable the appropriate State election official to assess the eligibility of the applicant and to administer voter registration and other parts of the election process;

(2) shall include a statement that—

(A) specifies each eligibility requirement (including citizenship);

(B) contains an attestation that the applicant meets each such requirement; and

(C) requires the signature of the applicant, under penalty of perjury; and

(3) may not include any requirement for notarization or other formal authentication.

SEC. 10. DESIGNATION OF CHIEF STATE ELECTION OFFICIAL.

Each State shall designate a State officer or employee as the chief State election official to be responsible for coordination of State responsibilities under this Act.

SEC. 11. CIVIL ENFORCEMENT AND PRIVATE RIGHT OF ACTION.

(a) ATTORNEY GENERAL.—The Attorney General may bring a civil action in an appropriate district court for such declaratory or injunctive relief as is necessary to carry out this Act.

(b) PRIVATE RIGHT OF ACTION.—(1) A person who is aggrieved by a violation of this Act may provide written notice of the violation to the chief election official of the State involved.

(2) If the violation is not corrected within 90 days after receipt of a notice under paragraph (1), or within 20 days after receipt of the notice if the violation occurred within 120 days before the date of an election for Federal office, the aggrieved person may bring a civil action in an appropriate district court for declaratory or injunctive relief with respect to the violation.

(3) If the violation occurred within 30 days before the date of an election for Federal office, the aggrieved person need not provide notice to the chief election official of the State under paragraph (1) before bringing a civil action under paragraph (2).

(c) ATTORNEY'S FEES.—In a civil action under this section, the court may allow the prevailing party (other than the United States) reasonable attorney fees, including litigation expenses, and costs.

(d) RELATION TO OTHER LAWS.—(1) The rights and remedies established by this section are in addition to all other rights and remedies provided by law, and neither the rights and remedies established by this section nor any other provision of this Act shall supersede, restrict, or limit the application of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) Nothing in this Act authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

SEC. 12. CRIMINAL PENALTIES.

A person, including an election official, who in any election for Federal office—

(1) knowingly and willfully intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, any person for—

(A) registering to vote, or voting, or attempting to register or vote;

(B) urging or aiding any person to register to vote, to vote, or to attempt to register or vote; or

(C) exercising any right under this Act; or

(2) knowingly and willfully deprives, defrauds, or attempts to deprive or defraud the residents of a State of a fair and impartially conducted election process, by—

(A) the procurement or submission of voter registration applications that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held; or

(B) the procurement, casting, or tabulation of ballots that are known by the person to be materially false, fictitious, or fraudulent under the laws of the State in which the election is held,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 13. EFFECTIVE DATE.

This Act shall take effect—

(1) with respect to a State that on the date of enactment of this Act has a provision in the constitution of the State that would preclude compliance with this Act unless the State maintained separate Federal and State official lists of eligible voters, on January 1, 1996; and

(2) with respect to any State not described in paragraph (1), on January 1, 1995.

SUMMARY OF THE NATIONAL VOTER REGISTRATION ACT OF 1993

To establish national voter registration procedures for elections for Federal office, and for other purposes.

States shall establish procedures to permit voter registration: i. Simultaneously with application for a driver's license; ii. by uniform mail application; iii. by application in person, either at an appropriate registration office, or at a Federal, State or private sector location—agency registration.

The Act does not apply to States with either or both of the following: in a State in which there is no voter registration requirement for any voter in the State with respect to elections for Federal office or to a State in which all voters may register to vote at the polling place at the time of voting in a general election for Federal office; the term "State" means a State of the United States and the District of Columbia.

DRIVER'S LICENSE APPLICATION REGISTRATION

1. Unless a person declines in writing, an application for or the renewal of a driver's license shall serve as an application for voter registration.

2. The voter registration application shall be part of the driver's license application; shall not require information which duplicates the license portion of the form except such information as shall be required to prevent duplicate registration and to make an assessment of eligibility; shall include a means by which an applicant may decline to register in writing; shall include a statement that specifies each eligibility requirement, contains attestation clause that applicant meets each requirement and requires signature of applicant under penalty of perjury; and shall be made available to appropriate state election officials.

3. A driver's license change of address notice may serve as a voter registration change of address unless the driver declines.

MAIL REGISTRATION

1. Each State shall accept and use a mail voter registration application form promulgated by the FEC. In addition, a State may develop and use its own form which meets the criteria of the FEC form. Notarization or other formal authentication is not allowed. Forms shall be readily available for public and private distribution, and especially for organized registration programs.

2. A State may, by law, require a personal appearance to vote if the person was registered to vote in a local jurisdiction by mail and the person has not previously voted in that jurisdiction. Individuals who are entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act and those provided the right to vote other than in person by the Voting Accessibility for the Elderly and Handicapped Act are exempt.

AGENCY REGISTRATION

1. State, Federal and private sector locations shall be designated for the distribution and processing of voter registration applications. All offices providing public assistance, unemployment compensation, and related services, and all offices which provide State-funded programs primarily engaged in providing services to persons with disabilities, shall be included in the designated locations and shall provide same assistance in completion of registration application as is provided with regard to that agency's forms. States shall designate other agencies, such as libraries, schools, fishing/hunting license bureaus, marriage license offices, and any offices that provide services to persons with disabilities that are not included in the mandatory section, etc. to provide forms, assistance and processing of applications.

2. The Federal Government shall cooperate in this program.

3. An applicant for services may decline in writing to be registered to vote and no information relating to a declination may be used for any other purpose.

4. If a voter registration office designated by a State provides services to a person with disabilities at the person's home, the office shall provide the voting registration services at the person's home.

OTHER REQUIREMENTS

1. Registration cut-off is 30 days before election or such lesser period as State may provide.

2. State election official will notify each applicant of the disposition of his or her registration application.

3. A voter's name may be removed from voter rolls only: (1) at the request of the voter; or (2) as provided by State law, by reason of criminal conviction or mental incapacity. The States shall conduct a general program that makes a reasonable effort to remove the names of ineligible voters by reason of (1) death; or (2) by reason of a change of residence of the voter. A voter's name may not be removed for non-voting.

4. Any State program or activity designed to ensure the maintenance of an accurate and current voter registration roll shall be uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965.

5. A State must complete a systematic procedure to confirm voting lists at least 90 days before a Federal election.

6. A State may use the National Change of Address (NCOA) program and be in full compliance with the requirements of the Act and may make the change of address on the registration rolls with a notification to the voter of such change.

7. No State may remove the name of a voter from the rolls due to possible change of address unless the registrant confirms in writing having moved out of voting jurisdiction, or the voter fails to respond to a notice and does not appear to vote and correct the record during period between date of notice and second general election for Federal office. Where the change of address is to an address covered by the same polling place, the voter shall be permitted to vote upon oral or written affirmation of the change of address. If a registrant has moved to a residence in a new polling place within the jurisdiction of the same voting registrar and the same congressional district, the registrant shall be permitted to vote in one of the following manners, at the option of the registrant: (1) with oral or written affirmation of the new address at the old polling place or, (2) upon written affirmation of the change of address at a designated central location where a list of eligible voters is maintained. Such a registrant may also appear at the appropriate polling place for the new address for the purposes of correcting the registration record, and shall vote, if permitted by State law. If State law permits voting at the new polling place with oral or written affirmation, vot-

ing at the former polling place or a designated central location need not be provided as options. If registration records indicate that a registrant has moved, the voter may vote upon oral or written affirmation that the voter continues to reside at the same address.

8. The FEC will promulgate regulations, prescribe the mail registration application form for use by all States, and report to Congress its assessment of the Act's impact and its recommendations following each general Federal election.

9. Civil enforcement through injunction or declaratory relief may be brought by U.S. Attorney General, or a person with notice to the chief election official of the State. The rights and remedies established by the Act are in addition to any other rights and remedies provided by law and no provision shall supersede, restrict, or limit the application of the Voting Rights Act of 1965. Nothing in this Act authorizes or requires conduct that is prohibited by the Voting Rights Act of 1965.

10. Federal criminal penalties will apply for registration offenses which are knowing and willful.

11. State and local voting registration officials would be able to receive reduced postal rates for the purpose of making any mailing which is required or authorized by the Act. This reduced rate would be funded through a revenue foregone appropriation.

12. Each State is required to maintain and make available for public inspection and copying upon payment of reasonable costs, all records concerning the implementation of programs and activities designed to ensure the accuracy of the voting rolls. These records shall include lists of the names and addresses of those individuals sent notices and information regarding whether or not these individuals have responded. The identity of the voter registration agency through which any particular voter is registered shall not be disclosed to the public.

13. The effective date of the Act is January 1, 1995 for all States; except those States that have constitutional obstacles to conforming state requirements of the Act, in which case, the effective date would be January 1, 1996.

Mr. HATFIELD. I am pleased to join my colleague from Kentucky, Senator FORD, in introducing today the National Voter Registration Act of 1993, commonly known as the motor-voter bill. This is the same legislation which has passed this body before and its mission remains identical—to increase access to the voting system in America. The difference this year is that the time for this legislation has now arrived. Citizens across the Nation are calling for electoral reform covering everything from campaign financing to term limits. Overhauling our electoral process must begin by addressing the most fundamental feature of our democracy—registering to vote.

Yesterday, the Republican leader, Senator DOLE, noted that we are all Americans first, not Democrats or Republicans. I ask my colleagues today to consider this legislation in light of our common heritage in the American democracy. We can work together, in a bipartisan fashion, to make sure this legislation protects our electoral process from fraud and abuse and that it works to ease access for our citizens, rather than restrict participation in the process with its complications.

Voter participation in our most recent election improved significantly. Fifty-five percent of the registered voters in America voted in the 1992 election, approximately 13 million more people voting than in 1988. Our citizens, coming out in droves in November, recognized and enhanced their power as voters. Each voter speaks not as a lone voice, but as part of a community of voices. Americans voted this year because they felt power of this community.

But, while this last election made clear to us the vast numbers of people who voted, it also brought to light the vast numbers of people who did not. Why did millions of people stay home on November 3? We may never know the answer. One possibility, however, is that these people felt so far removed from the political process that they believed that one vote would make little difference in their lives. They believed that their vote would not count for much, that their voice would not be heard by anyone who would want to listen.

Mr. President, their concern is reflected in the core of the motor-voter proposal. This legislation is about spreading the word that every vote counts. Each American has a role to play and ultimately, a responsibility to exercise their power as a citizen of this country. We as policymakers have an obligation to make the system as accessible and uncomplicated as we can while still ensuring the integrity of each individual's vote. This pure purpose is not about party affiliation, or struggles for power, it is about letting our democracy work.

The concept of motor-voter is a simple one. All Americans will be able to register to vote at the same facility in which they obtain their driver's license. Voting registration will be transformed from the patchwork of State regulations which exist today to a uniform procedure for voter registration. The concept is straightforward and fair. This bill contains safeguards against the possibility of voter fraud and provisions for assisting States with potential initial costs. While I have worked to improve the bill's antifraud provisions over the past few years, I remain committed to working with Members of the Senate to continue to improve the ideas contained in this legislation.

My home State of Oregon has had motor-voter registration for 2 years. It has been successful for our State and has the full support of our Governor, Barbara Roberts. I stand here today as a witness to the effectiveness and convenience of motor-voter registration. I believe my colleagues in the other 10 States with similar laws can do the same. Motor-voter, while not flawless, has proven to streamline voter registration and ultimately increase voter participation.

But 10 States are not enough. Voting registration can be made easier for the entire Nation and I believe we, as Federal policymakers, have an obligation to examine the means we have to make it happen.

Mr. President, in this last election a furious wave sweep the Nation as voters cried out for change in Government. Over and over we heard about "the powers that be in Washington * * *" who, many people felt, gave no thought at all to "the folks back home." No voter should feel so removed from the very Government they helped to create. Americans are waiting for Washington to listen. What better answer can be given than our assurance that we want to hear?

I urge my colleagues to join me in supporting the National Voter Registration Act. Its time has come. Its has the support of our new President and of many in Congress. To see its passage this year would make the long wait worthwhile.

By Mr. BOREN (for himself, Mr. MITCHELL, Mr. FORD, Mr. BYRD, Mr. BRYAN, Mr. DECONCINI, Mr. LAUTENBERG, Mr. REID, Ms. MOSELEY-BRAUN, Mr. HARKIN, Mr. PELL, Mr. LEVIN, Mr. LEAHY, and Mr. RIEGLE):

S. 3. A bill entitled (Congressional Campaign Spending Limit and Election Reform Act of 1993); to the Committee on Rules and Administration.

CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

Mr. BOREN. Mr. President, it is with pride that I join our distinguished majority leader, the distinguished Presiding Officer, the President pro tempore of the Senate, the chairman of the Rules Committee, Senator FORD, Senators BRYAN, DECONCINI, and LAUTENBERG in, once again, introducing campaign finance reform. It is significant that this bill will be one of the first three bills introduced this year. It will be designated as Senate bill 3. It underlines the desire on the part of all of us offering this legislation that real reform be accomplished this year.

Yesterday, the President in his eloquent inaugural address called upon all of us to do everything that we can to make sure that the American people understand that this Capitol belongs to them, not to special interests, but to the people themselves. And we are doing exactly that in introducing this piece of legislation.

This year, as we look at the figures for the elections which have just occurred, we find that 93 percent of the incumbents running for office were reelected. Senate incumbents were able to outspend challengers by a ratio of 2 to 1. House incumbents apparently were able to outspend their challengers

by a ratio of 3 to 1. When we track where the money came from, we find that those special interests, political action committees gave to incumbents on the Senate side a ratio of $4 for every $1 they gave to challengers. In the House, political action committees gave to incumbents by a ratio of $9 to incumbents for every $1 given to challengers. Over $160 million was poured into the process by political action committees this year, and well over half the Members of Congress elected to this great institution received more than half of their campaign funds not from the people back home but from the special interest groups, the political action committees, many of them with relatively little or no connection to the home districts or home States of those to whom they make contributions.

The money chase has gone on, as not only has special interest been giving to campaigns but total campaign spending has again set new records. The average cost of winning a contested Senate seat was well over $3.6 million, and that figure may go higher when the final reports are in and there has been an opportunity to analyze them.

And so, Mr. President, as the American people view this institution which is at the heart of our democratic process, which is at the cornerstone of our constitutional system, this place where the people are to be represented themselves, their hopes, their dreams, their aspirations for this country, they receive an impression that this institution and this Capitol no longer belongs to them because they see more and more money being poured into the political process, they see that those with the most money are generally winning the elections and they see more and more of that money coming from those who have a special interest in a particular outcome on a particular piece of legislation.

There is no more significant act that we could take to restore the confidence of the American people in this institution than to pass meaningful campaign finance reform which will stop runaway campaign spending, which will stop the money chase, which will allow the Members of Congress to concentrate on solving the serious problems of this Nation instead of having to spend their time raising $15,000 or $20,000 every single week of a 6-year term in order to raise the average amount of money that it takes to get reelected, with more and more of that money not coming from the voters back home but from the special interest groups here.

And so, Mr. President, the time has come. During his election campaign, this President said that if we could pass the campaign finance reform bill similar to the bill we passed last year, he would sign it. This is the greatest opportunity that we have had, those of us who have struggled in this effort for now a decade, including the distinguished Presiding Officer, to see real reform enacted and signed into law by the President of the United States and to help in a very meaningful way to restore the confidence of the American people in this great institution.

The bill which we are introducing today is essentially the same bill that was passed by this body last year. It is introduced really in the spirit of offering it as a starting point for the legislative process this year. We realize it is not perfect.

We understand that changes will have to be made in this bill as it works its way through the legislative process. As we try to make an even stronger bill, as we consult with the new administration—and certainly over the next few days and weeks we will be consulting with our new President to receive his suggestions as to how we can improve this bill—as we consult with those on the other side of the aisle in an effort to make this truly an American bipartisan piece of legislation, we will be considering whether or not we should place limits on the amount of campaign contributions that can be carried over; we will be seeking ways in which we can tighten up even further the restrictions on the use of soft money in American politics, on the use of a system called bundling, to put together individual contributions to have special interest influence; we will be looking at the possibility of adding lobbying reform including the reform of the process in a way that would prevent former Members of Congress and those serving the executive branch to act on behalf of foreign governments.

I will be introducing a separate piece of legislation on that subject today. Hopefully, it may end up being a part of the campaign finance reform package.

We will be looking at ways we can strengthen the Federal Election Commission provisions of this bill so that we can have true and effective enforcement of its provisions.

So there are many areas in which we will be making an examination to see how we can improve this legislation. We introduce the bill today not in the spirit of saying this is the last word, this is exactly the bill that should be enacted into law but, rather, as a starting point for real legislative effort that hopefully will unite all of the Members of this body and the other body on the other side of the Capitol in a bipartisan effort to do something important for the political process and something that the American people have been demanding for a long time.

If there is any message that we should have received from the last election, it is that the American people are fed up with politics as usual. The American people have had enough of special interest influence. The American people have had enough of our having to spend our time raising campaign funds instead of solving the Nation's problems. The American people, indeed, want control of their Government back in their own hands at the grassroots where it belongs. And we can take a major step in this direction by dedicating ourselves to the proposition that Senate bill 3, which is being introduced today, will indeed become law. It can be one of the greatest contributions of the new administration, one of the greatest contributions of this new Congress. We must not rest until it is accomplished. We must not let the people down. We must keep faith with them. We must act as the trustees of this institution which is so important to the political process.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 3

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

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Congressional Campaign Spending Limit and Election Reform Act of 1993".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Restrictions on activities of political action and candidate committees in Federal elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by noneligible candidates.

Subtitle B—Expenditure Limitations, Contribution Limitations, and Matching Funds for Eligible House of Representatives Candidates

Sec. 121. Provisions applicable to eligible House of Representatives candidates.
Sec. 122. Limitations on political committee and large donor contributions that may be accepted by House of Representatives candidates.
Sec. 123. Excess funds of incumbents who are candidates for the House of Representatives.

Subtitle C—General Provisions

Sec. 131. Broadcast rates and preemption.
Sec. 132. Extension of reduced third-class mailing rates to eligible House of Representatives and Senate candidates.
Sec. 133. Reporting requirements for certain independent expenditures.
Sec. 134. Campaign advertising amendments.
Sec. 135. Definitions.
Sec. 136. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES
Sec. 201. Clarification of definitions relating to independent expenditures.
TITLE III—EXPENDITURES
Subtitle A—Personal Loans; Credit
Sec. 301. Personal contributions and loans.
Sec. 302. Extensions of credit.
Subtitle B—Provisions Relating to Soft Money of Political Parties
Sec. 311. Contributions to political party committees.
Sec. 312. Provisions relating to national, State, and local party committees.
Sec. 313. Restrictions on fundraising by candidates and officeholders.
Sec. 314. Reporting requirements.
TITLE IV—CONTRIBUTIONS
Sec. 401. Contributions through intermediaries and conduits.
Sec. 402. Contributions by dependents not of voting age.
Sec. 403. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 404. Limited exclusion of advances by campaign workers from the definition of the term "contribution".
TITLE V—REPORTING REQUIREMENTS
Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Personal and consulting services.
Sec. 503. Reduction in threshold for reporting of certain information by persons other than political committees.
Sec. 504. Computerized indices of contributions.
TITLE VI—FEDERAL ELECTION COMMISSION
Sec. 601. Use of candidates' names.
Sec. 602. Reporting requirements.
Sec. 603. Provisions relating to the general counsel of the Commission.
Sec. 604. Enforcement.
Sec. 605. Penalties.
Sec. 606. Random audits.
Sec. 607. Prohibition of false representation to solicit contributions.
Sec. 608. Regulations relating to use of non-Federal money.
TITLE VII—BALLOT INITIATIVE COMMITTEES
Sec. 701. Definitions relating to ballot initiatives.
Sec. 702. Amendment to definition of contribution.
Sec. 703. Amendment to definition of expenditure.
Sec. 704. Organization of ballot initiative committees.
Sec. 705. Ballot initiative committee reporting requirements.
Sec. 706. Enforcement amendment.
Sec. 707. Prohibition of contributions in the name of another.
Sec. 708. Limitation on contribution of currency.
TITLE VIII—MISCELLANEOUS
Sec. 801. Prohibition of leadership committees.
Sec. 802. Polling data contributed to candidates.
Sec. 803. Debates by general election candidates who receive amounts from the Presidential Election Campaign Fund.
Sec. 804. Prohibition of certain election-related activities of foreign nationals.
Sec. 805. Amendment to FECA section 316.
Sec. 806. Telephone voting by persons with disabilities.
Sec. 807. Prohibition of use of Government aircraft in connection with elections for Federal office.
Sec. 808. Sense of the Congress.
TITLE IX—EFFECTIVE DATES; AUTHORIZATIONS
Sec. 901. Effective date.
Sec. 902. Delay of effective dates until funding legislation enacted.
Sec. 902. Budget neutrality.
Sec. 903. Severability.
Sec. 904. Expedited review of constitutional issues.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

"(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b); and

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a).

"(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b) and the amounts described in subsections (c) and (d) of section 502, reduced by—

"(I) the amount of voter communication vouchers issued to the candidate; and

"(II) any amounts transferred to this election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(vi) will cooperate in the case of any audit and examination by the Commission under section 506; and

"(E) the candidate intends to make use of the benefits provided under section 503.

"(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 502(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate with respect to such period under section 304(c).

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions

shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

"(A) 10 percent of the general election expenditure limit under section 502(b); or

"(B) $250,000.

"(2) For purposes of this section and section 503(b)—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period.

Clauses (ii) and (iii) shall not apply for purposes of section 503(b).

"(3) For purposes of this subsection and section 503(b), the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of section 503(b), the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1), the base period shall be calendar year 1992.

"SEC. 502. LIMITATIONS ON EXPENDITURES.

"(a) LIMITATION ON USE OF PERSONAL FUNDS.—(1) The aggregate amount of expenditures which may be made during an election cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed the lesser of—

"(A) 10 percent of the general election expenditure limit under subsection (b); or

"(B) $250,000.

"(2) A source is described in this paragraph if it is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible Senate candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(f) (relating to indexing).

"(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

"(2) A legal and accounting compliance fund meets the requirements of this paragraph if—

"(A) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate amounts transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(C) no funds received by the candidate pursuant to section 503(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection, the term 'qualified legal and accounting expenditures' means the following:

"(A) Any expenditures for costs of legal and accounting services provided in connection with—

"(i) any administrative or court proceeding initiated pursuant to this Act during the election cycle for such general election; or

"(ii) the preparation of any documents or reports required by this Act or the Commission.

"(B) Any expenditures for legal and accounting services provided in connection with the general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under paragraph (2)(B)(i), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation. Such determination shall be subject to judicial review under section 506.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5) Any funds in a legal and accounting compliance fund shall be treated for purposes of this Act as a separate segregated fund, except that any portion of the fund not used to pay qualified legal and accounting expenditures, and not transferred to a legal and accounting compliance fund for the election cycle for the next general election, shall be treated in the same manner as other campaign funds.

"(d) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local taxes with respect to a candidate's authorized committees.

"(e) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

"SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

"(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3626(e) of title 39, United States Code;

"(3) payments in the amounts determined under subsection (b); and

"(4) voter communication vouchers in the amount determined under subsection (c).

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), the amounts determined under this subsection are—

"(A) the independent expenditure amount; and

"(B) in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

"(3) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(B) is not greater than 133⅓ percent of the general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

"(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

"(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

"(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the lesser of—

"(i) the allowable contributions of the eligible Senate candidate during the applicable period in excess of the threshold contribution requirement under section 501(e); or

"(ii) 50 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The aggregate amount of voter communication vouchers issued to an eligible Senate candidate shall be equal to 20 percent of the general election expenditure limit under section 502(b) (10 percent of such limit if such candidate is not a major party candidate).

"(2) Voter communication vouchers shall be used by an eligible Senate candidate to purchase broadcast time during the general election period in the same manner as other broadcast time may be purchased by the candidate.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible Senate candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (2) and (3) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

"(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

"(i) a major party candidate in the same general election is not an eligible Senate candidate; or

"(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

"(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(e) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(k), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"SEC. 504. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 502 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 505, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the general election for the office the selected candidate is seeking.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 501(d); or

"(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

"(e) CIVIL PENALTIES FOR EXCESS EXPENDITURES AND CONTRIBUTIONS.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

"(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

"(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

"(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(g) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Com-

mission under this section with respect to an election more than three years after the date of such election.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate; and

"(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE SENATE CANDIDATES.

"No eligible Senate candidate may receive amounts under section 503(a)(3) unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1994.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. RESTRICTIONS ON ACTIVITIES OF POLITICAL ACTION AND CANDIDATE COMMITTEES IN FEDERAL ELECTIONS.

(a) CONTRIBUTIONS.—Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES TO SENATE CANDIDATES.—(1) In the case of a candidate for election, or nomination for election, to the United States Senate (and such candidate's authorized committees), subsection (a)(2)(A) shall be applied by substituting "$2,500" for "$5,000".

"(2) It shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the United States Senate (or an authorized committee) to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

"(A) $825,000; or

"(B) the greater of—

"(i) $375,000; or

"(ii) 20 percent of the sum of the general election spending limit under section 502(b) plus the primary election spending limit under section 501(d)(1)(A) (without regard to whether the candidate is an eligible Senate candidate).

"(3) In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (2) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 501(d)(1)(B) (without regard to whether the candidate is such an eligible Senate candidate).

"(4) The $825,000 and $375,000 amounts in paragraph (2) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for purposes of paragraph (2), the base period shall be calendar year 1992.

"(5) A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (2) shall return the amount of such excess contribution to the contributor.".

SEC. 103. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible Senate candidate under section 501; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓, 166⅔, and 200 percent of such limit.

"(3) The Commission—

"(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Com-

mission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

"(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 24 hours after such expenditures have been made or loans incurred.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

"(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(d) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(e) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V (whenever a 24-hour response is required of the Commission) as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.".

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 133, is amended by adding at the end thereof the following:

"(e) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.".

Subtitle B—Expenditure Limitations, Contribution Limitations, and Matching Funds for Eligible House of Representatives Candidates

SEC. 121. PROVISIONS APPLICABLE TO ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

(a) IN GENERAL.—FECA, as amended by section 101(a), is amended by adding at the end the following new title:

"TITLE VI—EXPENDITURE LIMITATIONS, CONTRIBUTION LIMITATIONS, AND MATCHING FUNDS FOR ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES

"SEC. 601. EXPENDITURE LIMITATIONS.

"(a) IN GENERAL.—An eligible House of Representatives candidate may not, in an election cycle, make expenditures aggregating more than $600,000, of which not more than $500,000 may be expended in the general election period.

"(b) RUNOFF ELECTION AND SPECIAL ELECTION AMOUNTS.—

"(1) RUNOFF ELECTION AMOUNT.—In addition to the expenditures under subsection (a), an eligible House of Representatives candidate who is a candidate in a runoff election may make expenditures aggregating not more than 20 percent of the general election period limit under subsection (a).

"(2) SPECIAL ELECTION AMOUNT.—An eligible House of Representatives candidate who is a candidate in a special election may make expenditures aggregating not more than $500,000 with respect to the special election.

"(c) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percentage points or less, subject to the general election period limitation in subsection (a), the candidate may make additional expenditures of not more than $150,000 in the general election period. The additional expenditures shall be from contributions described in section 603(h) and payments described in section 604(f).

"(d) NONPARTICIPATING OPPONENT PROVISIONS.—

"(1) LIMITATION EXCEPTION.—The limitations imposed by subsections (a) and (b) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(A) is not an eligible House of Representatives candidate; and

"(B) makes expenditures in excess of 80 percent of the general election period limitation specified in subsection (a).

"(2) CONTINUED ELIGIBILITY AND ADDITIONAL MATCHING FUNDS.—An eligible House of Representatives candidate referred to in paragraph (1)—

"(A) shall continue to be eligible for all benefits under this title; and

"(B) shall receive matching funds without regard to the ceiling under section 604(a).

"(3) REPORTING REQUIREMENT.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress—

"(A) who is not an eligible House of Representatives candidate; and

"(B) who—

"(i) receives contributions in excess of 50 percent of the general election period limitation specified in subsection (a)(1); or

"(ii) makes expenditures in excess of 80 percent of such limit;

shall report that the threshold has been reached to the Clerk of the House of Representatives not later than 48 hours after reaching the threshold. The Clerk shall transmit a report received under this paragraph to the Commission as soon as possible (but no later than 4 working hours of the Commission) after such receipt, and the Commission shall transmit a copy to each other candidate in the election within 48 hours of receipt.

"(e) EXEMPTION FOR CERTAIN COSTS AND TAXES.—Payments for legal and accounting compliance costs, and Federal, State, or local taxes with respect to a candidate's authorized committees, shall not be considered in the computation of amounts subject to limitation under this section.

"(f) EXEMPTION FOR FUNDRAISING COSTS.—

"(1) Any costs incurred by an eligible House of Representatives candidate or his or her authorized committee in connection with the solicitation of contributions on behalf of such candidate shall not be considered in the computation of amounts subject to limitation under this section to the extent that the aggregate of such costs does not exceed 5 percent of the limitation under subsection (a) or subsection (b).

"(2) An amount equal to 5 percent of salaries and overhead expenditures of an eligible House of Representatives candidate's campaign headquarters and offices shall not be considered in the computation of amounts subject to limitation under this section. Any amount excluded under this paragraph shall be applied against the fundraising expenditure exemption under paragraph (1).

"(g) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 2.5 percent or less shall pay to the Commission an amount equal to the amount of the excess expenditures.

"(2) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by more than 2.5 percent and less than 5 percent shall pay to the Commission an amount equal to three times the amount of the excess expenditures.

"(3) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representa-

tives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 5 percent or more shall pay to the Commission an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

"(h) INDEXING.—The dollar amounts specified in subsections (a), (b), (c), and (e) shall be adjusted at the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"SEC. 602. STATEMENT OF PARTICIPATION; CONTINUING ELIGIBILITY.

"(a) IN GENERAL.—The Commission shall determine whether a candidate is in compliance with this title and, by reason of such compliance, is eligible to receive benefits under this title. Such determination shall—

"(1) in the case of an initial determination, be based on a statement of participation submitted by the candidate; and

"(2) in the case of a determination of continuing eligibility, be based on relevant additional information submitted in such form and manner as the Commission may require.

"(b) FILING.—The statement of participation referred to in subsection (a) shall be filed with the Clerk of the House of Representatives not later than January 31 of the election year or on the date on which the candidate files a statement of candidacy, whichever is later. The Clerk of the House of Representatives shall transmit a statement received under this section to the Commission as soon as possible.

"SEC. 603. CONTRIBUTION LIMITATIONS.

"(a) ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATE LIMITATION.—An eligible House of Representatives candidate may not, with respect to an election cycle, accept contributions aggregating in excess of $600,000.

"(b) NONPARTICIPATING OPPONENT PROVISIONS.—The limitations imposed by subsection (a) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(1) is not an eligible House of Representatives candidate; and

"(2) receives contributions in excess of 50 percent of the general election period limitation specified in section 601(a).

"(c) TRANSFER PROVISIONS.—

"(1) If an eligible House of Representatives candidate transfers any amount from an election cycle to a later election cycle, the limitation with respect to the candidate under subsection (a) for the later cycle shall be an amount equal to the difference between the amount specified in that subsection and the amount transferred.

"(2) If an eligible House of Representatives candidate transfers any amount from an election cycle to a later election cycle, each limitation with respect to the candidate under section 315(j) for the later cycle shall be one-third of the difference between the applicable amount specified in subsection (a) and the amount transferred.

"(d) RUNOFF AMOUNT.—In addition to the contributions under subsection (a), an eligible House of Representatives candidate who is a candidate in a runoff election may accept contributions aggregating not more than 20 percent of the general election expenditure limit under section 601(a) in the general election period. Of such contributions, one-half may be from political committees and one-half may be from persons referred to in section 315(j)(2).

"(e) PERSONAL CONTRIBUTIONS.—

"(1) IN GENERAL.—An eligible House of Representatives candidate may not, with respect to an election cycle, make contributions to his or her own campaign totaling more than $50,000 from the personal funds of the candidate. The amount that the candidate may accept from persons referred to in section 315(j)(2) shall be reduced by the amount of contributions made under the preceding sentence. Contributions from the personal funds of a candidate may not be matched under section 604.

"(2) LIMITATION EXCEPTION.—The limitation imposed by paragraph (1) does not apply in the case of an eligible House of Representatives candidate if any other candidate—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions in excess of 50 percent of the general election period limitation specified in section 601(a).

"(3) TRIPLE MATCH.—An eligible House of Representatives candidate, whose opponent makes contributions to his or her own campaign in excess of 50 percent of the general election period limitation specified in section 601(a), shall receive $3 in matching funds for each $1 certified by the Commission as matchable for the eligible candidate.

"(f) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed the limitation under subsection (a) by 2.5 percent or less shall refund the excess contributions to the persons who made the contributions.

"(2) MEDIUM AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed a limitation under subsection (a) by more than 2.5 percent and less than 5 percent shall pay to the Commission an amount equal to three times the amount of the excess contributions.

"(3) LARGE AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed a limitation under subsection (a) by 5 percent or more shall pay to the Commission an amount equal to three times the amount of the excess contributions plus a civil penalty in an amount determined by the Commission.

"(g) EXEMPTION FOR CERTAIN COSTS.—(1) Any amount—

"(A) accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress; and

"(B) used for legal and accounting compliance costs, or used to pay Federal, State, or local taxes with respect to a candidate's authorized committees shall not be considered in the computation of amounts subject to limitation under subsection (a).

"(2) The balance of funds maintained for legal and accounting compliance costs by the authorized committees of an eligible House of Representatives candidate shall not exceed 20 percent of the limit under subsection (a) at any time.

"(3) No funds received by a candidate under section 604 may be transferred to a separate legal and accounting compliance fund.

"(h) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percentage points or less, notwithstanding the limitation in subsection (a), the candidate may, in the general election period, accept additional contributions of not more than $150,000, consisting of—

"(1) not more than $50,000 from political committees; and

"(2) not more than $50,000 from individuals referred to in section 315(j)(2).

"(i) INDEXING.—The dollar amounts specified in subsections (a), (d), (e), and (h) shall be adjusted at the beginning of the calendar year based on the increase in the price index determined under section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"SEC. 604. MATCHING FUNDS.

"(a) IN GENERAL.—An eligible House of Representatives candidate shall be entitled to receive, with respect to the general election, an amount equal to the amount of contributions from individuals received by the candidate, but not more than $200,000, and not to the extent that contributions from any individual during the election cycle exceed $250 in the aggregate.

"(b) INDEPENDENT EXPENDITURE PROVISION.—If, with respect to a general election involving an eligible House of Representatives candidate, independent expenditures totaling $10,000 are made against the eligible House of Representatives candidate or in favor of another candidate, the eligible House of Representatives candidate shall be entitled, in addition to any amount received under subsection (a), to a matching payment of $10,000 and additional matching payments equal to the amount of such independent expenditures above $10,000, and expenditures may be made from such payments without regard to the limitations in section 601.

"(c) SPECIFIC REQUIREMENTS.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may receive matching funds under subsection (a) only if the candidate—

"(1) in an election cycle, has received $60,000 in contributions from individuals, with not more than $250 to be taken into account per individual;

"(2) qualifies for the general election ballot;

"(3) has an opponent on the general election ballot; and

"(4) files a statement of participation in which the candidate agrees to—

"(A) comply with the limitations under sections 601 and 603;

"(B) cooperate in the case of any audit by the Commission by furnishing such campaign records and other information as the Commission may require; and

"(C) comply with any repayment requirement under section 605.

"(d) WRITTEN INSTRUMENT REQUIREMENT.—No contribution in any form other than a gift of money made by a written instrument that identifies the individual making the contribution may be used as a basis for any matching payment under this section.

"(e) CERTIFICATION AND PAYMENT.—

"(1) CERTIFICATION.—Except as provided in paragraphs (2) and (3), not later than 5 days after receiving a request for payment, the Commission shall certify for payment the amount requested under subsection (a) or (b).

"(2) PAYMENTS.—The initial payment under subsection (a) to an eligible candidate shall be $60,000. All payments shall be—

"(A) made not later than 48 hours after certification under paragraph (1); and

"(B) subject to proportional reduction in the case of insufficient funds.

"(3) INCORRECT REQUEST.—If the Commission determines that any portion of a request is incorrect, the Commission shall withhold the certification for that portion only and inform the candidate as to how the candidate may correct the request.

"(f) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percentage points or less, the candidate shall be entitled to matching funds totaling not more than $50,000, in addition to any other amount received under this section.

"(g) CONVERSIONS TO PERSONAL USE.—A candidate may not convert any amount received under this section to personal use other than for reimbursement of verifiable prior campaign expenditures.

"(h) INDEXING.—The dollar amounts specified in subsections (a), (b), (c) (other than the amount in subsection (c) to be taken into account per individual), and (f) shall be adjusted at the beginning of the calendar year based on the increase in the price index determined under section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"SEC. 605. EXAMINATION AND AUDITS; REPAYMENTS.

"(a) GENERAL ELECTION.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of the eligible House of Representatives candidates, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether such candidates have complied with the conditions of eligibility and other requirements of this title. No other factors shall be considered in carrying out such an examination and audit. In selecting the accounts to be examined and audited, the Commission shall select all eligible candidates from a congressional district where any eligible candidate is selected for examination and audit.

"(b) SPECIAL ELECTION.—After each special election, the Commission shall conduct an examination and audit of the campaign accounts of all eligible candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(c) AFFIRMATIVE VOTE.—The Commission may conduct an examination and audit of the campaign accounts of any eligible House of Representatives candidate in a general election if the Commission, by an affirmative vote of 4 members, determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(d) PAYMENTS.—If the Commission determines that any amount of a payment to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify the candidate, and the candidate shall pay an amount equal to the excess.

"SEC. 606. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 607. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 606 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 608. REPORTS TO CONGRESS; CERTIFICATIONS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the House of Representatives setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the aggregate amount of matching fund payments certified by the Commission under section 604 for each eligible candidate; and

"(3) the amount of repayments, if any, required under section 605, and the reasons for each repayment required.

Each report submitted pursuant to this section shall be printed as a House document.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under section 604) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 605 or judicial review under section 606.

"(c) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (d), to conduct such audits, examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(d) REPORT OF PROPOSED REGULATIONS.—The Commission shall submit to the House of Representatives a report containing a detailed explanation and justification of each rule, regulation, and form of the Commission under this title. No such rule, regulation, or form may take effect until a period of 30 legislative days has elapsed after the report is received. As used in this subsection—

"(1) the term 'legislative day' means any calendar day on which the House of Representatives is in session; and

"(2) the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

"SEC. 609. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

"No eligible House of Representatives candidate may receive amounts under section 604 unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.".

(b) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If title VI of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act, shall be treated as invalid.

SEC. 122. LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 102, is amended by adding at the end the following new subsection:

"(j)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions from political committees aggregating in excess of $200,000.

"(2) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions aggregating in excess of $200,000 from persons other than political committees whose contributions total more than $250.

"(3) In addition to the contributions under paragraphs (1) and (2), a House of Representatives candidate who is a candidate in a runoff election may accept contributions aggregating not more than $100,000 with respect to the runoff election. Of such contributions, one-half may be from political committees and one-half may be from persons referred to in paragraph (2).

"(4) Any amount—

"(A) accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress; and

"(B) used for legal and accounting compliance costs, Federal, State, and local taxes,

shall not be considered in the computation of amounts subject to limitation under paragraphs (1), (2), and (3), but shall be subject to the other limitations of this Act.

"(5) In addition to any other contributions under this subsection, if, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percentage points or less, the candidate may, in the general election period, accept contributions of not more than $150,000, consisting of—

"(A) not more than $50,000 from political committees; and

"(B) not more than $50,000 from persons referred to in paragraph (2).

"(6) The dollar amounts specified in paragraphs (1), (2), (3), and (5) (other than the amounts in paragraphs (2) and (5) relating to contribution totals) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

SEC. 123. EXCESS FUNDS OF INCUMBENTS WHO ARE CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

An individual who—

(1) is a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in an election cycle to which title VI of FECA (as enacted by section 121 of this Act) applies;

(2) is an incumbent of that office; and

(3) as of the date of the first statement of participation submitted by the individual under section 502 of FECA, has campaign accounts containing in excess of $600,000;

shall deposit such excess in a separate account subject to the provision of section 304 of FECA. The amount so deposited shall be available for any lawful purpose other than use, with respect to the individual, for an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress.

Subtitle C—General Provisions

SEC. 131. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) in paragraph (1)—

(A) by striking out "forty-five" and inserting in lieu thereof "30";

(B) by striking out "sixty" and inserting in lieu thereof "45"; and

(C) by striking out "lowest unit charge of the station for the same class and amount of time for the same period" and insert "lowest charge of the station for the same amount of time for the same period on the same date"; and

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

"In the case of an eligible Senate candidate (as defined in section 301(19) of the Federal Election Campaign Act of 1971), the charges during the general election period (as defined in section 301(21) of such Act) shall not exceed 50 percent of the lowest charge described in paragraph (1).".

(b) PREEMPTION; ACCESS.—Section 315 of such Act (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f), respectively, and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

"(d) In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time without regard to the rates charged for the time.".

SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE HOUSE OF REPRESENTATIVES AND SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking out "and the National" and inserting in lieu thereof "the National"; and

(B) by striking out "Committee;" and inserting in lieu thereof "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives or Senate candidate;";

(2) in paragraph (2)(B), by striking out "and" after the semicolon;

(3) in paragraph (2)(C), by striking out the period and inserting in lieu thereof "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) the terms 'eligible House of Representatives candidate', 'eligible Senate candidate', and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

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

"(3) The rate made available under this subsection with respect to an eligible House of Representatives or Senate candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the congressional district or State, whichever is applicable.".

SEC. 133. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

"(B) Any independent expenditure aggregating $10,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $10,000 are made with respect to the same election as the initial statement filed under this section.

"(C) Such statement shall be filed with the Clerk of the House of Representatives or the Secretary of the Senate, whichever is applicable, and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Clerk of the House of Representatives and the Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

"(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

"(B) Such statement shall be filed with the Clerk of the House of Representatives or the Secretary of the Senate, whichever is applicable, and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure will support or oppose. The Clerk of the House of Representatives and the Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

"(5) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

"(6) At the same time as a candidate is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 504(a) or section 604(b).

"(7) The Clerk of the House of Representatives and the Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5)."

SEC. 134. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "an expenditure" and inserting "a disbursement";

(2) in the matter before paragraph (1) of subsection (a), by striking "direct";

(3) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

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

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the statement required by paragraph (1) shall—

"(A) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) be accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person

paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 135. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

"(19) The term 'eligible Senate candidate' means a candidate who is eligible under section 502 to receive benefits under title V.

"(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

"(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(22) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

"(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office.

"(28) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"(29) The term 'eligible House of Representatives candidate' means a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, as determined by the Commission under section 602, is eligible to receive matching payments and other benefits under title VI by reason of filing a statement of participation and complying with the continuing eligibility requirements under section 602.

"(30) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking "mailing address" and inserting "permanent residence address".

SEC. 136. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

(a) MASS MAILINGS OF SENATORS.—Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking "It is the intent of Congress that a Member of, or a Member-elect to, Congress" and inserting "A Member of, or Member-elect to, the House"; and

(2) in subparagraph (C)—

(A) by striking "if such mass mailing is postmarked fewer than 60 days immediately before the date" and inserting "if such mass mailing is postmarked during the calendar year"; and

(B) by inserting "or reelection" immediately before the period.

(b) MASS MAILINGS OF HOUSE MEMBERS.—Section 3210 of title 39, United States Code, is amended—

(1) in subsection (a)(7), by striking ", except that—" and all that follows through the end of subparagraph (B) and inserting a period; and

(2) in subsection (d)(1), by striking "delivery—" and all that follows through the end of subparagraph (B) and inserting "delivery within that area constituting the congressional district or State from which the Member was elected.".

(c) PROHIBITION ON USE OF OFFICIAL FUNDS.—The Committee on House Administration of the House of Representatives may not approve any payment, nor may a Member of the House of Representatives make any expenditure from, any allowance of the House of Representatives or any other official funds if any portion of the payment or expenditure is for any cost related to a mass mailing by a Member of the House of Representatives outside the congressional district of the Member.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

"(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

"(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

"(vii) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

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

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 122, is amended by adding at the end the following new subsection:

"(k) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting at the end the following new clause:

"(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of the mailing in the case of advertising by a mailing.".

Subtitle B—Provisions Relating to Soft Money of Political Parties

SEC. 311. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000; or".

(c) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end thereof the following new sentence: "The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees which are taken into account for purposes of paragraph (1)(C).".

SEC. 312. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end thereof the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e). This paragraph shall not authorize a committee to make expenditures for audio broadcasts (including television broadcasts) in excess of the amount which could have been made without regard to this paragraph.".

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (xi), by striking "direct mail" and inserting "mail"; and

(B) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by repealing clauses (viii) and (ix).

(c) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—(1) Title III of FECA is amended by inserting after section 323 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 324. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a)—

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) Except as provided in paragraph (3), any of the following activities during a Federal election period shall be treated as in connection with an election for Federal office:

"(A) Voter registration and get-out-the-vote activities.

"(B) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified.

"(C) The preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified.

"(D) Development and maintenance of voter files.

"(E) Any other activity affecting (in whole or in part) an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are not activities described in paragraph (2)(A).

"(E) Administrative expenses of a State or local committee of a political party, including expenses for—

"(i) overhead;

"(ii) staff (other than individuals devoting a substantial portion of their activities to elections for Federal office);

"(iii) meetings; and

"(iv) conducting party elections or caucuses.

"(F) Research pertaining solely to State and local candidates and issues.

"(G) Development and maintenance of voter files other than during a Federal election period.

"(H) Activities described in paragraph (2)(A) which are conducted other than during a Federal election period.

"(I) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on June 1, of any even-numbered calendar year (April 1 if an election to the office of President occurs in such year), and

"(B) ending on the date during such year on which regularly scheduled general elections for Federal office occur.

In the case of a special election, the Federal election period shall include at least the 60-day period ending on the date of the election.

"(c) SOLICITATION OF COMMITTEES.—(1) A national committee of a political party may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) Paragraph (1) shall not apply to contributions that—

"(A) are to be transferred to a State committee of a political party for use directly for activities described in subsection (b)(3); or

"(B) are to be used by the committee primarily to support such activities.

"(d) AMOUNTS RECEIVED FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) For purposes of subsection (a), any amount received by a national, State, district, or local committee of a political party (including any subordinate committee) from a State or local candidate committee shall be treated as meeting the requirements of subsection (a) and section 304(d) if—

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount, and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met, and

"(ii) certifies to the other committee that such requirements were met.

"(2) Notwithstanding paragraph (1), any committee receiving any contribution de-

scribed in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act with respect to receipt of the contribution from such candidate committee.

"(3) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.".

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(5)(A) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 324(b)(2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)).

"(B) Expenditures authorized under this paragraph shall be in addition to other expenditures allowed under this subsection, except that this paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4).

"(C) No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990.

"(D) For purposes of this paragraph—

"(i) a local committee of a political party shall only include a committee that is a political committee (as defined in section 301(4)); and

"(ii) a State committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee.".

(3) Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following new sentence:

"For purposes of subparagraph (C), any payments for get-out-the-vote activities on behalf of candidates for office other than Federal office shall be treated as payments exempted from the definition of expenditure under paragraph (9) of this section.".

(d) GENERIC ACTIVITIES.—Section 301 of FECA (2 U.S.C. 431), as amended by section 135, is amended by adding at the end thereof the following new paragraph:

"(31) The term 'generic campaign activity' means a campaign activity the preponderant purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate.".

SEC. 313. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end thereof the following new subsection:

"(l) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, and are not from sources prohibited by this Act with respect to elections to Federal office.

"(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, or any national, State, district, or local committee of a political party (including subordinate committees).

"(3) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(m) TAX-EXEMPT ORGANIZATIONS.—(1) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

SEC. 314. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 324 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 324).

"(3) Any political committee to which section 324 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 324(c) and the reason for the transfer.

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

"(5) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end thereof the following:

"(C) The exclusions provided in clauses (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $200 shall be reported.".

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by inserting at the end thereof the following:

"(C) The exclusions provided in clause (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $200 shall be reported.".

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following: "For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.".

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

TITLE IV—CONTRIBUTIONS

SEC. 401. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection:

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a par-

ticular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

"(ii) the intermediary or conduit is—

"(I) a political committee with a connected organization;

"(II) an officer, employee, or agent of such a political committee;

"(III) a political party;

"(IV) a partnership or sole proprietorship;

"(V) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C)(i) The term 'intermediary or conduit' does not include—

"(I) a candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;

"(II) a professional fundraiser compensated for fundraising services at the usual and customary rate;

"(III) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(B); or

"(IV) an individual who transmits a contribution from the individual's spouse.

"(ii) The term 'representative' means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate's campaign organization, provided that the individual is not described in subparagraph (B)(ii).

"(iii) The term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

"(iv) The term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

"(iii) bona fide fundraising efforts conducted by and solely on behalf of an individual for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, but only if all contributions are made directly to a candidate or a representative of a candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 313(b), is amended by adding at the end the following new subsection:

"(n) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

SEC. 404. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking "and" after the semicolon at the end;

(2) in clause (xiv), by striking the period at the end and inserting: "; and"; and

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

"(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $500 with respect to an election.".

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for Federal office)".

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

SEC. 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of FECA (2 U.S.C. 434(b)(3)(A)) is amended by striking "$200" and inserting "$50".

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

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

"(11) maintain computerized indices of contributions of $50 or more.".

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(3) by inserting the following new subparagraph at the end:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general

election is held, a pre-primary election report and a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 603. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by adding at the end the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence; and

(2) by striking the third sentence.

SEC. 604. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking "it has reason to believe that a person has committed, or is about to commit" and inserting "facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit".

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(B) in paragraph (11) by striking "(6)" and inserting "(6) or (13)".

SEC. 605. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.".

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.".

SEC. 606. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

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

"(2) Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of an eligible Senate candidate subject to audit under section 505(a) or an authorized committee of an eligible House of Representatives candidate subject to audit under section 605(a).".

SEC. 607. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 608. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 306 of FECA (2 U.S.C. 437c) is amended by adding at the end the following new subsection:

"(g) The Commission shall promulgate rules to prohibit devices or arrangements which have the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.".

TITLE VII—BALLOT INITIATIVE COMMITTEES

SEC. 701. DEFINITIONS RELATING TO BALLOT INITIATIVES.

Section 301 of FECA (2 U.S.C. 431), as amended by section 312(d), is amended by adding at the end the following new paragraphs:

"(32) The term 'ballot initiative political committee' means any committee, club, association, or other group of persons which makes ballot initiative expenditures or receives ballot initiative contributions in excess of $1,000 during a calendar year.

"(33) The term 'ballot initiative contribution' means any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the State, commonwealth, territory, or District of Columbia level which involves—

"(A) interstate commerce;

"(B) the election of candidates for Federal office and the permissible terms of those so elected;

"(C) Federal taxation of individuals, corporations, or other entities; or

"(D) the regulation of speech or press, or any other right guaranteed under the United States Constitution.

"(34) The term 'ballot initiative expenditure' means any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the state, commonwealth, territory, or District of Columbia level which involves—

"(A) interstate commerce;

"(B) the election of candidates for Federal office and the permissible terms of those so elected;

"(C) Federal taxation of individuals, corporations, or other entities; or

"(D) the regulation of speech or press, or any other right guaranteed under the United States Constitution.".

SEC. 702. AMENDMENT TO DEFINITION OF CONTRIBUTION.

Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)), as amended by section 404, is amended—

(1) in clause (xiv), by striking "and" after the semicolon;

(2) in clause (xv), by striking the period and inserting "; and"; and

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

"(xvi) a ballot initiative contribution.".

SEC. 703. AMENDMENT TO DEFINITION OF EXPENDITURE.

Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(1) in clause (ix)(3), by striking "and" after the semicolon;

(2) in clause (x), by striking the period and inserting "; and"; and

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

"(xi) a ballot initiative expenditure.".

SEC. 704. ORGANIZATION OF BALLOT INITIATIVE COMMITTEES.

Title III of FECA (2 U.S.C. 431 et seq.) is amended by inserting after section 302 (2 U.S.C. 432) the following new section:

"ORGANIZATION OF BALLOT INITIATIVE COMMITTEES

"SEC. 302A. (a) Every ballot initiative political committee shall have a treasurer. No ballot initiative contribution shall be accepted or ballot initiative expenditure shall be made by or on behalf of a ballot initiative political committee during any period in which the office of treasurer is vacant.

"(b)(1) Every person who receives a ballot initiative contribution for a ballot initiative political committee shall—

"(A) if the amount is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

"(B) if the amount of the ballot initiative contribution is in excess of $50, forward to the treasurer such contribution, the name, address, and occupation of the person making such contribution, and the date of receiving such contribution, no later than 10 days after receiving such contribution.

"(2) All funds of a ballot initiative political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

"(3) The treasurer of a ballot initiative political committee shall keep an account for—

"(A) all ballot initiative contributions received by or on behalf of such ballot initiative political committee;

"(B) the name and address of any person who makes a ballot initiative contribution in excess of $50, together with the date and amount of such ballot initiative contribution by any person;

"(C) the identification of any person who makes a ballot initiative contribution or ballot initiative contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

"(D) the identification of any political committee or ballot initiative political committee which makes a ballot initiative contribution, together with the date and amount of any such contribution; and

"(E) the name and address of every person to whom any ballot initiative expenditure is made, the date, amount and purpose of such ballot initiative expenditure, and the name of the ballot initiative(s) to which the ballot initiative expenditure pertained.

"(c) The treasurer shall preserve all records required to be kept by this section 3 years after the report is filed.".

SEC. 705. BALLOT INITIATIVE COMMITTEE REPORTING REQUIREMENTS.

Title III of FECA (2 U.S.C. 431 et seq.), as amended by section 103, is amended by inserting after section 30A (2 U.S.C. 434) the following new section:

"BALLOT INITIATIVE COMMITTEE REPORTING REQUIREMENTS

"SEC. 304B. (a)(1) Each treasurer of a ballot initiative political committee shall file reports of receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

"(2) All ballot initiative political committees shall file either—

"(A)(i) quarterly reports in each calendar year when a ballot initiative is slated regarding which the ballot initiative committee plans to make or makes a ballot initiative expenditure or plans to receive or receives a ballot initiative contribution, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year; and

"(ii) preballot initiative reports, which shall be filed 5 days before the occurrence of each ballot initiative in which the ballot initiative committee plans to make or has made a ballot initiative expenditure or plans to receive or has received a ballot initiative contribution; or

"(B) monthly reports in all calendar years which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month.

"(3) If a designation, report, or statement filed pursuant to this section (other than under paragraph (2)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

"(4) The reports required to be filed by this section shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during each year, only the amount need be carried forward.

"(b) Each report under this section shall disclose—

"(1) the amount of cash on hand at the beginning of the reporting period;

"(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

"(A) ballot initiative contributions from persons other than political committees;

"(B) ballot initiative contributions from political party committees;

"(C) ballot initiative contributions from other political committees and ballot initiative political committees;

"(D) transfers from affiliated political committees;

"(E) loans;

"(F) rebates, refunds, and other offsets to operating expenditures; and

"(G) dividends, interest, and other forms of receipts;

"(3) the identification of each—

"(A) person (other than a political committee or ballot initiative political committee) who makes a ballot initiative contribution to the reporting committee during the reporting period, whose ballot initiative contribution or ballot initiative contributions have an aggregate amount or value in excess of $50 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution and the address and occupation (if an individual) of the person;

"(B) political committee or ballot initiative political committee which makes a ballot initiative contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

"(C) affiliated political committee or affiliated ballot initiative political committee which makes a transfer to the reporting committee during the reporting period;

"(D) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan and the address and occupation (if an individual) of the person;

"(E) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of such receipt and the address and occupation (if an individual) of the person; and

"(F) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt and the address and occupation (if an individual) of the person;

"(4) for the reporting period and the calendar year, the total amount of disbursements, and all disbursements in the following categories:

"(A) ballot initiative expenditures;

"(B) transfers to affiliated political committees or ballot initiative political committees;

"(C) ballot initiative contribution refunds and other offsets to ballot initiative contributions;

"(D) loans made by the reporting committee and the name of the person receiving the loan together with the date of the loan and the address and occupation (if an individual) of the person; and

"(E) independent expenditures; and

"(5) the total sum of all ballot initiative contributions to such ballot initiative political committee.".

SEC. 706. ENFORCEMENT AMENDMENT.

Section 309 of FECA (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) The civil penalties of this Act shall apply to the organization, recordkeeping, and reporting requirements of a ballot initiative political committee under section 302A or 304B, insofar as such committee conducts activities solely for the purpose of influencing a ballot initiative and not for the purpose of influencing any election for Federal office.".

SEC. 707. PROHIBITION OF CONTRIBUTIONS IN THE NAME OF ANOTHER.

Section 320 of FECA (2 U.S.C. 441f) is amended to read as follows:

"PROHIBITION OF CONTRIBUTIONS IN THE NAME OF ANOTHER

"SEC. 320. No person shall make a contribution or ballot initiative contribution in the name of another person or knowingly permit his name to be used to effect such a contribution or ballot initiative contribution, and no person shall knowingly accept a contribution or ballot initiative contribution made by one person in the name of another person.".

SEC. 708. LIMITATION ON CONTRIBUTION OF CURRENCY.

Section 321 of FECA (2 U.S.C. 441g) is amended to read as follows:

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 321. No person shall make contributions or ballot initiative contributions of currency of the United States or currency of any foreign country which in the aggregate, exceed $100, to or for the benefit of—

"(1) any candidate for nomination for election, or for election, to Federal office;

"(2) any political committee (other than a ballot initiative political committee) for the purpose of influencing an election for Federal office; or

"(3) any ballot initiative political committee for the purpose of influencing a ballot initiative.".

TITLE VIII—MISCELLANEOUS

SEC. 801. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."; and

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

"(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

"(B) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the Treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.".

SEC. 802. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 314(b), is amended by inserting at the end the following new subparagraph:

"(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

SEC. 803. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are eligible under section 9003 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury shall not receive such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 4 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) be ineligible to receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section.".

SEC. 804. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

Section 319 of FECA (2 U.S.C. 441e) is amended by adding at the end the following new subsections:

"(c) A foreign national shall not directly or indirectly direct, control, influence or participate in any person's election-related activities, such as the making of contributions or expenditures in connection with elections for any local, State, or Federal office or the administration of a political committee.

"(d) A nonconnected political committee or the separate segregated fund established in accordance with section 316(b)(2)(C) or any other organization or committee involved in the making of contributions or expenditures in connection with elections for any Federal, State, or local office shall include the following statement on all printed materials produced for the purpose of soliciting contributions:

"'It is unlawful for a foreign national to make any contribution of money or other thing of value to a political committee.'.".

SEC. 805. AMENDMENT TO FECA SECTION 316.

Section 316(b) of FECA (2 U.S.C. 441b(b)) is amended—

(1) by inserting "(A)" at the beginning of paragraph (2) and redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) at the beginning of the first sentence in subparagraph (A), by inserting the following: "Except as provided in subparagraph (B),"; and

(3) by adding at the end of paragraph (2) the following:

"(B) Expenditures by a corporation or labor organization for candidate appearances, candidate debates and voter guides directed to the general public shall be considered contributions unless—

"(i) in the case of a candidate appearance, the appearance takes place on corporate or labor organization premises or at a meeting or convention of the corporation or labor organization, and all candidates for election to that office are notified that they may make an appearance under the same or similar conditions;

"(ii) in the case of a candidate debate, the organization staging the debate is either an organization described in section 301 whose broadcasts or publications are supported by commercial advertising, subscriptions or sales to the public, including a noncommercial educational broadcaster, or a nonprofit organization exempt from Federal taxation under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986 that does not endorse, support, oppose candidates or political parties; and

"(iii) in the case of a voter guide, the guide is prepared and distributed by a corporation or labor organization and consists of questions posed to at least two candidates for election to that office,

except that no communication made by a corporation or labor organization in connection with the candidate appearance, candidate debate or voter guide contains express advocacy, or that no candidate is favored through the structure or format of the candidate appearance, candidate debate or voter guide.".

SEC. 806. TELEPHONE VOTING BY PERSONS WITH DISABILITIES.

(a) STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.—

(1) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) CONSULTATION.—The Federal Election Commission shall conduct the study described in paragraph (1) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(3) CRITERIA.—The system or systems developed pursuant to paragraph (1) shall—

(A) propose a description of the kinds of disabilities that impose such difficulty in travel to polling places that a person with a disability who may desire to vote is discouraged from undertaking such travel;

(B) propose procedures to identify persons who are so disabled; and

(C) describe procedures and equipment that may be used to ensure that—

(i) only those persons who are entitled to use the system are permitted to use it;

(ii) the votes of persons who use the system are recorded accurately and remain secret;

(iii) the system minimizes the possibility of vote fraud; and

(iv) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(4) REQUESTS FOR PROPOSALS.—In developing a system described in paragraph (1), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(5) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(6) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than 1 year after the date of enactment of this Act.

SEC. 807. PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE.

Title III of FECA (2 U.S.C. 431 et seq.), as amended by section 312(c) is amended by adding at the end the following new section:

"PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE

"SEC. 325. (a) No aircraft that is owned or operated by the Government (including any aircraft that is owned or operated by the Department of Defense) may be used in connection with an election for Federal office.

"(b)(1) Subsection (a) shall not apply to travel provided to the President or Vice President.

"(2) The portion of the cost of any travel provided to the President or Vice President that is allocable to activities in connection with an election for Federal office shall be

paid by the authorized committee of the President. Such portion shall be paid within 10 days of the travel. For purposes of this section, travel which is in any part related to campaign activity, shall be treated as in connection with an election for Federal office, and the payment for such travel shall be sufficient to reflect that portion which is campaign-related.

"(3) The actual costs and payment for costs of any travel provided to the President and Vice President shall be disclosed in accordance with section 304.".

SEC. 808. SENSE OF THE CONGRESS.

The Congress should consider legislation that would provide for an amendment to the Constitution to set reasonable limits on campaign expenditures in Federal elections.

TITLE IX—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 901. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1995.

SEC. 902. BUDGET NEUTRALITY.

(a) DELAYED EFFECTIVENESS.—The provisions of this Act (other than this section) shall not be effective until the estimated costs under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 have been offset by the enactment of subsequent legislation effectuating this Act.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that subsequent legislation effectuating this Act shall not provide for general revenue increases, reduce expenditures for any existing Federal program, or increase the Federal budget deficit.

SEC. 903. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including 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 provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 904. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

Mr. MITCHELL. Mr. President, today I am joining Senators BOREN and FORD in the reintroduction of campaign finance reform legislation. The bill is identical to the conference report that passed Congress last year except that the effective date has been changed. This marks the third Congress that Senators BOREN, FORD and I have introduced this legislation to reform the campaign finance system. But this year we face entirely different prospects for enactment. For this year, we have a President who is strongly committed to the cause of campaign finance reform.

President Clinton has endorsed the basic provisions of this legislation including voluntary spending limits on congressional campaigns, limitations on the activities of political action committees, prohibitions on the use of soft money to affect Federal elections, and reductions in the cost of broadcast time. These changes will help restore public confidence in our election finance system by reducing the role of money in the election process and by making elections more competitive.

We have introduced the conference report to last year's bill to serve as a starting point. This is not where we expect to end up because we believe there are many modifications that can be made in that legislation; not to change the basic thrust of the bill but to respond to suggestions for improvement.

That will include discussions with the new President. He has a lot of good ideas that should be reflected in any final legislation. I also continue to hold out the hope of gaining the support of Republican Members of Congress. The conference report approved last year was endorsed by many Republicans, including 17 former Members of Congress. It was also endorsed by 32 Republicans who have run for Congress against incumbents. These current and former candidates for Federal office understand how the election finance system works and they support this legislation.

Yet the bill last year was strongly opposed by most Republican Members of Congress. While I recognize a substantial body of Republicans are philosophically opposed to spending limits, I also know that there are many others who are prepared to accept such a voluntary system. They are as fed up with the current money chase as are Democrats. Now that they no longer have a President strongly opposed to spending limits, I hope they will reconsider their support for this legislation.

At every turn we have endeavored to make this legislation balanced so that it neither favors Republicans nor Democrats. I believe it does provide a more level playing field for challengers. Today I ask Republican Senators to take a fresh look at this issue; review our bill, and let us know where we can make improvements to make this a bipartisan effort.

Since completion of the conference report we have received input from many different individuals who have suggested modifications to the bill; areas that need clarification or tighter language to prevent abuse. We are reviewing those suggestions and I hope many can be included in the final bill. We are also reviewing the legislative recommendations of the Federal Election Commission to respond to need changes in the presidential system and to improve some of the disclosure and reporting rules.

Additionally, one area where I believe last year's bill was deficient was in dealing with the problem of enforcement. Public trust in our election laws requires confidence that the law will be enforced. A system of spending limits puts an even higher premium on effective enforcement. Yet, the structure of the FEC frequently results in a deadlocked 3 to 3 vote of Commissioners that prevents enforcement of the law. Occasionally, this sends the signal that the law can be ignored with impunity. This is a dangerous situation that could severely undermine our proposed voluntary spending limit system.

For that reason, I believe it is important to include provisions in this bill to encourage better compliance with the law and to give the FEC better tools for enforcing the law. In that connection, I have named Senator FOWLER to a position at the FEC as an ex officio member and I have asked him to review these issues and report to me. I invite others as well to review this important issue and recommend needed changes.

Yesterday in his inaugural address, our new President called upon us to "reform our politics, so that power and privilege no longer shout down the voice of the people." "To renew America", he said, "we must revitalize our democracy."

I fully agree with President Clinton and I intend to honor his commitment with prompt congressional approval of campaign finance reform legislation.

Mr. FORD. Mr. President, today, I join the distinguished majority leader, Mr. MITCHELL, and the senior Senator from Oklahoma [Mr. BOREN], in introducing the Congressional Campaign Spending Limit and Election Reform Act of 1993.

The legislation which we are introducing today is the same bill which passed by the 102d Congress.

Last year, the Congress took an historic step towards the long awaited and necessary reform of our campaign finance laws. The passage of campaign finance reform was the first time since the 1979 amendments to the Federal Election Campaign Act that both houses of Congress were able to agree to a bill. Despite that historic effort, that bill did not become law.

Mr. President, the introduction of the very same bill which was passed by the Congress last year is the appropriate starting point for us to begin this process of enacting real and effective reform of the campaign finance system. In the next few months, Members will have the opportunity to debate this bill. Every issue is on the table. Every issue is subject to debate before the Rules Committee and the full Senate in the months ahead

There are a number of issues that we must address in this debate. We must examine closely the role of political action committees. We need to examine

the problems of bundling, soft money, and independent expenditures. In addition, there are a number of other issues to examine, including legislative recommendations that the Federal Election Commission recently issued. And above all, we need to examine a real means of reducing or limiting spending.

Mr. President, in past debates, I have said that there can be no real reform without meaningful spending limits. I believe that the terms of these spending limits remain negotiable. But the issue of whether to establish spending limits is not.

In postelection disclosure reports filed with the Federal Election Commission, general election candidates raised $498 million and spent $504 million. This represents an increase of $113 million during the same period in the 1990 election cycle.

In the Senate, general election candidates spent $190 million. Political action committees contributed $44 million to Senate candidates.

Mr. President, winning Senate campaigns now cost an average of $4 million. How many consecutive increases in the cost of running our Senate campaigns will it take before we are willing to impose meaningful spending limits?

Mr. President, if there was one clear message from the American people during the 1992 election, it was that they are demanding change in the way our system of elections works. They are cynical about how Members of Congress are elected. They are concerned how we work to stay here, and how we spend our time once we are here. And the American people have grown tired of the perception that the general interest is being held hostage to the special interest.

As a Member who has been here for 18 years, I feel very deeply that something must be done to improve the public attitude toward this institution.

President Clinton shares that concern as well. In his inaugural address, our new President said that we must renew America by reforming our politics. Campaign finance reform must end the perception that the general interest is held hostage to the special interest. Real reform must put an end to the money chase so that we, as representatives of the people, can do the people's business.

True and meaningful campaign finance reform must not only curb the excessive influence of special interests and control the money chase. It must also create a system that is fair to all—incumbents and challengers, Democrats and Republicans.

President Clinton has made it clear that campaign finance reform is an important element of his legislative program. There is no question that if the Congress is able to enact campaign finance reform, it will become law.

Mr. President, it is my hope that we can move this legislation as quickly as possible. As chairman of the Committee on Rules and Administration, I plan to schedule hearings on the campaign finance legislation in March and to proceed to mark up of this bill promptly upon conclusion of the hearings.

This is an issue where every Member of the Senate is an expert, and I urge my colleagues to join with me and others in drafting a fair solution in the months ahead.

• Mr. PELL. Mr. President, I introduce a bill to provide free broadcast time for the use of candidates for the U.S. Senate.

As a cosponsor of S.3, the Senate Election Ethics Act, I am deeply committed to continuing modification and reform of our election campaign process. The bill which I am introducing today has some special features which I believe recommend it for consideration in the context of comprehensive campaign reform: It does not involve public financing; it can help reduce the costs of campaigning; and it directly deals with the problem of negative advertising.

The purpose of this legislation is simple and straightforward. It attacks one of the principal sources of the spiraling costs of Federal political campaigns. It would make available at no cost a major element in the cost spiral, and that is media broadcast time.

I should note at the outset that my bill provides an alternative to the provision of S. 3 which would give eligible candidates vouchers for broadcast time which would be redeemed by the Federal treasury. My approach differs in that broadcasters would be required to provide limited time for political campaigns as a public service, without reimbursement from public funds.

My bill requires TV stations—as a condition of their license to use public air waves—to provide time for campaign use to the national committees of the political parties, which would in turn allocate the time to eligible candidates for the Senate. Minor parties showing support of at least 5% of the electorate would also be eligible to participate.

Committees receiving free broadcast time may use up to 15 minutes per day up to a limit of three hours on any one station during the 60 day period immediately preceding a general or special election. The bill does not apply to primaries.

All time is to be provided during the so-called prime time access period, from 7:30 to 8 p.m. local time, each weekday evening. This is a time period which local stations are supposed to use for community-oriented programming, but which in practice is not always well used.

The free time must be used in a manner which promotes a rational discussion and debate of issues pertinent to the election involved. At least 75 percent of the time must be taken up by a candidate's own remarks. In this way, I believe the bill provides a positive alternative to negative campaign ads without in any way imposing limits on present practices.

While my bill would place an administrative burden on the parties, I suggest that it is a burden they should be glad to accept. The plan of the bill permits the party organizations to decide which of their candidates—particularly in metropolitan areas where Senate candidates from more than one state may be competing for time—can best benefit from the media exposure offered by the bill.

This bill is no way restrictive of present campaign practices. Any candidate, whether or not a recipient of free time under this bill, is still at liberty to go out and purchase as much additional media time as he or she can afford and needs. Hopefully, however, the substantial infusion of free time provided by the bill will reduce substantially campaign expenditures for media purchases.

I would emphasize that this is a no-cost bill in terms of the value of the media time that would be given to the political process. The basic commodity of the bill is an existing public resource—namely, the airwaves—which the Congress can properly require to be used for political debate.

The idea is by no means a new one. I introduced it in the 99th Congress as S. 2837, in the 100th Congress as S. 593, in the 101st Congress as S. 751 and in the 102d Congress as S. 2076. And the idea has been espoused, quite independent of my own efforts, by scholars and commentators as diverse as Charles Krauthammer, Arthur M. Schlesinger, Jr. and Larry J. Sabato. So there has been ample opportunity for the concept to be absorbed into the fabric of campaign reform.

I am especially pleased to note that the basic concept of this bill was included among the recommendations of a recent bipartisan campaign finance reform panel appointed by the Senate Majority and Minority Leaders. In its report of March 6, 1990, the panel specifically recommended that broadcasters be required, as a condition of license renewal, to make free time available to political parties for campaign use. There are some differences in the distribution formula, but essentially my bill matches the panel's recommendation.

Finally, I would note that this concept has particular relevance at this time when Congress as an institution is under attack, and when so much uncritical attention is being given to panaceas such as mandatory limitations on the number of terms a member can serve.

The best alternative to mandatory term limitations, in my view, is to as-

sure that the existing system of term limitation—namely the right of the electorate to throw out an incumbent every time he runs for reelection—is as competitive as it can be. This bill would help assure that objective.

So the time seems ripe to translate this idea into action.

Mr. President, studies of recent elections have shown that as much as 40% of all political campaign expenditures—and up to 75% in some media markets—are spent on media advertising. If we are truly concerned about curbing the cost of campaigning, it makes sense to use an available public resource to substitute for this major category of expenditure.

I share the optimism of the distinguished senator from Oklahoma [Mr. BOREN], that this year will be a watershed time of accomplishment in the area of campaign reform. With the commitment of the new administration, we should be able to enact many of the progressive concepts which have been held captive to the ideological differences of the past decade. I hope that the solid core of reform in S. 3 can be a vehicle for other worthy concepts for making political campaigns less susceptible to financial abuse. I offer this bill at this time for consideration in that context. •

By Mr. HOLLINGS (for himself, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. LIEBERMAN, Mr. RIEGLE, Mr. ROBB, Mr. WOFFORD, Mr. KERRY, Ms. MOSELEY-BRAUN, and Mr. LEAHY):

S. 4. A bill to promote the industrial competitiveness and economic growth of the United States by strengthening and expanding the civilian technology programs of the Department of Commerce, amending the Stevenson-Wydler Technology Innovation Act of 1980 to enhance the development and nationwide deployment of manufacturing technologies, and authorizing appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL COMPETITIVENESS ACT

Mr. HOLLINGS. Mr. President, on behalf of myself, the distinguished majority leader, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. BINGAMAN, Mr. RIEGLE, Mr. ROBB, Mr. WOFFORD, Mr. KERRY, Ms. MOSELEY-BRAUN, Mr. LEAHY, and others, I send to the desk the National Competitiveness Act of 1993. I ask that it be appropriately referred.

Seeing others on the floor now waiting to be recognized, let me just say that in addition to the particular provisions that we have in the Competitiveness Act reauthorizing our Advanced Technology Program, our National Institute of Standards and Technology, the manufacturing centers, and a new outreach program, we have also included in the bill the 1992 computer legislation provided by then-Senator GORE, now Vice President GORE, for that "information highways" and communications, legislation which I had the opportunity of cosponsoring as chairman of the Committee on Commerce.

Mr. President, I am very pleased today to join the distinguished Majority Leader and a number of our colleagues in introducing S. 4, the National Competitiveness Act of 1993. This landmark bill will expand significantly Federal support for industry's efforts to restore U.S. leadership in technology and manufacturing. More to the point, it will help to create and preserve good jobs for our citizens.

For years, several of us in Congress have watched other governments actively support their companies, their workers, and their national prosperity while our Government has stood on the sidelines, blinded by a simplistic, indifferent economic ideology that ignored the global economic challenge facing us. The results have been clear and often devastating. Entire United States industries have been lost, and now the Department of Commerce [DOC] estimates that the United States is losing, or losing badly, to Japan and Europe in many of the key emerging technologies of the future. Overall, we have seen a steady, debilitating decline in real wages and our Nation's living standards.

It is time to return to the true American fundamentals. The budget deficit is a cancer on our economy and Government's ability to meet the Nation's needs. Unfair trade practices, particularly dumping and closed markets, are used by our competitors as a strategic weapon to weaken our industries and take our jobs. Education and training levels in America still lag other countries, and our children and workers suffer as a result. Companies and countries which lead in technology and manufacturing will lead in the quest for markets, jobs, and wealth. In all of these areas, Government has a responsibility to work with business and labor to build prosperity.

These are not great secrets. Anyone who has served as a governor, as I have, knows that real prosperity cannot be won without Government leadership and investment to support private initiative. Industry-government-labor partnerships work at the State level; it is time to bring them onto the national stage.

My colleagues have heard me speak often regarding budgets, trade, and education. I will continue to speak out on these issues. Today, however, my focus is on technology and manufacturing.

When this country chose to promote agriculture, it created a Department of Agriculture with strong research and extension arms. When we decided to lead the world in aviation, the old National Advisory Committee on Aeronautics, later part of NASA, was created. When war forced us to create nuclear weapons, we created the Manhattan Project. Later, to beat the Soviets in advanced technology we created the Advanced Research Projects Agency.

Today, when our greatest challenge is economic, the United States must maintain a true civilian technology agency, one dedicated to supporting industry's efforts to lead the world in key technologies of the 21st century. We need to fund that agency adequately, making it viable and effective.

In my view, we do not need to waste time and effort creating some new organization. We already have a civilian technology agency, and in fact we have had it since 1901. It is the Commerce Department's National Institute of Standards and Technology [NIST], formerly the old National Bureau of Standards. For decades, it has labored quietly, effectively, and with little fanfare and little money to help industry improve manufacturing, reduce costs, and improve quality.

In 1988, I authored legislation to expand this agency's services to industry. We expanded its laboratory work in support of new basic technologies, particularly in manufacturing. We created the advanced technology program, to support industry-led projects to overcome the technical problems that slow business' efforts to commercialize important new inventions. Following the example of agriculture, we created Manufacturing Technology Centers to help small and medium-sized manufacturers across the Nation to modernize their equipment and business practices so that they could boost profits and save jobs.

These programs are working, and they are helping real companies solve real problems and save real jobs. Now we are in a position to expand these proven programs and invest enough money to make them effective on the national level.

S. 4, the National Competitiveness Act, would strengthen and expand NIST's technology and manufacturing programs, and is based on legislation from last year introduced by myself, Congressman GEORGE BROWN, and others. We were not successful in enacting the legislation last year, but this year we are back and, I am pleased to say, with more support than ever.

Mr. President, the bill we are introducing today has four main provisions. First, it authorizes expanded support for that most critical and, unfortunately, often most neglected part of our economy—manufacturing. The bill would expand NIST support for both industry-led manufacturing technology projects and for State-led efforts to help small manufacturers. It would do

so at a time when the Japanese are pursuing a $1 billion project to create a new generation of manufacturing technology—what they call intelligent manufacturing systems—and when the Japanese have some 170 centers to help Japan's small and medium-sized manufacturers. Specifically, the bill creates a new 21st-century manufacturing infrastructure program at NIST, with two parts: First, an industry-led advanced manufacturing technology development program, managed through NIST's existing advanced technology program; and second, a national manufacturing outreach program combining NIST support of State-run manufacturing outreach centers, an increase in the number of NIST manufacturing technology centers, and an enhanced State technology extension program that will ensure that all interested States can develop manufacturing extension services. The bill also contains an industry-led Manufacturing Advisory Committee, a work force quality initiative authored by Congressman TIM VALENTINE, and several new National Science Foundation [NSF] manufacturing activities. If the new administration decides to proceed for a full interagency advanced manufacturing initiative, as I hope they will, this legislation will ensure that DOC and NSF can play strong and effective roles in that effort.

Second, the bill authorizes a significant expansion in both the overall advanced technology program and NIST's important in-house laboratory services to American industry. It also proposes three pilot programs to stimulate additional private investment in cutting-edge technology companies. If there is one lesson that we must learn in this new world economy, it is that victory goes not to those who invent first but to those who commercialize first and produce with the highest level of quality and the lowest possible cost. Speed, quality, and cost are everything. NIST specializes in working with industry in these critical areas. Providing the agency's technology programs with adequate funding will help give the United States a fighting chance to succeed in fast-paced world markets.

Third, the legislation crates a new Office of Technology Monitoring and Competitive Assessment within DOC's Technology Administration. U.S. Government and industry alike must better understand the technological capabilities and industrial targeting strategies of our major trading partners.

Fourth, S. 4 contains the provisions of last year's S. 2937, a bill to encourage industry-government cooperation in developing a new information and computer infrastructure for the Nation and to ensure that American companies, not others, lead the world in developing lucrative and useful computer applications in such areas as education and health. S. 2937 was written by our former colleague, Vice President GORE.

Mr. President, this is a good bill—a set of concrete steps based on proven programs. I hope that it will lead to a broad discussion, and I welcome suggestions from industry, State officials, the new administration, and our colleagues. Some of the issues, such as stimulating additional private investment in technology firms, need more debate than we have been able to give them so far, and I look forward to hearing people's views.

Mr. President, I cannot conclude this statement without expressing my application for the support of colleagues and groups which have worked with me long and hard on these issues. I have enjoyed working with my Commerce Committee colleagues on these issues. More recently, I worked with Senator LIEBERMAN, Senator BINGAMAN, and other members of the Economic Leadership Strategy Group. That group has helped to put together a broad plan which includes important complementary initiatives from the Armed Services, Banking, and Labor Committees, and I will continue to work with these colleagues. I also look forward to continuing to work with Chairman BROWN and the members of the House Science Committee.

Several groups have provided us with invaluable advice and suggestions. I particularly thank the National Coalition for Advanced Manufacturing, the National Association of Manufacturers, the American Electronics Association, the Industrial Union Department [AFL–CIO], the National Center for Manufacturing Sciences, and the Modernization Forum and its friends. I look forward to continuing to work with these groups and others to shape the final bill.

Mr. President, just as the best welfare program is a job, so the best Government investments are those that boost employment and increase national wealth. In an age of high technology and tough global competition, supporting industry's efforts in technology and manufacturing is one of the smartest investments we can make.

I thank the majority leader and our colleagues for joining me today in introducing the National Competitiveness Act, and I look forward to working with the new administration to refine the bill and ensure its speedy enactment.

I ask unanimous consent that a fact sheet on the bill and the text of the bill itself be printed in the RECORD.

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

S. 4

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

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Competitiveness Act of 1993".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS
Sec. 101. Short title; table of contents.
Sec. 102. Findings.
Sec. 103. Purposes.
Sec. 104. Definitions
TITLE II—MANUFACTURING
Sec. 201. Short title.
SUBTITLE A—MANUFACTURING TECHNOLOGY AND EXTENSION
Sec. 211. Findings and purpose.
Sec. 212. Manufacturing technology and extension amendments to the Stevenson-Wydler Act.
Sec. 213. Miscellaneous and conforming amendments.
Sec. 214. Manufacturing Technology Centers.
Sec. 215. State Technology Extension Program.
Sec. 216. American workforce quality partnerships.
Sec. 217. Report on options for accelerating the adoption of new manufacturing equipment.
SUBTITLE B—NATIONAL SCIENCE FOUNDATION MANUFACTURING PROGRAM
Sec. 221. National Science Foundation manufacturing activities.
TITLE III—CRITICAL TECHNOLOGIES
Sec. 301. Findings.
SUBTITLE A—ADVANCED TECHNOLOGY PROGRAM AND RELATED
Sec. 311. Development of plan for the Advanced Technology Program.
Sec. 312. Advanced Technology Program support of large-scale joint ventures.
Sec. 313. Technical amendments.
Sec. 314. Technology monitoring and competitive assessment.
Sec. 315. Commerce Technology Advisory Board.
Sec. 316. Study of semiconductor lithography technologies.
SUBTITLE B—TECHNOLOGY FINANCING PILOT PROGRAMS
Sec. 321. Findings and purpose.
Sec. 322. Civilian Technology Loan Program.
Sec. 323. Assistance to critical technology investment companies.
Sec. 324. Assistance to State technology development programs.
TITLE IV—ADDITIONAL COMMERCE DEPARTMENT PROVISIONS
Sec. 401. International standardization.
Sec. 402. Malcolm Baldrige Award amendments.
Sec. 403. Cooperative research and development agreements.
Sec. 404. Clearinghouse on State and Local Initiatives.
Sec. 405. Use of domestic products.
Sec. 406. Severability.
Sec. 407. Wind engineering research programs.
TITLE V—AUTHORIZATIONS OF APPROPRIATIONS
Sec. 501. Technology Administration.
Sec. 502. National Institute of Standards and Technology.
Sec. 503. Additional activities of the Technology Administration.
Sec. 504. National Science Foundation.
Sec. 505. Availability of appropriations.
TITLE VI—INFORMATION INFRASTRUCTURE AND TECHNOLOGY
Sec. 601. Short title.
Sec. 602. Findings and purpose.
Sec. 603. Information Infrastructure Development Program.

Sec. 604. Applications for education.
Sec. 605. Applications for manufacturing.
Sec. 606. Applications for health care.
Sec. 607. Applications for libraries.
Sec. 608. Access to scientific and technical information.

SEC. 102. FINDINGS.

Congress finds and declares the following:

(1) In an increasingly competitive world economy, the companies and nations which lead in the rapid development, commercialization, and application of new technologies, and in the low-priced, high-quality manufacture of products based on those technologies, will lead in economic growth, employment, and high living standards.

(2) While the United States remains the world leader in science and invention, it has not done as well as it should in commercializing and manufacturing new inventions. This lag and the unprecedented competitive challenge that the Nation has faced from abroad have contributed to a drop in real wages and living standards.

(3) While the private sector must take the lead in the development, application, and manufacture of new technologies, the Federal Government should—

(A) assist industry in the development of high-risk, long-term precommercial technologies which promise large economic benefits for the Nation;

(B) support industry-led efforts to develop and refine advanced manufacturing technologies;

(C) work with States, the private sector, and worker organizations to help small and medium-sized manufacturers throughout the Nation to adopt best current manufacturing technologies and practices, to improve worker skills, and prepare, as appropriate, to adopt the advanced computer-controlled manufacturing technologies of the 21st century; and

(D) cooperate with industry and academia to help create an advanced information infrastructure for the United States.

(4) In working with industry to promote the technological leadership and economic growth of the United States, the Federal Government also has a responsibility to consult with business leaders on industry's long-term technological needs, to monitor technological trends and technology targeting efforts in other nations, and generally to ensure that Federal technology programs help United States to remain competitive and create good domestic jobs.

(5) The Department of Commerce, and particularly its Technology Administration and National Institute of Standards and Technology, is and should remain the civilian government agency which helps commercial industry to speed the development and commercialization of new technologies, improve manufacturing, and ensure a growing and healthy national industrial base and good manufacturing jobs. To promote the long-term economic growth of the Nation, these Department of Commerce programs should be strengthened and expanded.

SEC. 103. PURPOSES.

The purposes of this Act are to—

(1) strengthen and expand the ability of Federal technology programs, particularly those of the Department of Commerce, to support industry-led efforts to improve the technological capabilities, manufacturing performance, information infrastructure, and employment opportunities of the United States;

(2) promote and facilitate, particularly through the Advanced Technology Program of the Department of Commerce the creation, development, and adoption of technologies that will contribute significantly to United States economic competitiveness, employment, and prosperity;

(3) develop a nationwide network of sources of technological advice for manufacturers, particularly small and medium-sized firms, and to provide high quality, current information to that network;

(4) encourage the development and rapid application of advanced manufacturing technologies and processes;

(5) create pilot programs to stimulate and supplement the flow of capital to business concerns engaged principally in development or utilization of critical civilian and other advanced technologies;

(6) ensure the widest possible application of high-performance computing and high-speed networking and to aid United States industry to develop an advanced national information infrastructure; and

(7) enhance and expand the core programs of the National Institute of Standards and Technology.

SEC. 104. DEFINITIONS.

For purposes of this Act—

(1) the term "advanced manufacturing technology" includes—

(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial production which advance the state-of-the-art; and

(B) novel techniques and processes designed to improve manufacturing quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers;

(2) the term "Director" means the Director of the Institute;

(3) the term "Institute" means the National Institute of Standards and Technology;

(4) the term "modern technology" means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of manufacturers;

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

TITLE II—MANUFACTURING

SEC. 201. SHORT TITLE.

This title may be cited as the "Manufacturing Technology and Extension Act of 1993".

SUBTITLE A—MANUFACTURING TECHNOLOGY AND EXTENSION

SEC. 211. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares the following:

(1) United States manufacturers, especially small businesses, require the adoption and implementation of both modern (that, appropriate and currently available) technologies and advanced manufacturing and process technologies to meet the challenge of foreign competition.

(2) The development and deployment of modern and advanced manufacturing technologies are vital to the economic growth, environmental sustainability, standard of living, competitiveness in world markets, and national security of the United States.

(3) New developments in flexible, computer-integrated manufacturing, electronic manufacturing communications networks, and other new technologies make possible dramatic improvements across all industrial sectors in productivity, quality, and the speed with which manufacturers can respond to changing market opportunities.

(4) The Department of Commerce's Technology Administration can continue to play an important role in assisting United States industry to develop, test, and deploy modern and advanced manufacturing technologies.

(b) PURPOSE.—It is the purpose of this subtitle to help ensure the continued leadership of the United States in manufacturing by enhancing the Department of Commerce's technology programs to—

(1) provide domestic manufacturers, especially small and medium-sized companies, with ready access to high quality Federal advice and assistance in the development, deployment, and improvement of modern manufacturing technology, and in solving their specific technology-based problems; and

(2) encourage, facilitate, and promote the development and adoption of advanced manufacturing technologies by the private sector.

SEC. 212. MANUFACTURING TECHNOLOGY AND EXTENSION AMENDMENTS TO THE STEVENSON-WYDLER ACT.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new title:

"TITLE III—MANUFACTURING TECHNOLOGY

"SEC. 301. STATEMENT OF POLICY.

"Congress declares that it is the policy of the United States that—

"(1) Federal agencies, particularly the Department of Commerce, shall work with industry and labor to ensure that within 10 years of the date of enactment of this Act the United States is second to no other nation in the development, deployment, and use of advanced manufacturing technology;

"(2) all the major Federal research and development agencies shall place a high priority on the development and deployment of advanced manufacturing technologies, and shall work closely with United States industry and with the Nation's universities to develop and test those technologies; and

"(3) other Federal departments and agencies which work with civilian industry and labor shall be encouraged, as appropriate and consistent with applicable statutes and duties, to work with and through the programs of the Department of Commerce.

"SEC. 302. ROLE OF THE DEPARTMENT OF COMMERCE.

"(A) IN GENERAL.—The Department of Commerce shall, consistent with the policies and purposes of section 301, work with United States commercial industry and labor to—

"(1) help develop new generic advanced manufacturing technologies, including advanced flexible computer-integrated manufacturing systems and electronic communications networks; and

"(2) assist the States and the private sector to help United States manufacturers, especially small and medium-sized manufacturing enterprises, to adopt best current manufacturing technologies and practices and, as appropriate, new advanced manufacturing equipment and techniques.

"(b) TWENTY-FIRST CENTURY MANUFACTURING INFRASTRUCTURE PROGRAM.—(1) As one important step to carry out the responsibilities of the Department of Commerce under

subsection (a) of this section, there is established within the Institute a Twenty-First Century Manufacturing Infrastructure Program, which shall include—

"(A) the Advanced Manufacturing Technology Development Program established under section 303 of this title; and

"(B) the National Manufacturing Outreach Program established under section 304 of this title and the associated programs established under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k–l).

"(2) The Secretary, through the Under Secretary and the Director, may accept the transfer of funds from any other Federal agency and may use those funds to implement the Twenty-First Century Manufacturing Infrastructure Program and support its activities.

"SEC. 303. ADVANCED MANUFACTURING TECHNOLOGY DEVELOPMENT PROGRAM.

"(a) PROGRAM DIRECTION.—The Secretary, through the Under Secretary and the Director, shall establish an Advanced Manufacturing Technology Development Program which shall include advanced manufacturing systems and networking projects.

"(b) PROGRAM GOAL.—The goal of the Advanced Manufacturing Technology Development Program is to create collaborative multiyear technology development programs involving United States industry and, as appropriate, other Federal agencies, the States, worker organizations, universities, and other interested persons, in order to develop, refine, test, and transfer design and manufacturing technologies and associated applications, including advanced computer integration and electronic networks.

"(c) PROGRAM COMPONENTS.—The Advanced Manufacturing Technology Development Program shall include—

"(1) the advanced manufacturing research and development activities at the Institute; and

"(2) one or more technology development testbeds within the United States, selected in accordance with procedures, including cost sharing, established for the Advanced Technology Program under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), whose purpose shall be to develop, refine, test, and transfer advanced manufacturing and networking technologies and associated applications through a direct manufacturing process.

"(d) ACTIVITIES.—The Advanced Manufacturing Technology Development Program, under the coordination of the Secretary, through the Director, shall—

"(1) test and, as appropriate, develop the equipment, computer software, and systems integration necessary for the successful operation within the United States of advanced design and manufacturing systems and associated electronic networks;

"(2) establish at the Institute and the technology development testbed or testbeds—

"(A) prototype advanced computer-integrated manufacturing systems; and

"(B) prototype electronic networks linking manufacturing systems;

"(3) assist industry to develop, and implement voluntary consensus standards relevant to advanced computer-integrated manufacturing operations, including standards for networks, electronic data interchange, and digital product data specifications;

"(4) help to make high-performance computing and networking technologies an integral part of design and production processes where appropriate;

"(5) conduct research to identify and overcome technical barriers to the successful and cost-effective operation of advanced manufacturing systems and networks;

"(6) facilitate industry efforts to develop and test new applications for manufacturing systems and networks;

"(7) involve in the Advanced Manufacturing Technology Development Program, to the maximum extent practicable, both those United States companies which make manufacturing and computer equipment and a broad range of company personnel from those companies which buy the equipment;

"(8) identify training needs, as appropriate, for company managers, engineers, and employees in the operation and applications of advanced manufacturing technologies and networks, with a particular emphasis on training for production workers in the effective use of new technologies;

"(9) work with private industry, universities, and other interested parties to develop standards for the use of advanced computer-based training systems, including multi-media and interactive learning technologies;

"(10) involve small- and medium-sized manufacturers in its activities; and

"(11) exchange information and personnel, as appropriate, between the technology development testbeds and the electronic network created under section 303.

"(e) TESTBED AWARDS.—(1) In selecting applicants to receive awards under subsection (c)(2) of this section, the Secretary shall give particular consideration to applicants that have existing computer expertise in the management of business, product, and process information such as digital data product and process technologies and customer-supplier information systems, and the ability to diffuse such expertise into industry, and that, in the case of joint research and development ventures, include both suppliers and users of advanced manufacturing equipment.

"(2) An industry-led joint research and development venture applying for an award under subsection (c)(2) of this section may include one or more State research organizations, universities, independent research organizations, or Regional Centers for the Transfer of Manufacturing Technology (as created under section 25 of the National Institute of Standards and Technology Act) and other organizations as the Secretary considers appropriate.

"(f) ADVICE AND ASSISTANCE.—(1) Within 6 months after the date of enactment of this title, and before any request for proposals is issued, the Secretary shall hold one or more workshops to solicit advice from United States industry and from other Federal agencies, particularly the Department of Defense, regarding the specific missions and activities of the testbeds.

"(2) The Secretary shall, to the greatest extent possible, coordinate activities under this section with activities of other Federal agencies and initiatives relating to Computer-Aided Acquisition and Logistics Support, electronic data interchange, flexible computer-integrated manufacturing, and enterprise integration.

"(3) The Secretary may request and accept funds, facilities, equipment, or personnel from other Federal agencies in order to carry out responsibilities under this section.

"(g) APPLICATION OF ANTITRUST LAWS.—Nothing in this section shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"SEC. 304. NATIONAL MANUFACTURING OUTREACH PROGRAM.

"(a) ESTABLISHMENT AND PURPOSE.—There is hereby established a National Manufacturing Outreach Program (hereafter in this section referred to as the 'Outreach Program'). The Secretary, acting through the Under Secretary and the Director, shall implement and coordinate the Outreach Program in accordance with an initial plan to be prepared and submitted to Congress within 6 months after the date of enactment of this title and a 5-year plan for the Outreach Program to be submitted to the Congress within a year after the date of enactment of this title and to be updated annually. The purpose of the Outreach Program is to link and strengthen the Nation's manufacturing extension centers and activities in order to assist United States manufacturers, especially small- and medium-sized firms, to expand and accelerate the use of modern manufacturing practices, and to accelerate the development and use of advanced manufacturing technology.

"(b) COMPONENTS.—The Outreach Program shall be a partnership of the Department of Commerce, the States, the private sector, and, as appropriate, other Federal agencies to provide a national system of manufacturing extension centers and technical services to United States companies, particularly small and medium-sized manufacturers. The Outreach Program shall include the following components—

"(1) Manufacturing Outreach Centers, as provided for under subsection (c) of this section;

"(2) Regional Centers for the Transfer of Manufacturing Technology, as established under section 25 of the National Institute of Standards and Technology Act, and the State Technology Extension Program, as established under section 26 of the National Institute of Standards and Technology Act;

"(3) an organization, coordinated and funded by the Institute, which links and supports Manufacturing Outreach Centers and Regional Centers for the Transfer of Manufacturing Technology, and which operates the Technology Extension Network and Clearinghouse established under subsection (d) of this section; and

"(4) such technology and manufacturing extension centers supported by other Federal departments and agencies as the Secretary may deem appropriate for inclusion in the Outreach Network.

"(c) MANUFACTURING OUTREACH CENTERS.—(1) Government and private sector organizations, actively engaged in technology or manufacturing extension activities, may apply to the Secretary to be designated as Manufacturing Outreach Centers. Eligible organizations may include State and local government agencies, their extension programs, and their laboratories; small business development centers; and appropriate programs run by professional societies, worker organizations, industrial organizations, forprofit or nonprofit organizations, universities, community colleges, and technical schools and colleges, including, where appropriate, vendor-supported demonstrations of production applications.

"(2) The Secretary shall establish terms and conditions of participation and may provide financial assistance, on a cost-shared basis and through competitive, merit-based review processes to nonprofit or government participants throughout the United States to enable them to—

"(A) join the Outreach Program and disseminate its technical and information services to United States manufacturing firms, particularly small and medium-sized firms; and

"(B) strengthen their efforts to help small and medium-sized United States manufac-

turers to expand and accelerate the use of modern and advanced manufacturing practices.

"(3) Each Manufacturing Outreach Center shall have the option of affiliating or not affiliating with one or more Regional Centers for the Transfer of Manufacturing Technology. If such a Manufacturing Outreach Center chooses to make such an affiliation, the Secretary, through the Director, shall take such steps as appropriate to ensure a productive working partnership between such center and the Regional Center or Centers with which it affiliates.

"(d) TECHNOLOGY EXTENSION COMMUNICATIONS NETWORK.—The Department of Commerce shall provide for an instantaneous, interactive communications network to serve the Outreach Program to facilitate interaction among Manufacturing Outreach Centers, Regional Centers for the Transfer of Manufacturing Technology and Federal agencies and to permit the collection and dissemination in electronic form, in a timely and accurate manner, of information described in subsection (e). Such communications infrastructure shall, wherever practicable, make use of existing computer networks, data bases, and electronic bulletin boards. Communications infrastructure arrangements, including user fees and appropriate electronic access for public and private information suppliers and users shall be addressed in the 5-year plan prepared under subsection (a) of this section.

"(e) CLEARINGHOUSE.—(1) The Secretary shall develop a clearinghouse system, using the National Institute of Standards and Technology, the National Technical Information Service, and private sector information providers and carriers where appropriate, to—

"(A) identify expertise and acquire information, appropriate to the purpose of the Outreach Program stated in subsection (a), from all available Federal sources, and where appropriate from other sources, providing assistance where necessary in making such information electronically available and compatible with the electronic network;

"(B) ensure ready access by United States manufacturers and other interested private sector parties to the most recent relevant available such information and expertise; and

"(C) to the extent practicable, inform such manufacturers of the availability of such information.

"(2) The clearinghouse shall include information available electronically on—

"(A) activities of Manufacturing Outreach Centers, Regional Centers for the Transfer of Manufacturing Technology, the State Technology Extension Program, and the users of the electronic network;

"(B) domestic and international standards from the Institute and private sector organizations and other export promotion information, including conformity assessment requirements and procedures;

"(C) the Malcolm Baldrige Quality program, and quality principles and standards;

"(D) manufacturing processes minimizing waste and negative environmental impact;

"(E) federally-funded technology development and transfer programs;

"(F) responsibilities assigned to the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation under section 102 of this Act;

"(G) how to access data bases and services; and

"(H) other subjects relevant to the ability of companies to manufacture and sell competitive products throughout the world.

"(e) PRINCIPLES.—In carrying out this section, the Department of Commerce shall take into consideration the following principles:

"(1) The Outreach Program and the electronic network shall be established and operated through cooperation and co-funding among Federal, State, and local governments, other public and private contributors and end users.

"(2) The Outreach Program and the electronic network shall utilize and leverage, to the extent practicable, existing organizations, data bases, electronic networks, facilities, and capabilities, and shall be designed to complement rather than supplant State and local programs.

"(3) The Outreach Program should, to the extent practicable, involve key stakeholders at all levels in the planning and governance of modernization strategies; concentrate on assisting local clusters of firms; promote collaborative learning and cooperative action among small and large manufacturers; link industrial modernization programs tightly to existing and future Federal training initiatives, including those for youth apprenticeship programs; encourage small firms to seek modernization services by working with major manufacturers to strengthen and coordinate their supplier assessment, certification, and development programs; identify and honor best practices by firms and the programs that support them; provide funding based on performance and ensure rigorous evaluation of extension services; as appropriate, coordinate Federal programs that support manufacturing modernization; and work with Federal, State, and private organizations so that Outreach Centers and Regional Centers for the Transfer of Manufacturing Technology can provide referrals to other important business services, such as assistance with financing, training, and exporting.

"(4) The Outreach Program and the electronic network and communications infrastructure provided for under subsection (d), shall be subject to all applicable provisions of law for the protection of trade secrets and business confidential information.

"(5) Local or regional needs should determine the management structure and staffing of the Manufacturing Outreach Centers. The Outreach Program shall strive for geographical balance with the ultimate goal of access for all United States manufacturers.

"(6) Manufacturing Outreach Centers should have the capability to deliver outreach services directly to manufacturers; actively work with, rather than supplant, the private sector; and to the extent practicable, maximize the exposure of manufacturers to demonstrations of modern technologies in use.

"(7) Manufacturing Outreach Centers shall focus, where possible, on the development and deployment of flexible manufacturing practices applicable to both defense and commercial applications.

"(8) The Department of Commerce shall develop mechanisms for—

(A) soliciting the perspectives of manufacturers using the services of the Manufacturing Outreach Centers and Regional Centers for the Transfer of Manufacturing Technology; and

"(B) evaluating the effectiveness of the Manufacturing Outreach Centers.

"SEC. 305. INDUSTRY-LED MANUFACTURING ADVISORY COMMITTEE.

"(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy, after consultation with the Secretary of Commerce and other appropriate Federal officials, shall establish within that office a Manufacturing Advisory Committee (hereafter in this section referred to as the 'Committee'), led by industry officials, to provide advice and, as appropriate, guidance to Federal manufacturing programs.

"(b) FUNCTIONS.—The Committee shall—

"(1) collect and analyze information on the range of factors which determine the success of United States-based manufacturing industries, and particularly factors regarding the development and deployment of advanced manufacturing technologies and the application of best manufacturing practices;

"(2) identify areas where appropriate cooperation between the Federal Government and the private sector, including Government support for industry-led joint research and development ventures and for manufacturing extension activities, would enhance United States industrial competitiveness, and provide advice and guidance for such cooperative efforts;

"(3) provide guidance on what Federal policies and practices are necessary to strengthen United States-based manufacturing, particularly Federal policies and practices regarding research budgets, interagency coordination and initiatives, technology transfer, regulation, and procurement; and

"(4) generally develop recommendations for guiding Federal agency and interagency activities related to United States-based manufacturing.

"(c) MEMBERSHIP AND PROCEDURES.—(1)(A) The Committee shall be composed of 13 members, 7 of whom shall constitute a quorum.

"(B) The director of the Office of Science and Technology Policy, the Secretary, the Secretary of Defense, and the Director of the National Science Foundation, or their designees, shall serve as members of the Committee.

"(C) The President, acting through the Director of the Office of Science and Technology Policy, shall within 120 days of the date of enactment of this Act appoint 9 additional members from the private manufacturing industry, worker organizations, State technology agencies, and academia. At least 1 such member shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit a report of its activities once every year after its establishment to the President, the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1994 and 1995.".

SEC. 213. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 4 of the Stevenson-Wydler Technology Innovation Act of

1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraphs:

"(14) 'Director' means the Director of the National Institute of Standards and Technology.

"(15) 'Institute' means the National Institute of Standards and Technology.

"(16) 'Assistant Secretary' means the Assistant Secretary of Commerce for Technology Policy.

"(17) 'Advanced manufacturing technology' includes—

"(A) numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial production which advance the state-of-the-art; and

"(B) novel techniques and processes designed to improve manufacturing quality, productivity, and practices, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

"(18) 'Modern technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of manufacturers.".

(b) REDESIGNATIONS.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) by inserting immediately after section 4 the following new title heading:

"TITLE I—DEPARTMENT OF COMMERCE AND RELATED PROGRAMS";

(2) by redesignating sections 5 through 10 as sections 101 through 106, respectively;

(3) by striking section 21;

(4) by redesignating sections 16 through 20, and 22, as sections 107 through 112, respectively;

(5) by inserting immediately after section 112 (as redesignated by paragraph (4) of this subsection) the following new title heading:

"TITLE II—FEDERAL TECHNOLOGY TRANSFER";

(6) by redesignating sections 11 through 15 as sections 201 through 205, respectively;

(7) by redesignating section 23 as section 206;

(8) in section 4—

(A) by striking "section 5" each place it appears and inserting in lieu thereof "section 101";

(B) in paragraphs (4) and (6), by striking "section 6" and "section 8" each place they appear and inserting in lieu thereof "section 102" and "section 104", respectively; and

(C) in paragraph (13), by striking "section 6" and inserting in lieu thereof "section 102";

(9) in section 105 (as redesignated by paragraph (2) of this subsection) by striking "section 6" each place it appears and inserting in lieu thereof "section 102";

(10) in section 106(d) (as redesignated by paragraph (2) of this subsection) by striking "7, 9, 11, 15, 17, or 20" and inserting in lieu thereof "103, 105, 108, 111, 201, or 205";

(11) in section 202(b) (as redesignated by paragraph (6) of this subsection) by striking "section 14" and inserting in lieu thereof "section 204";

(12) in section 204(a)(1) (as redesignated by paragraph (6) of this subsection) by striking "section 12" and inserting in lieu thereof "section 202";

(13) in section 112 (as redesignated by paragraph (4) of this subsection) by striking "sections 11, 12, and 13" and inserting in lieu thereof "sections 201, 202, and 203";

(14) in section 206 (as redesignated by paragraph (7) of this subsection)—

(A) by striking "section 11(b)" in subsection (a)(2) and inserting in lieu thereof "section 201(b)"; and

(B) by striking "section 6(d)" in subsection (b) and inserting in lieu thereof "section 102(d)"; and

(15) by adding at the end of section 201 (as redesignated by paragraph (6) of this subsection) the following new subsection:

"(j) ADDITIONAL TECHNOLOGY TRANSFER MECHANISMS.—In addition to the technology transfer mechanisms set forth in this section and section 202 of this Act, the heads of Federal departments and agencies also may transfer technologies through the technology transfer, extension, and deployment programs of the Department of Commerce and the Department of Defense.".

SEC. 214. MANUFACTURING TECHNOLOGY CENTERS.

Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k) is amended—

(1) by amending the section heading to read as follows: "**MANUFACTURING TECHNOLOGY CENTERS**";

(2) in subsection (c)(5), by striking "which are designed" and all that follows through "operation of a Center" and inserting in lieu thereof "to a maximum of one-third Federal funding. Each Center which receives financial assistance under this section shall be evaluated during its sixth year of operation, and at such subsequent times as the Secretary considers appropriate, by an evaluation panel appointed by the Secretary in the same manner as was the evaluation panel previously appointed. The Secretary shall not provide funding for additional years of the Center's operation unless the evaluation is positive and the Secretary finds that continuation of funding furthers the goals of the Department. Such additional Federal funding shall not exceed one-third of the cost of the Center's operations";

(3) by striking subsection (d); and

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

"(d) If a Center receives a positive evaluation during its third year of operation, the Director may, any time after that evaluation, contract with the Center to provide additional technology extension or transfer services above and beyond the baseline activities of the Center. Such additional services may include, but are not necessarily limited to, the development and operation of the following:

"(1) Services focused on the testing, development, and application of manufacturing and process technologies within specific technical fields such as advanced materials or electronics fabrication for the purpose of assisting United States companies, both large and small and both within the Center's original service region and in other regions, to improve manufacturing, product design, workforce training, and production in those specific technical fields.

"(2) Industrial service facilities which provide tools to help companies with the low-cost, low-volume, rapid prototyping of a range of new products and the refinement of the manufacturing and process technologies necessary to make these products.

"(3) Programs to assist small- and medium-sized manufacturers and their employees in the Center's region to learn and apply the technologies, techniques, and processes associated with systems management technology, electric commerce, or improving manufacturing productivity.

"(4) Industry-led demonstration programs that explore the value of innovative nonprofit manufacturing technology consortia to provide ongoing research, technology transfer, and worker training assistance for industrial members. An award under this paragraph shall be for no more than $500,000 per year, and shall be subject to renewal after a 1-year demonstration period.".

SEC. 215. STATE TECHNOLOGY EXTENSION PROGRAM.

(a) Section 26(a) of the National Institute of Standards and Technology Act (15 U.S.C. 2781(a)) is amended—

(A) by inserting immediately after "(a)" the following new sentence: "There is established within the Institute a State Technology Extension Program."; and

(B) by inserting "through that Program" immediately after "technical assistance".

(b) Section 26 of the National Institute of Standards and Technology Act (15 U.S.C. 2781) is amended by adding at the end the following new subsection:

"(c) In addition to the general authorities listed in subsection (b) of this section, the State Technology Extension Program also shall, through merit-based competitive review processes and as authorizations and appropriations permit—

"(1) make awards to States and conduct workshops, pursuant to section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988, in order to help States improve their planning and coordination of technology activities;

"(2) assist States, particularly States which historically have had no manufacturing or technology extension programs or only small programs, to plan, develop, and coordinate such programs and to help bring those State programs to a level of performance where they can apply successfully for awards to establish Manufacturing Outreach Centers, Regional Centers for the Transfer of Manufacturing Technology, or both.

"(3) support industrial modernization demonstration projects to help States create networks among small manufacturers for the purpose of facilitating technical assistance, group services, and improve productivity and competitiveness;

"(4) support State efforts to develop and test innovative ways to help small and medium-sized manufacturers improve their technical capabilities;

"(5) support State efforts designed to help small manufacturers in rural as well as urban areas improve and modernize their technical capabilities, including, as appropriate, interstate efforts to achieve such end;

"(6) support State efforts to assist interested small defense manufacturing firms to convert their production to nondefense or dual-use purposes;

"(7) support worker technology education programs in the States at institutions such as research universities, community colleges, labor education centers, labor-management committees, and worker organizations in production technologies critical to the Nation's future, with an emphasis on high-performance work systems, the skills necessary to use advanced manufacturing systems well, and best production practice; and

"(8) help States develop programs to train personnel who in turn can provide technical skills to managers and workers of manufacturing firms.".

SEC. 216. AMERICAN WORKFORCE QUALITY PARTNERSHIPS.

(a) PROGRAM AUTHORIZED.—(1) The Secretary, after consultation with the Secretary of Labor and the Secretary of Education, may make awards to eligible applicants to establish and operate American workforce quality partnerships in accordance with the provisions of this section. The purpose of these partnerships is to provide training to industrial employees, particularly in order to enable them to utilize best current manufacturing technologies and practices, including total quality management techniques.

(2) An American workforce quality partnership shall be a collaboration between—

(A) one or more technology-based or manufacturing sector firms, in conjunction with a labor organization when appropriate or worker representatives or employee representatives; and

(B) a local community or technical college, other appropriate institution higher education, a vocational training institution, a Regional Center for the Transfer of Manufacturing Technology, a Manufacturing Outreach Center, or a consortium of such institutions,

to train the employees of the participating industrial firms through both workplace-based and classroom-based training programs.

(b) AWARDS.—(1) Awards made under this section may be for a period of 5 years. The Federal share of the cost of an American workforce quality partnership may not exceed 50 percent of the total cost of the partnership. The non-Federal share of such costs may be provided in-cash or in-kind, fairly valued.

(2) The Secretary shall make awards under this section on a competitive basis.

(c) USE OF FUNDS.—(1) An American workplace quality partnership may use Federal funds for—

(A) the direct costs of workplace-based and classroom-based training in advanced technical, technological, and industrial management, skills, and training for the implementation of total quality management strategies, or other competitiveness strategies, contained in the plan;

(B) the purchase or lease of equipment or other materials for the purpose of instruction to aid in training;

(C) the development of in-house curricula or coursework or other training-related programs, including the training of teachers and other eligible participants to utilize such curricula or coursework; and

(D) reasonable administrative expenses and other indirect costs of operating the partnership which may not exceed 10 percent of the total cost of the program.

(2) Federal funds may not be used for nontraining related costs of adopting new competitive strategies including the replacement of manufacturing equipment, product redesign and manufacturing facility construction costs, or salary compensation of the partners' employees. Grants shall not be made under this section for programs that will impair any existing program, contract, or agreement without the written concurrence of the parties to such program, contract, or agreement.

(d) ADVISORY BOARDS.—Each partnership receiving assistance under this section shall establish an advisory board, which shall—

(1) include representatives from participating firms, labor organizations or worker representatives, and the education partners; and

(2) advise the partnership on the direction, policies, and activities of the partnership, including training, instruction, and related issues.

SEC. 217. REPORT ON OPTIONS FOR ACCELERATING THE ADOPTION OF NEW MANUFACTURING EQUIPMENT.

Within one year of the date of enactment of this Act, the Secretary shall submit to Congress a report on—

(1) the degree to which both small and large manufacturing enterprises in the United States have difficulty obtaining financing for the purpose of purchasing new equipment and modernizing operations;

(2) the policies and practices followed in other industrialized countries to help manufacturing firms obtain financing for modernization;

(3) the advantages, disadvantages, and costs of major options by which the Federal Government might help stimulate the flow of capital to manufacturers and thus accelerate industrial modernization, including—

(A) creation of a Government-sponsored enterprise to stimulate the flow of capital to manufacturing;

(B) increasing technical advice to banks and other financial institutions, perhaps through the National Manufacturing Outreach Program, in order to increase their ability to judge whether or not individual manufacturers have sound modernization plans; and

(C) tax incentives.

SUBTITLE B—NATIONAL SCIENCE FOUNDATION MANUFACTURING PROGRAMS

SEC. 221. NATIONAL SCIENCE FOUNDATION MANUFACTURING ACTIVITIES.

(a) IN GENERAL.—The Director of the National Science Foundation, after, as appropriate, consultation with the Secretary, the Under Secretary, and the Director, shall—

(1) work with United States industry to identify areas of research in manufacturing technologies and practices that offer the potential to improve United States productivity, competitiveness, and employment;

(2) support research at United States universities to improve manufacturing technologies and practices; and

(3) work with the Technology Administration and the Institute and, as appropriate, other Federal agencies to accelerate the transfer to United States industry of manufacturing research and innovations developed at universities.

(b) ENGINEERING RESEARCH CENTERS AND INDUSTRY/UNIVERSITY COOPERATIVE RESEARCH CENTERS.—The Director of the National Science Foundation shall strengthen and expand the number of Engineering Research Centers and strengthen and expand the Industry/University Cooperative Research Centers Program with the goals of increasing the engineering talent base versed in technologies critical to the Nation's future, with emphasis on advanced manufacturing, and of advancing fundamental engineering knowledge in these technologies. At least one Engineering Research Center shall have a research and education focus on the concerns of traditional manufacturers, including small and medium-sized firms * * * on supporting individuals who not only have expertise and practicable experience in manufacturing but who also will work to foster cooperation between 2-year colleges and nearby manufacturing firms.

(e) PROGRAMS TO TEACH TOTAL QUALITY MANAGEMENT.—The Director of the National Science Foundation, in consultation with the Secretary, the Under Secretary, and the Director, may establish a program to develop innovative curricula, courses, and materials for use by institutions of higher education for instruction in total quality management and related management practices, in order to help improve the productivity of United States industry.

TITLE III—CRITICAL TECHNOLOGIES

SEC. 301. FINDINGS.

The Congress finds that—

(1) the rapid, effective use of advanced technologies in the design and production of products is a key determinant of economic competitiveness;

(2) investment in the development and adoption of advanced technology contributes significantly to long-term economic growth and employment;

(3) the governments of our most successful competitor nations in the global marketplace have created supportive structures and programs that have been effective in helping their domestic industries increase their global market shares;

(4) agriculture and aerospace are two examples of industries that have achieved commercial success with strong support from the United States Government; and

(5) the United States Government must promote and facilitate the creation, development, and adoption of advanced technologies to ensure long-term economic prosperity for the United States.

SUBTITLE ADVANCED TECHNOLOGY PROGRAM AND RELATED

SEC. 311. DEVELOPMENT OF PLAN FOR THE ADVANCED TECHNOLOGY PROGRAM.

The Secretary, acting through the Under Secretary and the Director, shall, within 6 months after the date of enactment of this Act, submit to the Congress a plan for the expansion of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), with specific consideration given to

(1) closer coordination and cooperation with the Defense Advanced Research Projects Agency and other Federal research and development agencies as appropriate;

(2) establishment of staff positions that can be filled by industrial or technical experts for a period of one to two years;

(3) broadening of the scope of the program to include as many critical technologies as is appropriate;

(4) changes that may be needed when annual funds available for grants under the Program reach levels of $200,000,000 and $500,000,000; and

(5) administrative steps necessary for Program support of large-scale industry-led consortia similar to, or possibility eventually including, the Semi-conductor Manufacturing Technology Institute.

SEC. 312. ADVANCED TECHNOLOGY PROGRAM SUPPORT OF LARGE-SCALE JOINT VENTURES.

Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended by adding at the end the following new subsection:

"(k) In addition to the general authority under this section to provide financial assistance to joint ventures, the Secretary, through the Director, also may, as permitted by levels of authorizations and appropriations, provide financial support to large-scale joint ventures requesting $20 million or more a year in Department funds. Any such support shall be subject to the matching funds requirements of in subsection (b)(1)(B)(ii) of this section, except that the Secretary may provide assistance to such large-scale joint ventures for up to 7 years. The Secretary may work with industrial

groups to develop such proposed large-scale joint ventures and shall give preference to proposals which represent a broad spectrum of companies for a given industry and which focus on either speeding the commercialization of important new technologies or in accelerating the development, testing, and deployment of valuable new process technologies. The Secretary and Director, as appropriate, shall obtain independent technical reviews of industry proposals submitted under this subsection.".

SEC. 313. TECHNICAL AMENDMENTS.

Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

(1) in subsection (b)(1)(B)(ii), by striking "provision of a minority, share of the cost of such joint ventures for up to 5 years" and inserting in lieu thereof "the option of provision of either—

"(I) a minority share of the cost of such joint ventures for up to 5 years; or

"(II) only direct costs, and not indirect costs, profits, or management fees, for up to 5 years"; and

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

"(k) Notwithstanding Subsections (b)(1)(B)(ii) and (d)(3), the Director may grant an extension of not to exceed 6 months beyond the deadlines of not to exceed 6 months beyond the deadlines established under those subsections for joint venture and single applicant awardees to expend Federal funds to complete their projects, if such extension may be granted with no additional cost to the Federal Government.".

SEC. 314. TECHNOLOGY MONITORING AND COMPETITIVE ASSESSMENTS.

Section 101(e) of the Stevenson-Wydler Technology Innovation Act of 1980, as redesignated by section 213(b)(2) of this Act, is amended to read as follows:

"(e) OFFICE OF TECHNOLOGY MONITORING AND COMPETITIVE ASSESSMENT.—(1) The Secretary, through the Under Secretary, shall establish within the Technology Administration an Office of Technology Monitoring and Competitive Assessment, to collect, evaluate, assess, and disseminate information on—

"(A) foreign science and technology, specifically information assessing foreign capabilities relative to the United States; and

"(B) policies and programs used by foreign governments and industries to develop and apply economically important critical technologies, how these policies and programs compare with public and private activities in the United States, and the effects that these foreign policies and programs have on the competitiveness of United States industry; and

"(C) the ways in which the economic competitiveness of United States industry can be enhanced through Federal programs, including Department of Commerce programs, and evaluations of the effectiveness of Federal technology programs in helping to promote United States industrial competitiveness and economic growth.

"(2) Based on the information gathered under paragraph (1) of this subsection, the President, with the assistance of the Secretary, shall submit to Congress an annual report on United States technology and competitiveness analyzing the condition of United States technology relative to major trading partners, key trends in foreign technology and competitiveness policies and targeting, and the degree to which Federal programs are helping the United States to stay competitive with other countries.

"(3) The Office of Technology Monitoring and Competitive Assessment is authorized to—

"(A) act as a focal point within the Federal Government for the collection and dissemination, including electronic dissemination, of information on foreign process and product technologies, including information collected under the Japanese Technical Literature Program;

(B) coordinate the extensive foreign technology monitoring and assessment activities already underway in the Federal Government;

(C) act as an electronic clearinghouse for this information or otherwise provide for this function;

(D) direct and fund the collection of additional information;

(E) direct and fund analysis of foreign research and development activities and technical capabilities, particularly in those technical areas where the United States is considered to be at par or lagging foreign capabilities;

(F) establish a program to identify technical areas needing a full-scale technical evaluation, and provide grants, on a cost-shared basis, to private sector or government-industry joint ventures, to conduct the evaluation;

(G) establish and administer a fellowship program to support Technology Fellows in those countries that are major competitors of the United States in critical technologies to collect and provide initial analysis of information on foreign science and technology capabilities; and

(H) work with the Department of State to place technical experts from the institute and other Federal laboratories into United States embassies to serve as technology attachés and counselors.

SEC. 315. COMMERCE TECHNOLOGY ADVISORY BOARD.

Title I of the Stevenson-Wydler Technology Innovation Act of 1980 (as amended by title II of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 113. COMMERCE TECHNOLOGY ADVISORY BOARD.

"(A) ESTABLISHMENT.—There is established a Commerce Technology Advisory Board (hereafter in this section referred to as the 'Advisory Board'), the purpose of which is to advise the Secretary, Under Secretary, and Director regarding ways in which to—

"(1) promote the development and rapid application of advanced commercial technologies, including advanced manufacturing technologies;

"(2) strengthen the programs of the Technology Administration; and

"(3) generally improve the global competitiveness of industries within the United States.

(b) COMPOSITION.—The Advisory Board shall be composed of at least 17 members, appointed by the Under Secretary from among individuals who, because of their experience and accomplishments in technology development, business development, or finance are exceptionally qualified to analyze and formulate policy that would improve the global competitiveness of industries in the United States. The Under Secretary shall designate 1 member to serve as chairman. Membership of the Advisory Board shall be composed of—

(1) representatives of—

(A) United States small business;

(B) other United States manufactures;

(C) research universities and independent research institutes;

(D) State and local government agencies involved in industrial extension;

(E) national laboratories;

(F) industrial, worker, and professional organizations; and

(G) financial organizations; and

(2) other individuals that possess important insight to issues of national competitiveness.

(c) MEETINGS.—(1) The chairman shall call the first meeting of the Advisory Board not later than 90 days after the date of enactment of this Act.

(2) The Advisory Board shall meet at least once every 6 months, and at the call of the Under Secretary.

(d) TRAVEL EXPENSES.—Members of the Advisory Board, other than full-time employees of the United States, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code, while engaged in the business of the Advisory Board.

(e) CONSULTATION.—In carrying out this section, the Under Secretary shall consult with other agencies, as appropriate.

(f) TERMINATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Board.".

SEC. 316. STUDY OF SEMICONDUCTOR LITHOGRAPHY TECHNOLOGIES.

Within 9 months after the date of enactment of this Act, the Critical Technologies Institute established under section 822 of the National Defense Authorization Act for Fiscal Year 1991 (in this section referred to as the "Institute") shall, after consultation with the private sector and appropriate officials from other Federal agencies, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on advanced lithography technologies for the production of semiconductor devices. The report shall include the Institute's evaluation of the likely technical and economic advantages and disadvantages of each such technology, an analysis of current private and Government research to develop each such technology, and any recommendations the Institute may have regarding future Federal support for research and development in advanced lithography.

SUBTITLE B—TECHNOLOGY FINANCING PILOT PROGRAMS

SEC. 321. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares the following:

(1) In recent years, financing from venture capitalists and banks appears to have become more difficult for technology firms in the United States to obtain.

(2) While tax incentives are often the preferred method to help firms accelerate the development, commercialization, and production of advanced technology products, these incentives are of limited value to those firms, including start-up firms, which have limited revenues but nonetheless provide much of the Nation's innovation and new employment.

(3) Difficulties in obtaining financing particularly hurts those technology firms which face foreign competitors which have received substantial direct or indirect financial help from their governments.

(4) The Nation would benefit from pilot programs which involve government-industry partnerships to develop and test innovative industry-led methods to increase the amount of financing available to United States technology firms.

(b) PURPOSE.—It is the purpose of Congress in this subtitle to establish, under the De-

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partment of Commerce is Technology Administration, three experimental technology financing pilot programs.

SEC. 322. CIVILIAN TECHNOLOGY LOAN PROGRAM.

(a) AUTHORITY TO MAKE LOANS.—The Secretary of Commerce may make loans—

(1) acting through the Under Secretary of Commerce for Technology, to small and medium sized businesses eligible for assistance under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), to the extent provided in section 504(b) of the Congressional Budget Act of 1974; or

(2) acting through critical technologies development companies licensed under section 323 of this title, to small and medium sized businesses.

(b) PURPOSE.—Loans under this section shall be for growth, modernization, and expansion of small and medium sized businesses engaged in research, development, demonstration, or exploitation of advanced technologies and products, including those in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies.

(c) INTEREST RATE, TERMS, AND CONDITIONS.—Loans under this section shall be made at an interest rate equal to the Government borrowing rate plus an insurance surcharge of up to 2 percent, and shall be subject to such terms and conditions as the secretary may prescribe.

SEC. 323. ASSISTANCE TO CRITICAL TECHNOLOGY INVESTMENT COMPANIES.

(a) IN GENERAL.—(1) The Secretary, through the Under Secretary, is authorized to provide financial assistance to critical technology investment companies licensed under this section, for the purpose of stimulating and expanding the flow of private capital to qualified joint ventures and qualified individual firms in order to help them finance the development and commercialization of critical civilian technologies.

(2) Each critical technology investment company licensed under this section may provide venture capital to qualified joint ventures and qualified individual firms, in such manner and under such terms as the licensee may fix in accordance with the regulations of the Secretary. Venture capital provided to incorporated qualified joint ventures and individual firms may be provided directly or in cooperation with other investors, incorporated or unincorporated, through agreements to participate on an immediate basis.

(3) Each licensee may make loans, directly or in cooperation with other lenders, incorporated or unincorporated, through agreements to participate on an immediate or deferred basis, to qualified joint ventures and qualified individual firms to provide such ventures and firms with funds needed for sound financing related to development or utilization of critical civilian technologies.

(4) This section shall be carried out in a manner that will ensure the maximum participation of private financial sources and ensure prudent diversification and sound management of operations.

(b) REQUIREMENTS AND AUTHORITIES.—Except as provided in subsections (c) and (d) of this section, the Secretary shall, in providing financial assistance to licensees under the provisions of this section, follow the statutory requirements and use the statutory authorities which apply to the Small Business Administration's Small Business Investment Program, as set forth in subchapter 14B of title 15, United States Code (15 U.S.C. 681 et seq.). Any amendments to subchapter 14B enacted after the date of enactment of this title shall not apply to this section unless explicitly provided for in statute.

(c) ADDITIONAL AUTHORITIES.—In addition to the authorities provided to the Secretary under subsection (b) of this section, the Secretary is authorized to—

(1) purchase nonparticipating preferred securities from licensed critical technology investment companies as one way to provide financial assistance to those companies;

(2) issue trust certificates representing ownership of all or a fractional part of preferred securities issued by licenses and guaranteed by the Secretary under this section, with such trust certificates based on and backed by a trust or pool approved by the Secretary and composed of preferred securities and such other contractual obligations as the Secretary may undertake to facilitate the sale of such trust certificates;

(3) guarantee, upon such terms and conditions as are deemed appropriate, the timely payment of the principal of and interest on trust certificates issued by the Secretary or the Secretary's agent for purposes of this section, provided that such guarantee shall be limited to the extent of the redemption price of and dividends on the preferred securities, plus any related contractual obligations, which compose the trust or pool; and

(4) issue its own rules and regulations concerning how it will carry out this section under the applicable requirements and authorities.

(d) OTHER PROVISIONS.—(1) Amounts received by the Secretary from the payment of dividends and the redemption of preferred securities pursuant to this section, and fees paid to the United States by a licensee pursuant to this section, shall be deposited in an account established by the Secretary and shall be available solely for carrying out this section, to the extent provided in advance in appropriations Acts.

(2) Nothing in this section or in any other provision of law imposes any liability on the United States or the Secretary with respect to any obligations entered into, or stocks issued, or commitments made by any licensee operating under this section.

SEC. 324. ASSISTANCE TO STATE TECHNOLOGY DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—The Secretary through the Under Secretary, may provide financial, technical, and business assistance to programs run by or chartered by State governments for the purpose of accelerating the development and commercialization of critical civilian technologies, including technologies developed by universities and colleges within the States. Such State technology development programs may—

(1) directly fund critical civilian technology development projects at qualified joint ventures and qualified individuals firms; and

(2) when appropriate, assist intermediary organizations, including universities, to develop new critical civilian technologies to the point where qualified joint ventures and qualified individual firms will invest in their further development and commercialization.

(b) FINANCIAL ASSISTANCE.—(1) The Secretary may make awards for up to three years to any State technology development program which meets the eligibility requirements of paragraph (2). State programs which win awards may reapply if they still meet eligibility requirements. Any financial assistance from the Secretary to State technology development programs shall be made only through a competitive, merit-reviewed process.

(2) A State technology development program must meet the following requirements before it shall be eligible to apply for and receive assistance under this section:

(A) at least one-third of the cost of the proposal to which such assistance applies must be provided by such State program; and

(B) the State program must demonstrate that any technology or intellectual property developed under the program shall be made available only to joint ventures and individual firms which legally commit to manufacture substantially in the United States any products resulting from any project funded in whole or in part by Federal funds provided under this section.

TITLE VI—ADDITIONAL COMMERCE DEPARTMENT PROVISIONS

SEC. 401. INTERNATIONAL STANDARDIZATION.

(a) FINDINGS.—The Congress finds that—

(1) private sector consensus standards are essential to the timely development of competitive products;

(2) Federal Government contribution of resources, more active participation in the voluntary standards process in the United States, and assistance, where appropriate, through government to government negotiations, can increase the quality of United States standards, increase their compatibility with the standards of other countries, and ease access of United States-made products to foreign markets; and

(3) the Federal Government, working in cooperation with private sector organizations including trade associations, engineering societies, and technical bodies, can effectively promote United States Government use of United States consensus standards and, where appropriate, the adoption and United States Government use of international standards.

(b) STANDARD PILOT PROGRAM.—Section 104(e) of the American Technology Preeminence Act of 1991 is amended—

(1) by inserting "(1)" before "Pursuant to the"; and

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

"(2) As necessary and appropriate, the Institute shall expand the program established under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note) by extending the existing program and by entering into additional contracts with non-Federal organizations representing United States companies, as such term is defined in section 28(d)(9)(B) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(9)(B)). Such contracts shall require cost sharing between Federal and non-Federal sources for such purposes. In awarding such contracts, the Institute shall seek to promote and support the dissemination of United States technical standards to additional foreign countries, in cooperation with governmental bodies, private organizations including standards setting organizations and industry, and multinational institutions that promote economic development. The organizations receiving such contracts may establish training programs to bring to the United States foreign standards experts for the purpose of receiving in-depth training in the United States standards system".

(c) REPORT ON GLOBAL STANDARDS.—The Secretary, in consultation with the Institute and the Commerce Technology Advisory Board established under section 204 of this Act, shall submit to the Congress a report describing the appropriate roles of the Department of Commerce in aid to United States companies in achieving conformity

assessment and accreditation and otherwise qualifying their products in foreign markets, and in the development and promulgation of domestic and global product and quality standards, including a discussion of the extent to which each of the policy options provided in such Office of Technology Assessment report contributes to meeting the goals of—

(1) increasing the international adoption of standards beneficial to United States industries; and

(2) improving the coordination of United States representation to international standards setting bodies.

(d) FEDERAL GOVERNMENT ROLE.—Section 508(a) of the American Technology Preeminence Act of 1991 is amended by adding at the end the following new paragraph:

"(6) The appropriate role of the Federal Government in aid to United States companies in achieving conformity assessment and accreditation and otherwise qualifying their products in foreign markets, and in the development and promulgation of domestic and global product and quality standards, including a discussion of the extent to which each of the policy options provided in the Office of Technology Assessment report on global standards contributes to meeting the goal of improving the coordination of United States representation to international standards-setting bodies.

SEC. 402. MALCOLM BALDRIGE AWARD AMENDMENTS.

(a) Section 108(c)(3) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(4) of this Act, is amended to read as follows:

"(3) No award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory.".

(b)(1) Section 108(c)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(c)(1)) is amended by adding at the end the following new subparagraph:

"(D) Educational institutions.".

(2)(A) Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report containing—

(i) criteria for qualification for a Malcolm Baldrige National Quality Award by various classes of educational institutions;

(ii) criteria for the evaluation of applications for such awards under section 108(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980; and

(iii) a plan for funding awards described in clause (i).

(B) In preparing the report required under subparagraph (A), the Secretary shall consult with the National Science Foundation and other public and private entities with appropriate expertise, and shall provide for public notice and comment.

(C) The Secretary shall not accept applications for awards described in subparagraph (A)(i) until after the report required under subparagraph (A) is submitted to the Congress.

SEC. 403. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 202(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)), as redesignated by section 206(b)(6) of this Act, is amended by inserting "(including both real and personal property)" after "or other resources" both places it appears.

SEC. 404. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

Section 102(a) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 206(b)(2) of this Act, is amended by striking "Office of Productivity, Technology, and Innovation" and inserting in lieu thereof "Institute".

SEC. 405. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this Act and the amendments made by this Act, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act, and the amendments made by this Act, to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(C) The Secretary, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 406. SEVERABILITY.

If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act and the application thereof to other persons or circumstances shall not be affected thereby.

SEC. 407. WIND ENGINEERING RESEARCH PROGRAM.

(a) SHORT TITLE.—This section may be cited as the "Wind Engineering Program Act of 1992".

(b) FINDINGS AND PURPOSES.—Congress finds the following:

(1) Hurricanes and tornadoes kill more Americans and destroy more property than any other natural disaster.

(2) Each year, in the United States, extreme winds cause billions of dollars of damage to homes, schools, and other buildings, roads and bridges, electrical power distribution networks, and communications networks.

(3) Research on wind and wind engineering has resulted in improved methods for making buildings and other structures less vulnerable to extreme winds, but additional research funding is needed to develop new, improved, and more cost-effective methods of wind-resistant construction.

(4) Federal funding for wind engineering research has decreased drastically over the last 20 years.

(5) Wind research has been hampered by a lack of data on near-surface wind speed and distribution during hurricanes, tornadoes, and other severe storms.

(6) Many existing methods for wind-resistant construction are inexpensive and easy to implement but often they are not applied because the construction industry and the general public are unaware of such methods.

(7) Various Federal agencies have important roles to play in wind engineering research, but at present there is little interagency cooperation in this area.

(8) Establishment of a Federal Wind Engineering Program would result in new technologies for wind-resistant construction, and ultimately decreased loss of life and property due to extreme winds.

(c) PURPOSE.—The purpose of this Act is to create a Wind Engineering Program within the National Institute of Standards and Technology, which would—

(1) provide for wind engineering research;

(2) serve as a clearinghouse for information on wind engineering; and

(3) improve interagency coordination on wind engineering research between the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, the National Science Foundation, the Federal Aviation Administration, and other appropriate agencies.

(d) ESTABLISHMENT.—Within the National Institute of Standards and Technology, there shall be established a Wind Engineering Program which shall—

(1) conduct research and development, in cooperation with the private sector and academia, on new methods for mitigating wind damage due to tornadoes, hurricanes, and other severe storms;

(2) fund construction and maintenance of wind tunnels and other research facilities needed for wind engineering research;

(3) promote the application of existing methods for, and research results on, reducing wind damage to buildings that are usually incompletely- or non-engineered, such as single family dwellings, mobile homes, light industrial buildings, and small commercial structures;

(4) transfer technology developed in wind engineering research to the private sector so that it may be applied in building codes, design practice, and construction;

(5) conduct, in conjunction with the National Oceanic and Atmospheric Administration, post-disaster research following hurricanes, tornadoes, and other severe storms to evaluate the vulnerability of different types of buildings to extreme winds;

(6) serve as a point of contact for dissemination of research information on wind engineering and work with the private sector to develop education and training programs on construction techniques, developed from research results, for reducing wind damage;

(7) work with the National Oceanic and Atmospheric Administration, the Federal Aviation Administration, and other agencies as is appropriate, on meteorology programs to collect and disseminate more data on extreme wind events; and

(8) work with the National Science Foundation to support and expand basic research on wind engineering.

TITLE V—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 501. TECHNOLOGY ADMINISTRATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary of Commerce for Technology Policy—

(1) for the Office of the Under Secretary, $5,000,000 for fiscal year 1994 and $8,000,000 for fiscal year 1995;

(2) for Technology Policy $5,000,000 for fiscal year 1994 and $6,000,000 for fiscal year 1995;

(3) for Japanese Technical Literature, $2,000,000 for fiscal year 1994 and $3,000,000 for fiscal year 1995; and

(4) for the Office of Technology Monitoring and Competitive Assessment, $1,500,000 for fiscal year 1994 and $2,500,000 for fiscal year 1995.

(b) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a), so long as—

(A) the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection;

(B) the aggregate amount authorized under subsection (a) is not changed; and

(C) the Committee on Commerce, Science and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefore are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate; and

(B) 30 days have passed following the transmission of such written explanation.

(c) NATIONAL TECHNICAL INFORMATION SERVICE FACILITIES STUDY.—As part of its modernization effort and before signing a new facility lease, the National Technical Information Service, in consultation with the General Service Administration, shall study and report to Congress on the feasibility of accomplishing all or part of its modernization by signing a long-term lease with an organization that agrees to supply a facility and supply and periodically upgrade modern equipment which permits the National Technical Information Service to receive, store, manipulate, and print electronically created documents and reports and to carry out the other functions assigned to the National Technical Information Service.

SEC. 502. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) INTRAMURAL SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $250,000,000 for fiscal year 1994 and $300,000,000 for fiscal year 1995.

(2) Of the amount authorized under paragraph (1)—

(A) $1,000,000 for fiscal year 1994 and $1,000,000 for fiscal year 1995 are authorized only for the evaluation of nonenergy-related inventions;

(B) $9,000,000 for fiscal year 1994 and $10,000,000 for fiscal year 1995 are authorized only for the technical competence fund; and

(C) $5,000,000 for fiscal year 1994 and $5,000,000 for fiscal year 1995 are authorized only for the standards pilot project established under section 104(e) of the American Technology Preeminence Act of 1991.

(b) FACILITIES.—In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Secretary $105,000,000 for each of fiscal years 1994 and 1995, for the renovation and upgrading of the Institute's facilities. The Institute may enter into a contract for the design work for such purposes only if Federal Government payments under the contract are limited to amounts provided in advance in appropriations Acts.

(c) EXTRAMURAL INDUSTRIAL TECHNOLOGY SERVICES.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services activities of the Institute—

(1) for the National Manufacturing Outreach Program, $150,000,000 for fiscal year 1994 and $280,000,000 for fiscal year 1995, of which—

(A) $50,000,000 for fiscal year 1994 and $80,000,000 for fiscal year 1995 are authorized only for the support of Regional Centers for the Transfer of Manufacturing Technology;

(B) $40,000,000 for fiscal year 1994 and $100,000,000 for fiscal year 1995 are authorized only for the support of Manufacturing Outreach Centers;

(C) $40,000,000 for fiscal year 1994 and $70,000,000 for fiscal year 1995 are authorized only for the State Technology Extension Program;

(D) $20,000,000 for fiscal year 1994 and $30,000,000 for fiscal year 1995 are authorized only for the Institute activities in support of the Outreach Program, including support of the Technology Extension Communications Network and the associated Clearinghouse; and

(2) for the Advanced Technology Program, $210,000,000 for fiscal year 1994 and $420,000,000 for fiscal year 1995, of which $30,000,000 for fiscal year 1994 and $50,000,000 for fiscal year 1995 are authorized only for support of the Advanced Manufacturing Technology Development Program established under section 303 of the Stevenson-Wydler Technology Innovation Act of 1980.

(d) WIND ENGINEERING.—(1) There are authorized to be appropriated to the Institute for the purposes of title V of this Act, $1,000,000 for fiscal year 1994 and $3,000,000 for fiscal year 1995.

(2) Of the amounts appropriated under paragraph (1), no less than 50 percent shall be used for cooperative agreements with the National Oceanic and Atmospheric Administration, the National Science Foundation, and Federal Aviation Administration, or other agencies, for wind engineering research, development of improved practices for structures, and the collection and dissemination of meteorological data needed for wind engineering.

SEC. 503. ADDITIONAL ACTIVITIES OF THE TECHNOLOGY ADMINISTRATION.

In addition to the amounts authorized under sections 601 and 602, there are authorized to be appropriated to the Secretary—

(1) for the Civilian Technology Loan Program established under section 322 of this Act, $60,000,000 for the period encompassing fiscal years 1994 and 1995;

(2) for the Civilian Technologies Venture Capital Program established under section 323 of this Act, $105,000,000 for the period encompassing fiscal years 1994 and 1995;

(3) for assistance to State Technology Assistance programs, as provided under section 324 of this Act, $25,000,000 for fiscal year 1994 and $50,000,000 for fiscal year 1995; and

(4) for carrying out the American workforce quality partnership program established under section 216 of this Act, $50,000,000 for fiscal year 1994 and $50,000,000 for fiscal year 1995.

Amounts appropriated under paragraph (1) or (2) shall remain available for expenditure through September 30, 1996. Of the amounts made available under paragraph (1) for a fiscal year, not more than $2,000,000 or 10 percent, whichever is greater, shall be available for administrative expenses. Of the amounts made available under paragraph (2) for a fiscal year, not more than $5,000,000 or 10 percent, whichever is greater, shall be available for administrative expenses. The Secretary, through the Under Secretary and the Director, may accept the transfer of funding appropriated to any other agency for purposes similar or related to those of the programs established and carried out under title III of the Stevenson-Wydler Technology Innovation Act of 1980, or the programs established and carried out under sections 25 and 26 of the National Institute of Standards and Technology Act, and to use those funds to implement such programs as provided in those statutory provisions.

SEC. 504. NATIONAL SCIENCE FOUNDATION.

In addition to such other sums as may be authorized by other Acts to be appropriated to the Director of the National Science Foundation, there are authorized to be appropriated to that Director, to carry out the provisions of section 221 of this Act, $50,000,000 for fiscal year 1994 and $75,000,000 for fiscal year 1995.

SEC. 505. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for period specified in the Acts making such appropriations.

TITLE VI—INFORMATION INFRASTRUCTURE AND TECHNOLOGY

SEC. 601. SHORT TITLE.

This title may be cited as the "Information Infrastructure and Technology Act of 1992".

SEC. 602. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) High-performance computing and high-speed networks have proven to be powerful tools for improving America's national security, industrial competitiveness, and research capabilities.

(2) Federal programs, like the High-Performance Computing Program established by Congress in 1991, have played a key role in maintaining United States leadership in high-performance computing, especially in the defense and research sectors.

(3) High-performance computing and high-speed networking have the potential to revolutionize many fields, including education, libraries, health care, and manufacturing, if adequate resources are invested in developing the technology needed to do so.

(4) The Federal Government should ensure that the technology developed under research and development programs like the High-Performance Computing Program can be widely applied for the benefit of all Americans.

(5) A coordinated, interagency program is needed to identify and promote development of applications of high-performance computing and high-speed networking which will provide large economic and social benefits to the Nation. These so-called "Grand Applications" should include tools for teaching, digital libraries of electronic information, computer systems to improve the delivery of health care, and computer and networking technology to promote the United States competitiveness.

(6) The Office of Science and Technology Policy is the appropriate office to coordinate such a program.

(b) PURPOSE.—It is the purpose of this Act to help ensure the widest possible application of high-performance computing and high-speed networking. This requires that the United States Government—

(1) expand Federal support for research and development on applications of high-performance computing and high-speed networks for—

(A) improving education at all levels, from preschool to adult education, by developing new educational technology;

(B) building digital libraries of electronic information accessible over computer networks like the National Research and Education Network;

(C) improving the provision of health care by furnishing health care providers and their patients with better, more accurate, and more timely information; and

(D) increasing the productivity of the Nation's workers, especially in the manufacturing sector; and

(2) improve coordination of Federal efforts to deploy these technologies in cooperation with the private sector as part of an advanced, national information infrastructure.

SEC. 603. INFORMATION INFRASTRUCTURE DEVELOPMENT PROGRAM.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—INFORMATION INFRASTRUCTURE DEVELOPMENT PROGRAM

"SEC. 701. The Director of the Office of Science and Technology Policy, through the Federal Coordinating Council for Science, Engineering, and Technology (hereafter in this title referred to as the 'Council'), shall, in accordance with this title—

"(1) establish an Information Infrastructure Development Program (hereafter in this title referred to as the 'Program') that shall provide for a coordinated interagency effort to develop technologies needed to apply high-performance computing and high-speed networking in education, libraries, health care, manufacturing, and other appropriate fields; and

"(2) develop an Information Infrastructure Development Plan (hereafter in this title referred to as the 'Plan') describing the goals and proposed activities of the Program.

"SEC. 702. (a) The Plan shall contain recommendations for a five-year national effort and shall be submitted to the Congress within one year after the date of enactment of this title. The Plan shall be resubmitted upon revision at least once every two years thereafter.

"(b) The Plan shall—

"(1) establish the goals and priorities for the Program for the fiscal year in which the Plan (or revised Plan) is submitted and the succeeding four fiscal years;

"(2) set forth the role of each Federal agency and department in implementing the Plan;

"(3) describe the levels of Federal funding for each agency and department, and specific activities, required to achieve the goals and priorities established under paragraph (1); and

"(4) assign particular agencies primary responsibility for developing particular Grand Applications of high-performance computing and high-speed networks.

"(c) Accompanying the Plan shall be—

"(1) a summary of the achievements of Federal efforts during the preceding fiscal year to develop technologies needed for deployment of an advanced information infrastructure;

"(2) an evaluation of the progress made toward achieving the goals and objectives of the Plan;

"(3) a summary of problems encountered in implementing the Plan; and

"(4) any recommendations regarding additional action or legislation which may be required to assist in achieving the purposes of this title.

"(d) The Plan shall address, where appropriate, the relevant programs and activities of the following Federal agencies and departments:

"(1) The National Science Foundation.

"(2) The Department of Commerce, particularly the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, and the National Telecommunications and Information Administration.

"(3) The National Aeronautics and Space Administration.

"(4) The Department of Defense, particularly the Defense Advanced Research Projects Agency.

"(5) The Department of Energy.

"(6) The Department of Health and Human Services, particularly the National Institutes of Health and the National Library of Medicine.

"(7) The Department of the Interior, particularly the United States Geological Survey.

"(8) The Department of Education.

"(9) The Department of Agriculture, particularly the National Agricultural Library.

"(10) Such other agencies and departments as the President or the Chairman of the Council considers appropriate.

"(e) In addition, the Plan shall take into consideration the present and planned activities of the Library of Congress, as deemed appropriate by the Librarian of Congress.

"(f) The Council shall—

"(1) serve as lead entity responsible for development of the Plan and interagency coordination of the Program;

"(2) coordinate the high-performance computing research and development activities of Federal agencies and departments undertaken pursuant to the Plan and report at least annually to the President, through the Chairman of the Council, on any recommended changes in agency or departmental roles that are needed to better implement the Plan;

"(3) review, prior to the President's submission to the Congress of the annual budget estimate, each agency and departmental budget estimate in the context of the Plan and make the results of that review available to the appropriate elements of the Executive Office of the President, particularly the Office of Management and Budget; and

"(4) consult and ensure communication between Federal agencies and research, educational, and industry groups and State agencies conducting research and development on and using high-performance computing.

"(g) The Director of the Office of Science and Technology Policy shall establish an advisory committee on high-performance computing and high-speed networking and their applications, consisting of prominent representatives from industry and academia who are specially qualified to provide the Council with advice and information on uses of high-performance computing and high-speed networking. The advisory committee shall provide the Council with an independent assessment of—

"(1) progress made in implementing the Plan;

"(2) the need to revise the Plan;

"(3) the balance between the components of the Plan;

"(4) whether the research and development funded under the Plan is helping to maintain United States leadership in the application of computing technology;

"(5) ways to ensure government-industry cooperation in implementing the Plan; and

"(6) other issues identified by the Director.

"(h)(1) Each Federal agency and department involved in the Program shall, as part of its annual request for appropriations to the Office of Management and Budget, submit a report to that Office identifying each element of its high-performance computing activities, which—

"(A) specifies whether each such element (i) contributes primarily to the implementation of the Plan or (ii) contributes primarily to the achievement of other objectives but aids Plan implementation in important ways; and

"(B) states the portion of its request for appropriations that is allocated to each element.

"(2) The Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the Plan, and shall include, in the President's annual budget estimate, a statement of the portion of each appropriate agency or department's annual budget estimate that is allocated to efforts to develop applications of high-performance computing.

"SEC. 703. In this title, the following definitions apply:

"(1) The term 'Grand Application' means an application of high-performance computing and high-speed networking that will provide large economic and social benefits to a broad segment of the Nations' populace.

"(2) The term 'information infrastructure' means a network of communications systems and computer systems designed to exchange information among all citizens and residents of the United States.".

SEC. 604. APPLICATIONS FOR EDUCATION.

(a) RESPONSIBILITIES OF NATIONAL SCIENCE FOUNDATION AND OTHER AGENCIES.—In accordance with the Plan developed under section 701 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), as added by section 3 of this Act, the National Science Foundation and other appropriate agencies shall provide for the development of high-performance computing and high-speed networking technology for use in education at all levels. Such applications shall include but not be limited to the following:

(1) Pilot projects that connect primary and secondary schools to the Internet and the National Research and Education Network to aid in development of the software, hardware, and training material needed to enable students and teachers to use networks to—

(A) communicate with their peers around the country;

(B) communicate with educators and students in colleges and universities;

(C) access databases of electronic information; and

(D) access other computing resources.

(2) Development of computer software, computer systems, and networks for teacher training.

(3) Development of advanced educational software.

(b) COOPERATION.—In carrying out this section, the National Science Foundation shall work with the computer and communications industry, authors and publishers edu-

cational materials, State education departments, local school districts, and the Department of Education, as appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation for the purposes of this section, $20,000,000 for fiscal year 1993, $40,000,000 for fiscal year 1994, and $60,000,000 for fiscal year 1995.

SEC. 605. APPLICATIONS FOR MANUFACTURING

(a) ADVANCED MANUFACTURING SYSTEMS AND NETWORKING PROJECTS.—In accordance with the Plan developed under section 701 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), as added by section 3 of this Act, the National Institute of Standards and Technology (hereafter in this section referred to as the "Institute") shall, as provided under section 303 of the Stevenson-Wydler Technology Innovation Act (as amended by title II of this Act) establish an Advanced Manufacturing Program, including advanced manufacturing systems and networking projects. Activities under the Advance Manufacturing Program shall, as appropriate, be coordinated with activities of the Defense Advanced Research Projects Agency, the National Science Foundation, other Federal agencies, and the States to develop, refine, test, and transfer advanced computer-integrated electronically-networked manufacturing technologies and associated applications.

(b) SUPPORT FROM OTHER FEDERAL DEPARTMENTS AND AGENCIES.—The Director of the Institute may request and accept funds, facilities, equipment, or personnel from other Federal departments and agencies in order to carry out responsibilities under this section.

SEC. 606. APPLICATIONS FOR HEALTH CARE.

(a) DEVELOPMENT OF TECHNOLOGIES BY NATIONAL INSTITUTES OF HEALTH.—In accordance with the Plan developed under section 701 of the National Science and Technology Policy, Organization and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), as added by section 3 of this Act, the National Institutes of Health, and particularly the National Library of Medicine, in cooperation with the National Science Foundation and other appropriate agencies, shall develop technologies for applications of high-performance computing and high-speed networking in the health care sector. Such applications shall include but not be limited to the following:

(1) Testbed networks for linking hospitals, clinics, doctor's offices, medical schools, medical libraries, and universities to enable health care providers and researchers to share medical data and imagery.

(2) Software and visualization technology for visualizing the human anatomy and analyzing imagery from X-rays, CAT scans, PET scans, and other diagnostic tools.

(3) Virtual reality technology for simulating operations and other medical procedures.

(4) Collaborative technology to allow several health care providers in remote locations to provide real-time treatment to patients.

(5) Database technology to provide health care providers with access to relevant medical information and literature.

(6) Database technology for storing, accessing, and transmitting patients' medical records while protecting the accuracy and privacy of those records.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Library of Medicine for the purposes of this section, $20,000,000 for fiscal year 1993, $40,000,000 for fiscal year 1994, and $60,000,000 for fiscal year 1995.

SEC. 607. APPLICATIONS FOR LIBRARIES.

(a) DIGITAL LIBRARIES.—In accordance with the Plan developed under section 701 of the National Science and Technology Policy, Organization and Priorities Act of 1976 (42 U.S.C. 6601 et seq.), as added by section 3 of this Act, the National Science Foundation, the National Aeronautics and Space Administration, the Defense Advanced Research Projects Agency, and other appropriate agencies shall develop technologies for "digital libraries" of electronic information. Development of digital libraries shall include the following:

(1) Development of advanced data storage systems capable of storing hundreds of trillions of bits of data and giving thousands of users nearly instantaneous access to that information.

(2) Development of high-speed, highly accurate systems for converting printed text, page images, graphics, and photographic images into electronic form.

(3) Development of database software capable of quickly searching, filtering, and summarizing large volumes of text, imagery, data, and sound.

(4) Encouragement of development and adoption of standards for electronic data.

(5) Development of computer technology to categorize and organize electronic information in a variety of formats.

(6) Training of database users and librarians in the use of and development of electronic databases.

(7) Development of technology for simplifying the utilization of networked databases distributed around the Nation and around the world.

(8) Development of visualization technology for quickly browsing large volumes of imagery.

(b) DEVELOPMENT OF PROTOTYPES.—The National Science Foundation, working with the supercomputer centers it supports, shall develop prototype digital libraries of scientific data available over the Internet and the National Research and Education Network.

(c) DEVELOPMENT OF DATABASES OF REMOTE-SENSING IMAGES.—The National Aeronautics and Space Administration shall develop databases of software and remote-sensing images to be made available over computer networks like the Internet.

(d) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the National Science Foundation for the purposes of this section, $10,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $30,000,000 for fiscal year 1995, $40,000,000 for fiscal year 1996, and $50,000,000 for fiscal year 1997.

(2) There are authorized to be appropriated to the National Aeronautics and Space Administration for the purposes of this section $10,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, and $30,000,000 for fiscal year 1995.

SEC. 608. ACCESS TO SCIENTIFIC AND TECHNICAL INFORMATION.

(A) ASSOCIATE DIRECTORS.—Section 203 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6612) is amended—

(1) by striking "four" in the second sentence and inserting in lieu thereof "five"; and

(2) by adding at the end the following new sentence: "Among other duties, one Associate Director shall oversee Federal efforts to disseminate scientific and technical information.".

(b) FUNCTIONS OF DIRECTOR.—Section 204(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6613(b)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (4) the following new paragraph:

"(5) assist the President in disseminating scientific and technical information.".

FACT SHEET ON S. 4, THE NATIONAL COMPETITIVENESS ACT OF 1993

PURPOSE

To promote United States economic growth, industrial competitiveness, and jobs by strengthening Federal support for civilian technology and manufacturing—specifically through expanded support for both industry-led technology development projects and State-led efforts to help small and medium-sized manufacturers. In particular, the bill expands the programs of the Technology Administration and its National Institute of Standards and Technology (NIST) within the Department of Commerce (DOC).

BACKGROUND

The legislation is based on two technology and manufacturing bills from 1991–92, S. 1330 and H.R. 5231, and has been updated to reflect the Clinton-Gore campaign statements supporting an expansion of manufacturing and technology programs. The bill also includes the provisions of 1992's S. 2937, the Information Infrastructure and Technology Act (a follow-on bill to 1991's High-Performance Computing Act). The key provisions of the new bill are part of the Senate Democratic Economic Leadership Strategy.

MAIN PROVISIONS

The bill has six titles:

Title I—General Provisions

States the bill's title ("National Competitiveness Act of 1993") and its findings, purposes, and definitions. One major purpose is to strengthen the ability of Federal technology programs, particularly those at DOC, to support industry-led efforts to improve the technological capabilities, manufacturing performance, information infrastructure, and employment opportunities of the United States. A second major purpose is to develop a nationwide network of technological advice for manufacturers, particularly small and medium-sized firms.

Title II—Manufacturing

Sets a goal that within 10 years the United States will be second to no other nation in the development, deployment, and use of advanced manufacturing technology.

Substitle A—DOC manufacturing programs

Amends the Stevenson-Wydler Technology Innovation Act of 1980 to create a DOC 21st Century Manufacturing Infrastructure Program, which consists of two parts: (1) a new Advanced Manufacturing Technology Development Program, which will support industry-led efforts to develop, refine, and test advanced computer-controlled manufacturing systems; and (2) a new National Manufacturing Outreach Program, which will create a nationwide manufacturing extension system linking State-run Manufacturing Outreach Centers, NIST Manufacturing Technology Centers, and new efforts by NIST's State Technology Extension Program (STEP) to help those States currently without manufacturing extension programs to develop such programs. Also creates an industry-led Manufacturing Advisory Committee, and ex-

pands DOC's efforts to work industry to improve the quality of the manufacturing workforce.

Subtitle B—NSF manufacturing programs

Expands the manufacturing research and training programs of the National Science Foundation (NSF).

Title III—Critical Technologies

States that investment in the development and adoption of advanced technology contributes significantly to long-term economic growth and employment.

Subtitle A—Advanced Technology Program

Requires DOC to submit a long-term plan for NIST's Advanced Technology Program (ATP), the Government's principal civilian program for supporting industry-led projects to overcome the technical obstacles which slow the commercialization of important new technologies. Also creates a new DOC Office of Technology Monitoring and Competitive Assessment, to provide better information on the technological capabilities and industrial targeting practices of America's major trading partners; and establishes a Commerce Technology Advisory Board to provide high-level industry and labor input to DOC technology programs.

Subtitle B—Stimulating investment

Authorizes three experimental programs to stimulate the flow of investment capital to technology firms: (1) a small DOC loan program; (2) a pilot program to assist venture capital firms, modelled on the proven Small Business Investment Company Program; and (3) a program to assist State technology development programs.

Title IV—Additional Commerce Department Provisions

Includes provisions regarding: (1) international standardization, a subject which has major implications for U.S. exports; (2) the extension of the Malcolm Baldrige National Quality Award to educational institutions; (3) cooperative research and development agreements between Federal laboratories and research partners; (4) DOC's Clearinghouse on State and Local Initiatives; (5) the use of domestic U.S.-made products; (6) a severability clause; and (7) creation of a new NIST research program in "wind engineering" to help the construction industry build structures which can better withstand hurricanes and tornadoes.

Title V—Authorizations of Appropriations

Provides fiscal year (FY) 1994 and 1995 authorizations for DOC technology and manufacturing programs and the new NSF manufacturing programs. The attached table provides details.

Title VI—Information Infrastructure and Technology

Builds on the existing Federal high-performance computing and communications program by establishing a coordinated, interagency program to identify and promote the development of computing applications in education, manufacturing (including NIST's programs), health care, and libraries. The aim is for government and industry to work together to develop new computer applications that will benefit both users and the overall U.S. economy. Title VI contains computer authorizations (exclusive of the DOC manufacturing research projects) which total $60M for FY 1993, $120M for FY 1994, and $180M for FY 1995.

SUMMARY OF AUTHORIZATIONS IN S. 4

[Dollars in millions]

	Fiscal year 1993 appro	Fiscal year 1994 auth	Fiscal year 1995 auth
Tech Admin (non-NIST)	5	13.5	19.5
NIST lab research	193	250	300
NIST research facilities	105	0	105
NIST Manuf Outreach	[1] 18	150	280
NIST ATP	68	210	[2] 420
New NSF manufacturing	0	50	75
DOC workforce quality	0	50	50
DOC tech financing	0	[3] 120	120
Wind engineering	0	1	3
Info infrastructure	[4] 0	120	180
Total	389	964.5	1552.5

[1] Possibly will be supplemented by up to $70M in fiscal year 1993 defense conversion funds.

[2] Fiscal year 1994 and fiscal year 1995 levels include funds for the ATP-managed portion of the Advanced Manufacturing Technology Development Program.

[3] Authorization is technically $240M over the two-year period (fiscal year 1994–95).

[4] Information infrastructure title contains a fiscal year 1993 authorization of $60M, but no fiscal year 1993 funds have been appropriated.

Mr. KERRY. I thank the President.

Mr. President, I rise for two purposes.

One, I wish to join in support of the legislation introduced earlier by the distinguished chairman of the Commerce Committee. I am pleased to be a cosponsor of the National Competitiveness Act of 1993, an important piece of legislation, which he has worked on in the Commerce Committee for some period of time.

I think in view of the nomination that we have just approved, it is especially appropriate on this day and at this moment to talk for a moment about this bill.

I also rise to introduce legislation, and will shortly send to the desk a broad, sweeping campaign finance reform bill on behalf of myself, Senator BIDEN, and Senator BRADLEY. I will talk about that in a few moments.

But I would like to say a few things, if I may, about the legislation introduced by the distinguished chairman of the Commerce Committee.

The legislation that I join Senator HOLLINGS in supporting, the National Competitiveness Act of 1993, is an effort to expand the manufacturing and technology programs of the Department of Commerce. Now that the cold war is behind us, we can begin finally to focus resources on the Nation's economic security, reversing the decline in living standards of the last decade.

As the recent Presidential campaign illustrated, we need to focus our Nation's resources much more intensely on creating jobs. And President Clinton has made it very clear that this is one of his top priorities: How we are going to increase investment—public and private—in the tools that are needed by our industries to succeed, export, and create high-wage jobs.

We need especially to help our small- and medium-sized manufacturers which create the majority of jobs and which supply more and more of the components for our larger, exporting companies. These companies need assistance to learn about the manufacturing processes of the nineties—about automation, work organizations, new materials, worker training, flexible manufacturing, environmental technologies, and so on—so that they can compete against foreign competitors in quality and price and so that they can help their U.S. customers compete against their foreign competitors as well. More than anything, these small- and medium-sized companies need access to information.

Japan has a system of 170 manufacturing extension centers which give smaller Japanese companies the information they need. So does the United States in the agricultural sphere. We need a similar extension program for industry. The Department of Commerce has matched local funding to create seven manufacturing technology centers, known as the Hollings Centers, for their creator, and many of the States have established manufacturing extension centers of their own.

The State programs need to be expanded and strengthened and they need a national infrastructure to ensure that good ideas are cross-pollinated and quality kept high. By providing matching funds for local centers, standards for evaluation, training for extension workers, and a computer network to connect centers to each other and to other economic development services, the Department of Commerce will play a crucial role in creating a national manufacturing extension system. This system is sorely needed and and will be greatly appreciated by our Nation's smaller manufacturers who form the backbone of our economy.

One of the ways in which the extension centers can be especially useful to smaller manufacturers is in providing them information about environmental technologies, especially in the area of pollution prevention. Pollution prevention will be the environmental issue of the 1990's. Like preventive medicine, it aims to stop waste before it happens. Since eliminating waste-producing manufacturing processes means lowering costs to producers by improving the process and reducing the use of toxic chemicals, pollution prevention will improve American competitiveness. The extension centers, as part of their mission to deploy technology, should offer environmental assessment services as well as help companies realize the cost savings inherent in purchasing environmental technologies. I hope to work with Senator HOLLINGS on this issue.

In addition to deploying technologies, the Department of Commerce has a special role in formulating and implementing a technology policy which will allow U.S. companies to commercialize the state-of-the-art research performed in this country. There is a list of critical manufacturing technologies that industry, labor, and government—both here and

abroad—agree are necessary for advance manufacturing in the twenty-first century. And the United States, despite its lead in basic research, is behind in these technologies. The Department of Commerce can help to right this by working with the other relevant agencies—such as the Department of Defense, the Department of Energy, and others—to develop a coordinated strategy to encourage the development of technology. In order to accomplish this, we need to expand its Advanced Technology Program administrated by the National Institute of Standards and Technology. NIST has already shown evidence that it knows how to run these programs well.

Since any technology policy must incluce environmental technologies among its targets, environmental technologies must be an integral feature of the ATP and we must ensure that the Department of Commerce works closely with EPA to develop this crucial industry.

I am especially excited about the provision in this legislation which builds on the existing Federal high-performance computing and communications program by establishing an interagency program to begin developing true applications for an information infrastructure in education, manufacturing, health care, and libraries. It is time that we started to reap some of the benefits of our Nation's extraordinary computer technology base and I can think of no better way to do so than the improve the functioning of a select group of crucial industries.

The legislation which Senator HOLLINGS introduces today will bring the process of reversing our investment deficit by leveraging public funds to improve the manufacturing and technology base of American industry. I look forward to working with him, the other members of the committee who have an interest in these issues as well as our new Commerce Secretary to ensure that this is only the beginning of a government-industry partnership to improve the competitiveness of U.S. industry and U.S. workers.

• Mr. ROCKEFELLER. Mr. President, pop psychologists of the 1970's urged Americans to think that, "Today is the first day of the rest of your life." Well, Mr. President, that may have become a cliche for many people, but today nonetheless is an important first day in at least one respect. Today is the first day for a national technology competitiveness policy, thanks to the Clinton administration's determination to restore our manufacturing and technology base.

This is particularly gratifying for those of us in the Senate who worked so hard last year to develop the Democratic economic leadership strategy that addresses precisely this issue. That initial effort, which was largely successful, focused primarily on reorienting Government spending priorities in favor of more support for research, development, and commercialization of critical technologies. But it takes time to achieve our technology goals, and there are many more battles that need to be fought before we can say not only that we have a policy but also that we are implementing it effectively.

There is no question that we face a significant challenge in that regard. Part of it is macroeconomic. According to the Competitiveness Policy Council, average real wages are lower now than they were 20 years ago; aggregate productivity has grown only 1 percent per year for the past decade; and the U.S. share of developed country [OECD] manufacturing export has declined from 22 percent in 1962—and 18 percent in 1980—to 15 percent in 1990.

The latter is a particularly important number because it is the best measure of how we are doing in manufacturing compared to our competitors. That, in turn, is important because it directly demonstrates our competitiveness and our ability to be an effective trader. Manufacturing has consistently been the most important element of our trade balance. If we lose our manufacturing base, we lose our ability to increase our exports and to compete on a global basis.

Unfortunately, that process of erosion is already well underway. According to "Regaining U.S. Manufacturing Leadership," by Robert B. Costello of the Hudson Institute, and a Defense Department official in the Reagan administration, for the 1980's as a whole, growth of manufacturing output averaged 3.6 percent, an improvement over the 2.9 percent of the 1970's. However, some 30 percent of that growth is due to a single sector—computers and office equipment, whose output was much smaller in preceding years. Without that sector the annual growth rate was only 2.5 percent, worse than the 1970's. More important, the good news in this data was in the early 1980's. In 1989 U.S. manufacturing output per hour increased only 2 percent, a 60-percent drop from 1983–84.

The job picture is even gloomier. The rate of employment growth in the 1980's was 1.7 percent per year compared to 2.25 percent in the 1970's. The rate of growth of manufacturing hours worked actually declined 0.3 percent per year in the 1980's, compared to a 0.4-percent increase in the 1970's. It is also important to keep in mind the fact that the growth of the work force will slow in the 1990's, and to sustain even the GNP growth of the 1980's will require nearly doubling labor productivity—a very difficult accomplishment.

Important though these numbers are, Mr. President, the fact is that in global competitiveness the real battleground is microeconomic, not macroeconomic. How we are doing in critical technology areas will define our ability to compete in the 21st century.

In that regard, the Council on Competitiveness concludes we are losing badly or have lost in the following critical technologies: structural ceramics, electronic ceramics, electronic packing materials, gallium arsenide, silicon, display materials, integrate circuit fabrication and test equipment, robotics and automated equipment, memory chips, multichip packaging systems, printed circuit board technology, display technologies, optical information storage.

We are weak in such things as advanced metals, scientific instruments, manufacturing design, flexible manufacturing, high-speed machining, precision bearings, precision machining and forming, lasers, photonics.

A report of the National Science Board, which is affiliated with the National Science Foundation, that was issued last August comes to a very clear conclusion about where we stand on research and development:

> The real rate of growth in U.S. industrial R&D spending has declined since the late 1970's and early 1980's. In addition, the Nation's position has deteriorated relative to that of its major international competitors whose investment in nondefense R&D has been growing at a faster pace than U.S. nondefense R&D since the mid-1980's.
>
> Domestic industrial R&D expenditures slowed from an average annual growth rate of 7.5 percent (constant dollars) during 1980–85 to only 0.4 percent during 1985–91. The federally supported portion of these expenditures dropped from a growth rate of 8.1 percent to −1.7 percent over these two periods * * *. The United States now trails Japan and (West) Germany, its strongest competitors, in nondefense R&D spending as a percentage of gross domestic product (GDP).

The report goes on to observe that we spend too little on process-oriented R&D, put insufficient emphasis on emerging technologies, risk losing our lead in pioneering discoveries and inventions, and fail to make decisions based on strategic technological considerations. These are all precisely the failures the initial national economic leadership strategy that Senate Democrats announced last July 1 was intended to correct.

That strategy consisted of 30 specific proposals, some reoriented spending, some new legislation, to get our industrial and technology base back on the right track. Those of us who worked so hard on that effort, particularly Senators LIEBERMAN, BINGAMAN, and myself, were pleased that we substantially achieved our objectives on 23 of those items.

The proposals deferred for action until this year, along with the need to address fiscal year 1994 funding priorities and move forward on the President's campaign commitments create a new agenda for action for the 103d Congress. And it is a major part of that new economic leadership strategy that we introduce today.

Other Senators will describe in detail the provisions of this bill. I would like

to make a few comments about the context of this effort. Most important, we are not trying to solve all our manufacturing problems in one bill. Some issues are not ready for final congressional action and need further hearings. Other issues, such as defense technology funding, trade, tax, and worker training issues, are deferred for separate legislation to avoid jurisdictional complications. It is, however, important to state that it is our intent that these other matters be addressed this year—in the regular annual defense authorization, anticipated trade and tax legislation, and revision of JTPA and trade adjustment assistance programs, either on their own or in the context of NAFTA implementing legislation.

Therefore, this bill consists primarily of matters within the jurisdiction of the Commerce Committee, namely those that relate to civilian technology research, development, and commercialization. I am particularly pleased to note the presence of proposals based on two ideas I have promoted for some time—a loan program for technology commercialization and a pilot program to supplement the private venture capital market's investment in new technologies. These provisions differ in some significant details from my own proposals, including the Advanced Technologies Capital Consortium bill, S. 2286 in the last Congress, which I will be reintroducing shortly, but they are an important step forward and a good basis for initial action. Obviously, I will have more to say about them during the process of committee consideration. These proposals will be particularly important for West Virginia and other States with active technology companies that are often overlooked by the conventional venture capital market.

The result of the past administration's long opposition to efforts to increase Federal technology research and development activity is a continuing serious lack of venture capital for critical technology firms at critical stages in their development. More and more such firms find themselves with no choice but to sell themselves and their technology to foreign investors, primarily Japanese, if they want to continue their work, with the resulting transfer of technology and future profits overseas.

I am also particularly pleased that this bill will also implement an important Clinton campaign promise by significantly expanding the Government's two major manufacturing technology extension and diffusion programs—the Hollings Manufacturing Technology Centers and the State Technology Extension Program [STEP], which have been badly underfunded and have had little support from the administration.

Mr. President, this bill is an important step toward addressing the real competitiveness problems that our country faces—restoring our manufacturing base, improving our productivity, and creating jobs. President Clinton understands that and has committed himself to these same goals. With the introduction of this bill, we join in that commitment. I hope we can now move on to fulfill our commitment with prompt action.

Mr. President, I ask that a factsheet describing the National Competitiveness Act of 1993 be printed at this point in the RECORD.

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

FACT SHEET ON S. 4, THE NATIONAL COMPETITIVENESS ACT OF 1993

PURPOSE

To promote United States economic growth, industrial competitiveness, and jobs by strengthening Federal support for civilian technology and manufacturing—specifically through expanded support for both industry-led technology development projects and State-led efforts to help small and medium-sized manufacturers. In particular, the bill expands the programs of the Commerce Department's Technology Administration and its National Institute of Standards and Technology (NIST).

BACKGROUND

The legislation is based on two 1992 technology and manufacturing bills, S. 1330 and H.R. 5231, and has been updated to reflect the Clinton-Gore campaign statements supporting an expansion of manufacturing and technology programs. The bill also includes the provisions of 1992's S. 2937, the Information Infrastructure and Technology Act (a follow-on bill to 1991's High-Performance Computing Act).

MAIN PROVISIONS

The bill has six titles:

Title I—General Provisions

States the bill's title ("National Competitiveness Act of 1993") and its findings, purposes, and definitions. One major purpose is to strengthen the ability of Federal technology programs, particularly those of the Department of Commerce (DOC), to support industry-led efforts to improve the technological capabilities, manufacturing performance, information infrastructure, and employment opportunities of the United States. A second major purpose is to develop a nationwide network of technological advice for manufacturers, particularly small and medium-sized firms.

Title II—Manufacturing

Sets a goal that within 10 years the United States will be second to no other nation in the development, deployment, and use of advanced manufacturing technology.

Subtitle A—DOC manufacturing programs

Amends the Stevenson-Wydler Technology Innovation Act of 1980 to create a DOC 21st Century Manufacturing Infrastructure Program, which consists of two parts: (1) a new Advanced Manufacturing Technology Development Program, which will support industry-led efforts to develop, refine, and test advanced computer-controlled manufacturing systems; and (2) a new National Manufacturing Outreach Program, which will create a nationwide manufacturing extension system linking State-run Manufacturing Outreach Centers, NIST Manufacturing Technology Centers, and new efforts by NIST's State Technology Extension Program (STEP) to help those States currently without manufacturing extension programs to develop such programs. Also creates an industry-led Manufacturing Advisory Committee, and expands DOC's efforts to work with industry to improve the quality of the manufacturing workforce.

Subtitle B—NSF manufacturing programs

Expands the manufacturing research and training programs of the National Science Foundation (NSF).

Title III—Critical Technologies

States that investment in the development and adoption of advanced technology contributes significantly to long-term economic growth and employment.

Subtitle A—Advanced Technology Program

Requires DOC to submit a long-term plan for NIST's Advanced Technology Program (ATP), the Government's principal civilian program for supporting industry-led projects to overcome the technical obstacles which slow the commercialization of important new technologies. Also creates a new DOC Office of Technology Monitoring and Competitive Assessment, to provide better information on the technological capabilities and industrial targeting practices of Amercia's major trading partners; and establishes a Commerce Technology Advisory Board to provide high-level industry and labor input to DOC technology programs.

Subtitle B—Stimulating investment

Authorizes three experimental programs to stimulate the flow of investment capital to technology firms: (1) a small DOC loan program; (2) a pilot program to assist venture capital firms, modelled on the proven Small Business Investment Company Program; and (3) a program to assist State technology development programs.

Title IV—Additional Commerce Department Provisions

Includes provisions regarding: (1) international standardization, a subject which has major implications for U.S. exports; (2) the extension of the Malcolm Baldrige National Quality Award to educational institutions; (3) cooperative research and development agreements between Federal laboratories and research partners; (4) DOC's Clearinghouse on State and Local Initiatives; (5) the use of domestic U.S.-made products; (6) a severability clause; and (7) creation of a new NIST research program in "wind engineering" to help the construction industry build structures which can better withstand hurricanes and tornadoes.

Title V—Authorizations of Appropriations

Provides fiscal year (FY) 1994 and 1995 authorizations for DOC technology and manufacturing programs and the new NSF manufacturing programs. The attached table provides details.

Title IV—Information Infrastructure and Technology

Builds on the existing Federal high-performance computing and communications program by establishing a coordinated, interagency program to identify and promote the development of computing application in education, manufacturing (including NIST's programs), health care, and libraries. The aim is for government and industry to work together to develop new computer applications that will benefit both users and the overall U.S. economy. Authorizations (exclusive of the DOC manufacturing research projects) total $60M for FY93, $120M for FY 94, and $180M for FY95.

Summary of Authorizations in S. 4
[Dollars in millions]

	Fiscal year 1993 appropriation	Fiscal year 1994 authorization	Fiscal year 1995 authorization
Tech Admin (non-NIST)	5	13.5	19.5
NIST lab research	193	250	300
NIST research facilities	105	0	105
NIST Manuf Outreach	[1] 18	150	280
NIST ATP	68	[2] 210	[2] 420
New NSF manufacturing	0	50	75
DOC workforce quality	0	50	50
DOC tech financing	0	[3] 120	120
Wind engineering	0	1	3
Info infrastructure	(4)	120	180
Totals	389	964	1552.5

[1] Possibly will be supplemented by up to $70M in fiscal year 1993 defense conversion funds.
[2] Fiscal year 1994 and fiscal year 1995 levels include funds for the industry-led part of the Advanced Manufacturing Technology Development Program.
[3] Authorization is technically $240M over the two-year period (fiscal year 1994–95).
[4] Information infrastructure title contains an fiscal year 1993 authorization of $60M, but no fiscal year 1993 funds have been appropriated.•

• Mr. BINGAMAN. Mr. President, I am pleased to rise today as an original cosponsor of Senator Hollings bill, S. 4, the National Competitiveness Act of 1993. The heart of this bill is S. 1330, which Senator Hollings introduced in the last Congress as part of a series of bills on technology and manufacturing policy introduced by Senators NUNN, HOLLINGS, GORE, MITCHELL, and myself. These bills represented an unprecedented display of cooperation between the Armed Services and Commerce Committees aimed at harnessing a larger share of the Federal R&D enterprise to meeting the needs of the industrial sector.

In introducing these bills, we noted that technologies critical to our national security and technologies critical to our industrial competitiveness were fast becoming one and the same. Just as we were cooperating across committees with defense and civilian jurisdictions in the Congress, the executive branch agencies, defense and nondefense, needed to begin to work closer together in cooperation with industry to target a larger share of the $75 billion Federal R&D enterprise to industry's needs. We felt the executive branch needed a comprehensive set of strategic roadmaps in these critical technologies aimed at insuring continued leadership by American industry in these sectors. We felt that the Federal Government as a whole needed to sort out what it could do to strengthen American industry, building on the comparative advantages of each of the mission agencies, just as the Government has done under former Senator GORE'S leadership in the case of high-performance computing.

In the last Congress we were able to enact the provisions of S. 1327 and S. 1328 as part of the fiscal year 1992 and 1993 Defense Authorization Acts. We were not able to see S. 1330 all the way to enactment despite heroic efforts by Senator HOLLINGS and his House counterpart Congressman GEORGE BROWN. With a new and supportive administration in place I hope now that we will be able to see S. 4, which aims to strengthen the Commerce Department's and the National Science Foundation's technology and manufacturing programs, enacted early on.

I also see this bill as part of a much broader strategy we outlined back in June of 1991, a strategy that must involve all of the Federal mission agencies under strong leadership from the White House. I serve on the Labor, Energy, and Armed Services Committees. In the Labor Committee we have been supportive of Bernadine Healy's efforts to tie the $10 billion National Institutes of Health research and development enterprise to the economic competitiveness of this country. Dr. Healy appropriately made this one of the four key goals in the NIH strategic plan. I have spoken with Secretary of Health and Human Services-designate Donna Shalala about continuing this thrust and have received a very strong commitment to do so.

In the Energy Committee under Senator Johnston's leadership, we have moved to better connect the DOE labs to the needs of the industrial sector and have rapidly increased funding for such technology partnerships to at least $141 million in fiscal year 1993. There is more that needs to be done here both legislatively and administratively to streamline the industrial sector's interactions with the DOE labs. The Council on Competitiveness in a recent report entitled "Industry as Customer of the Federal Laboratories" has proposed giving authority to enter such partnerships to the lab directors, something I originally proposed in 1989, but which was deleted from the National Competitiveness Technology Transfer Act of 1989 before enactment because of administration opposition. I hope to win the Clinton-Gore administration's and my colleagues in the Congress' support for this change as part of broader Federal labs initiative. I was delighted to see Secretary of Energy-designate O'Leary state during her confirmation hearing her strong support for the DOE labs playing an important role in the Clinton-Gore technology policy.

Finally, on the Armed Services Committee, under Senator Nunn's and now Defense Secretary Aspin's leadership, we have already moved in the past 2 years to strengthen the dual-use technology and manufacturing programs of the Department of Defense, to strengthen the ability of the Office of Science and Technology Policy to coordinate Federal R&D programs, in particular by creating the Critical Technologies Institute, and to foster a commercial-military integration strategy within the defense acquisition system. There is much we can do to build on those programs. If this morning's newspaper is correct that the President and Secretary Aspin have chosen Bill Perry as Deputy Secretary of Defense, they have chosen the ideal person to build on our past efforts in technology and manufacturing policy, for he was the key mentor of many of us on these issues over the past decade.

So, I am proud to cosponsor S. 4. I commend Senator Hollings for his continued leadership in this area. I hope this bill becomes the first of many pieces of legislation aimed at the long-term health of our economy which the Clinton-Gore administration will ask this Congress to enact. We can and must better connect the entire Federal R&D enterprise to the needs of the industrial sector in partnership with industry and State governments. This new partnership will, I am sure, be one of the cornerstones of our economic policy in the years ahead.•

• Mr. LIEBERMAN. Mr. President, I rise today to speak in support of legislation. S 4, that is being introduced today by the distinguished chairman of the Commerce Committee, the gentleman from South Carolina. Earlier today the majority leader announced it as one of his top legislative priorities. This legislation, when enacted, will help recharge American manufacturing, which has been seriously harmed by a decade of neglect and ideological bickering.

The state of U.S. manufacturing has clearly been in decline and indicators of that decline are acutely visible. The U.S. merchandise trade deficit remains stubbornly high, despite a significant downward change in the value of the dollar. Growth in productivity continues to be sluggish as compared to our major competitors. And, U.S. manufacturers, including defense manufacturers, are becoming increasingly dependent on foreign companies for an ever-increasing range of machinery, machine tools, and manufactured components.

In the debate over the state of American manufacturing and industrial competitiveness, we routinely address issues such as the high cost of capital; our low rate of savings and investment; chronic trade and budget deficits; and the failure of our educational system to prepare our workers for the jobs we need done, but we rarely address the fundamental issue of technological advancement, which is among the most important.

Technological advancement can drive an economy by creating new goods, services, industries, jobs, and capital. Technological advancement, when applied to existing systems, can improve productivity and the quality of products. And, Mr. President, technological advancement can help compensate for competitive disadvantages U.S. firms must face including comparatively higher costs of capital and labor.

While the United States remains the undisputed world leader in basic re-

search and in many areas of applied research—largely due to direct Federal support—we must understand that research alone does not lead to improved productivity and economic growth. Research and development is merely the first step. It is commercialization—the process of moving products from our laboratories to our factories—that leads to increased productivity, continued economic growth, and the ultimate rise in our standard of living. But, Mr. President, this is also where we fail. We must, as our competitors do, aggressively support emerging technologies, so they can be transformed into commercially viable products for the international marketplace.

Our chief economic competitors are not afraid to do just that. According to the private sector funded Council on Competitiveness, in 1988 the United States spent 0.2 percent of the total Federal Government R&D budget on industrial development—compared to 4.8 percent in Japan and 14.5 percent in Germany. Additionally, the Ministry of International Trade and Industry [MITI] is the most celebrated example of how the Japanese economic miracle came into being. We may not want to create an American MITI, but we certainly ought to be thinking about long term blueprints for keeping America ahead of the high technology curve. This legislation, like other groundbreaking legislation introduced by the gentleman from South Carolina, will go a long way toward reaching that goal.

This initiative includes provisions for coordinated planning and management of Federal manufacturing activities; increased federal support for the development of industry-led advanced manufacturing technology; programs for manufacturing extension activities, particularly for small and medium sized firms; and expanded technological education programs.

Mr. President, there are those who take issue with this legislation because they believe it is just another example of the Federal Government business picking winners and losers. But what these critics forget is that the Government is and always has been deeply involved in the economy. The Government helped to build our railroads. Government support also helped to build our highways. That's also how the American aerospace industry and American agriculture have become the standards for American excellence—the Government has been an ally of economic development. In fact, the aerospace industry produces a larger trade surplus for the United States than any other manufacturing industry and agriculture is a big contributor to trade surpluses as well.

Even Adam Smith, the author of laissez-faire, understood that the free market is not always perfect or ideal. He suggested that there is a legitimate role for government to play in the market, particularly in caring for the indigent and needy, in building public infrastructure, in education, in public health, in providing for the national defense, and in preventing firms from conspiring against the public good.

This bill, of course, does not purport to replace the free market. Nothing could be further from the case. What the provisions of this legislation say is that there is also a constructive supporting role for the government to play in technology policy.

Evaluate the case of the aerospace industry. According to the Office of Technology Assessment, the first Federal contract for a military aircraft was let in 1907, and in 1911 Congress appropriated $25,000 to purchase the first airplane for the Navy. The Europeans, however, were the first to establish aeronautical research centers and between 1907 and 1915 the Europeans made landmark advances in aerospace technology. During this period, the United States felt itself falling far behind the curve in aerospace advancement, and finally, in 1915, Theodore Roosevelt endorsed and Congress supported the concept of a National Advisory Committee for Aeronautics, which was a Government organization designed specifically to advance the science and technology associated with aerospace.

Since that time, the Federal Government has aggressively supported aerospace research, development, commercialization, and production—albeit primarily for military functions. Many would argue, however, that this support—which has led to a variety of dual-use technologies—is what made the U.S. commercial aerospace industry what it is today. I cannot help but note that almost 90 years later the greatest challenge to U.S. civilian aerospace predominance is coming from Airbus—a firm which is wholly supported and which has received billions of dollars in R&D and working capital from a coalition of four European countries.

Mr. President, in 1991, the President's National Critical Technologies Panel, which was part of the Office of Science and Technology Policy, prepared a list of 22 key technologies along with a report which stresses the need for increased cooperation between government and corporations. In that report, the National Critical Technologies Panel stated:

> The failure to maintain world class manufacturing capabilities would compromise the nation's ability to compete in domestic and international markets, and would threaten our ability to obtain access to the full range of components and equipment required for a strong national defense.

If maintaining a world class manufacturing capability, as the report suggests, is critical to both our national defense and economic security, then we should not be debating whether or not the Federal Government should be supporting technological advancement; rather, we should be asking what is the best way for us to do so? How can we put the resources and leverage capacity of the Federal Government directly behind American industrial technologies to improve our industrial competitiveness over the long term? By recognizing that this bill is an important step in the direction of answering these questions, then passing it and fully funding it.

Mr. President, the gentleman from South Carolina has long been a leader in bringing together business and government for the good of the American economy, particularly our manufacturing sector. Through his efforts, he created the National Institute for Standards and Technology and its new programs. I applaud his hard work and foresight and pledge to help him secure the passage of this bill.

It is also my hope that other related legislation will be enacted. A group of Senators with the effective support of the majority leader have for the last year been working on something we call the economic leadership strategy. Last year, we helped secure the passage of, and $1.6 billion in reallocated funding for, a variety of programs from improving education and job training programs to programs that will help defense firms begin to make products for the commercial market.

We hope to be even more successful this year in our efforts to fund the program that comprise the economic leadership strategy and the five critical areas that it covers: First, keeping the United States on the cutting edge of high technology and applied research; second, commercializing inventions to create quality U.S. jobs and products; third, improving manufacturing technology and extending those technologies to businesses across the United States; fourth, improving education and job training to ensure a highly skilled U.S. work force; and fifth, strengthening trade tools to open markets abroad.

The economic leadership strategy, including the legislation that Senator HOLLINGS is introducing today, can provide the foundation for increased economic growth for our Nation in years to come. The programs the legislation and the strategy support are the type of programs that can help American companies compete in a highly competitive global economy.

America must regain its lead in the civilian high tech industry. What is at stake here in both the national and economic security of our Nation, and the standard of living of our people. Government initiatives should not be dismissed as interference. They should be viewed as support for American competitiveness and a strong economy. By passing this legislation and other

bills like it, we can better secure our Nation's economic future.●

● Mr. RIEGLE. Mr. President, I am pleased to rise in support of S. 4, the National Competitiveness Act of 1993. This bill is an important step forward in strengthening the technological foundation upon which our Nation's international competitiveness is built. The provisions contained in this bill are especially important to reinvigorating our manufacturing base.

Manufacturing is the heart of our economy, it keeps the lifeblood of the economy flowing. Manufacturing is the key to maintaining middle-class jobs that are the backbone of our Nation—jobs that pay middle-class incomes with health care protection and pension benefits. These are the jobs we are losing. The number of manufacturing jobs, after growing on a fairly steady basis since the end of World War II, peaked in 1979. Since then, we have lost almost 3 million manufacturing jobs. In 1990, only 18 percent of the U.S. workforce was in manufacturing. In Japan, 24.1 percent work in manufacturing; in Germany the number is 31.5 percent.

This loss of jobs has resulted in a decline in earnings for working Americans. In 1989, the number of jobs in retail trade surpassed those in manufacturing. In retail trade, the average weekly gross earning is about $200. In manufacturing, it is about $470. The average real weekly earnings for production or non-supervisory workers peaked in 1972. By 1991, it had dropped by almost 20 percent, reaching the lowest level since the 1950's.

The result of this trend in wages is frightening. After declining steadily since World War II, we are now seeing a dramatic increase in the proportion of full-time workers working for wages that put them below the poverty line. According to the Census Bureau, in 1990 14.4 million American workers with full-time jobs—18 percent of all full time workers—made less than $12,195.

To reverse this trend, we must increase manufacturing productivity. We need to increase the value-added of American production. Better products, produced more quickly and at lower cost is way of adding higher value. That means it's not just the number of cars per hour we produce that's important—it's how well those cars are as well. To move to this higher value-added production requires increasing the skills and knowledge of our workers. It also requires providing them with the best equipment and infrastructure possible. In essence, it means a shift to a strategy of creating high-skill, high-wage jobs rather than competing with low-skill, low-wage production.

Mr. President, this bill is a strong starting point for taking action to strengthen our Nation's technology and manufacturing base. Parts of this bill dealing with technology financing issues are of particular interest to the Banking Committee, which I chair. I look forward to working constructively with the sponsor of this bill with regard to these sections.

The creation of high-skill, high-wage jobs must be the central goal that drives our economic strategy for the future. High wage jobs increase the standard of living and increase investment, which in turn generates a new round of economic growth and even more jobs. This is the cycle of growth we need to restart. By addressing the critical areas of technology and manufacturing, this bill, the National Competitiveness Act of 1993, is an important step toward our economic renewal.●

By Mr. DODD (for himself, Mr. KENNEDY, Mr. PACKWOOD, Mr. MITCHELL, Mr. JEFFORDS, Ms. MIKULSKI, Mr. HATFIELD, Mr. BOND, Mr. METZENBAUM, Mr. COATS, Mr. D'AMATO, Mr. CHAFEE, Mr. DECONCINI, Mr. PELL, Mr. SIMON, Mr. SPECTER, Mr. BRADLEY, Mr. MOYNIHAN, Mr. KERRY, Mr. INOUYE, Mr. BIDEN, Mr. ROCKEFELLER, Mr. LAUTENBERG, Mr. LIEBERMAN, Mr. REID, Mr. SARBANES, Mr. AKAKA, Mr. BINGAMAN, Mr. DASCHLE, Mr. EXON, Mr. HARKIN, Mr. RIEGLE, Mr. BRYAN, Mr. KERREY, Mr. LEVIN, Mr. WELLSTONE, Mr. KOHL, Mr. FORD, Mr. FEINGOLD, Mrs. BOXER, Mrs. FEINSTEIN, Mrs. MURRAY, Ms. MOSELEY-BRAUN, and Mr. CAMPBELL):

S. 5. A bill to grant family and temporary medical leave under certain circumstances; to the Committee on Labor and Human Resources.

FAMILY AND MEDICAL LEAVE ACT

Mr. DODD. Mr. President, I rise today to introduce S. 5, the Family and Medical Leave Act of 1993. I have been joined in sponsoring this measure by Senators KENNEDY, MITCHELL, JEFFORDS, BOND, PACKWOOD, COATS, and more than three dozen other Senators.

Yesterday at noon, the 42nd President of the United States was sworn into office just a few steps from where we now gather in the Chamber. Today, we begin to illustrate the real meaning of this historic event as we embark on what promises to be the final chapter in a 7-year effort to establish a national leave policy for millions of working families. This is a time of great opportunity—to show the American people both in our words and our deeds—that Government can be a positive force in their lives.

Over the next few weeks, we will have the opportunity to respond in a tangible way to a real problem that real people face all over this Nation—the daily struggle to balance work and family responsibilities. We will have the opportunity to symbolize with concrete action the end of Government gridlock, and that Republicans and Democrats can work together for the common good. We will have the opportunity to show that as we begin to tackle the economic challenges of the 21st century, Government and business can invest in a real partnership to help make our citizens productive workers and good parents at the same time without being in conflict.

Mr. President, S. 5 embodies a simple and but critically important idea: short-term job security for working people in times of family or medical emergency. The bill we are introducing today is virtually identical to the conference report that was vetoed last year, with minor technical changes to facilitate administration and enforcement of the new law. S. 5 provides up to 12 weeks of unpaid, job-protected leave per year—with health insurance coverage—for the birth or adoption of a child, or the serious illness of an employee or an immediate family member. The bill exempts small businesses and covers only employers with 50 or more employees. In order to be eligible for leave, employees must have worked in excess of 1,200 hours over the previous 12 months and at least for 1 year for that employer. And medical certifications are required to prove that an employee must take leave in order to deal with a serious health condition.

Through 7 years of scrutiny, including passage twice I might add, by Congress in the last 3 years, we have amassed strong and convincing evidence that family leave is not only good for working families but, just as importantly, it makes good business sense as well. A 1991 study by the Small Business Administration concluded that "the net cost to employers of placing workers on leave is always substantially smaller than the cost of terminating an employee." A revised analysis of this study last year concluded that more than 300,000 people have lost their jobs since a similar bill was vetoed in 1990 because they had no job-guaranteed medical leave. This 1992 study also found that mid-size and large businesses would have saved nearly $500 million in unnecessary hiring and training costs for new workers had this legislation become law 3 years ago.

Let me emphasize, Mr. President: Those are not my calculations; those are calculations done by objective studies—one of them by the Small Business Administration, under the previous administration of President Bush—concluding that this legislation made good business sense, that people would have held on to jobs and business dollars would have been saved.

Individual companies report tremendous savings with leave policies already in place. The Aetna Life and Cas-

ualty Co. of my home State of Connecticut estimated last year that its family leave program saves them $2 million annually in reduced employee turnover and lower hiring and training costs.

AT&T has reported that the leave policy it established on itself saved it $15 million each year in replacement costs alone.

That is testimony from two rather large companies in this country that have adopted leave policies that have saved them millions of dollars.

So when the arguments are raised—as they surely will be—that this legislation is costly to business, I would urge my colleagues and others who may be interested in following this legislation to remember what business has said, businesses who have adopted leave policies, that this is a program that saves them dollars.

Mr. President, in many ways, the Family and Medical Leave Act embodies our commitment to tackle a critical set of challenges facing the American people and the new Congress that convenes today. It is a sound family policy that enables working people to deal with family emergencies without losing their jobs in the process.

It is a sound health care policy that guarantees insurance protection just when families need it the very most—during a family medical crisis. To lose your job and to lose health care coverage when your child is sick or your spouse is ill or a parent you are caring for is in trouble, to lose a job and lose the health care coverage, what more cruel set of facts could strike a family?

So this legislation will do an awful lot just to save and protect good people who are trying to hold body and soul and family together at a time when they need it most.

It's a sound welfare policy that enables low-income single parents to raise their children and be productive, working members of society. It's a sound family planning policy that promotes adoption and provides real alternatives to abortion for women who must work and raise children at the same time. Perhaps most important, it's a sound economic policy that recognizes Government and business must work together to invest in both a productive work force and strong families as we move into the 21st century.

Mr. President, the Family and Medical Leave Act establishes a basic standard of human decency. That is what this 7-year-long struggle has been about, human decency—that is all this is—that every other industrialized nation in the world provides for its citizenry.

It represents a rare opportunity to fulfill both national goals and individual needs; a prudent expense today that is also a sound investment for tomorrow. The Family and Medical Leave Act is truly an idea, Mr. President, whose time has come.

Mr. President, I hope that our colleagues will provide the same strong sense of support they have in the past when this legislation reaches the floor of this body, that the other body will also move expeditiously, and that very shortly we can present to our new President, President Clinton, a Family and Medical Leave Act which he will be proud to sign into law.

It has been 7 long years. I do not think it was wasted time. We have learned a lot. We produced a good bill, Mr. President, because we have worked on it together, both sides of the aisle here, and I am confident that before the next few weeks or few months pass, we will have for the first time in this country family and medical leave legislation recognizing that working families today need to be able to be with their families during a time of crisis without losing their jobs. Holding onto the job you need and the family you love should not be in conflict unnecessarily, and we intend to correct that wrong with this legislation.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD at the conclusion of these remarks.

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

S. 5

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family and Medical Leave Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

Sec. 101. Definitions.
Sec. 102. Leave requirement.
Sec. 103. Certification.
Sec. 104. Employment and benefits protection.
Sec. 105. Prohibited acts.
Sec. 106. Investigative authority.
Sec. 107. Enforcement.
Sec. 108. Special rules concerning employees of local educational agencies.
Sec. 109. Notice.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

Sec. 201. Leave requirement.

TITLE III—COMMISSION ON LEAVE

Sec. 301. Establishment.
Sec. 302. Duties.
Sec. 303. Membership.
Sec. 304. Compensation.
Sec. 305. Powers.
Sec. 306. Termination.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Effect on other laws.
Sec. 402. Effect on existing employment benefits.
Sec. 403. Encouragement of more generous leave policies.
Sec. 404. Regulations.
Sec. 405. Effective dates.

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

Sec. 501. Leave for certain Senate employees.
Sec. 502. Leave for certain congressional employees.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

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

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

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

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

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

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

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

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

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

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

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

TITLE I—GENERAL REQUIREMENTS FOR LEAVE

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (1) and (3) of section 501 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (1) and (3)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means an employee who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is requested under section 102; and

(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

(B) EXCLUSIONS.—The term "eligible employee" does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by title II of this Act); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(C) DETERMINATION.—For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.

(3) EMPLOY; EMPLOYEE; STATE.—The terms "employ", "employee", and "State" have the same meanings given such terms in subsections (c), (e), and (g) of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (c), (e), and (g)).

(4) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer; and

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

(B) PUBLIC AGENCY.—For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

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

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

(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

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

(7) PARENT.—The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

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

(9) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

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

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

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

(B) continuing treatment by a health care provider.

(12) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

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

SEC. 102. LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Subject to section 103, an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:

(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

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

(b) LEAVE TAKEN INTERMITTENTLY OR ON A REDUCED LEAVE SCHEDULE.—

(1) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e)(2), and section 103(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently or on a reduced leave schedule when medically necessary. The taking of leave intermittently or on a reduced leave schedule pursuant to this paragraph shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a) beyond the amount of leave actually taken.

(2) ALTERNATIVE POSITION.—If an employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of paragraph (1), that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(A) has equivalent pay and benefits; and

(B) better accommodates recurring periods of leave than the regular employment position of the employee.

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave. Where an employee is otherwise exempt under regulations issued by the Secretary pursuant to section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)), the compliance of an employer with this title by providing unpaid leave shall not affect the exempt status of the employee under such section.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this title may be provided without compensation.

(2) SUBSTITUTION OF PAID LEAVE.—

(A) IN GENERAL.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), or (C) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection.

(B) SERIOUS HEALTH CONDITION.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C) or (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

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

(B) shall provide the employer with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 103. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a request for leave under subparagraph (C) or (D) of section 102(a)(1) be supported by a certification issued by the health care provider of the eligible employee or of the son,

daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Certification provided under subsection (a) shall be sufficient if it states—

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

(2) the probable duration of the condition;

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

(4)(A) for purposes of leave under section 102(a)(1)(C), a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 102(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 102(a)(1), the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) for such leave.

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

(d) RESOLUTION OF CONFLICTING OPINIONS.—

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

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

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

SEC. 104. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Except as provided in subsection (b), any eligible employee who takes leave under section 102 for the intended purpose of the leave shall be entitled, on return from such leave—

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

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

(2) LOSS OF BENEFITS.—The taking of leave under section 102 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS.—Nothing in this section shall be construed to entitle any restored employee to—

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

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) CERTIFICATION.—As a condition of restoration under paragraph (1) for an employee who has taken leave under section 102(a)(1)(D), the employer may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of such employees.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 102 to report periodically to the employer on the status and intention of the employee to return to work.

(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(1) DENIAL OF RESTORATION.—An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(B) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) AFFECTED EMPLOYEES.—An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) MAINTENANCE OF HEALTH BENEFITS.—

(1) COVERAGE.—Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 102, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(2) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 102 if—

(A) the employee fails to return from leave under section 102 after the period of leave to which the employee is entitled has expired; and

(B) the employee fails to return to work for a reason other than—

(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 102(a)(1); or

(ii) other circumstances beyond the control of the employee.

(3) CERTIFICATION.—

(A) ISSUANCE.—An employer may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in paragraph (2)(B)(i) be supported by—

(i) a certification issued by the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(C); or

(ii) a certification issued by the health care provider of the eligible employee, in the case of an employee unable to return to work because of a condition specified in section 102(a)(1)(D).

(B) COPY.—The employee shall provide, in a timely manner, a copy of such certification to the employer.

(C) SUFFICIENCY OF CERTIFICATION.—

(i) LEAVE DUE TO SERIOUS HEALTH CONDITION OF EMPLOYEE.—The certification described in subparagraph (A)(i) shall be sufficient if the certification states that a serious health condition prevented the employee from being able to perform the functions of the position of the employee on the date that the leave of the employee expired.

(ii) LEAVE DUE TO SERIOUS HEALTH CONDITION OF FAMILY MEMBER.—The certification described in subparagraph (A)(ii) shall be sufficient if the certification states that the employee is needed to care for the son, daughter, spouse, or parent who has a serious health condition on the date that the leave of the employee expired.

SEC. 105. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

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

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

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

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

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

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

SEC. 106. INVESTIGATIVE AUTHORITY.

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

(b) OBLIGATION TO KEEP AND PRESERVE RECORDS.—Any employer shall make, keep, and preserve records pertaining to compliance with this title in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) REQUIRED SUBMISSIONS GENERALLY LIMITED TO AN ANNUAL BASIS.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any

books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order issued pursuant to this title, or is investigating a charge pursuant to section 107(b).

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

SEC. 107. ENFORCEMENT.

(a) CIVIL ACTION BY EMPLOYEES.—

(1) LIABILITY.—Any employer who violates section 105 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 105 proves to the satisfaction of the court that the act or omission which violated section 105 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 105, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) LIMITATIONS.—The right provided by paragraph (2) to bring an action by or on behalf of any employee shall terminate—

(A) on the filing of a complaint by the Secretary in an action under subsection (d) in which restraint is sought of any further delay in the payment of the amount described in paragraph (1)(A) to such employee by an employer responsible under paragraph (1) for the payment; or

(B) on the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1),

unless the action described in subparagraph (A) or (B) is dismissed without prejudice on motion of the Secretary.

(b) ACTION BY THE SECRETARY.—

(1) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 105 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in subsection (a)(1)(A).

(3) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) LIMITATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an action may be brought under this section not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of section 105, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(3) COMMENCEMENT.—In determining when an action is commenced by the Secretary under this section for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(d) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(1) to restrain violations of section 105, including the restraint of any withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees; or

(2) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(e) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this section.

SEC. 108. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) APPLICATION.—

(1) IN GENERAL.—Except as otherwise provided in this section, the rights (including the rights under section 104, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this title shall apply to—

(A) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and

(B) any private elementary or secondary school and an eligible employee of the school.

(2) DEFINITIONS.—For purposes of the application described in paragraph (1):

(A) ELIGIBLE EMPLOYEE.—The term "eligible employee" means an eligible employee of an agency or school described in paragraph (1).

(B) EMPLOYER.—The term "employer" means an agency or school described in paragraph (1).

(b) LEAVE DOES NOT VIOLATE CERTAIN OTHER FEDERAL LAWS.—A local educational agency and a private elementary or secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this title.

(c) INTERMITTENT LEAVE FOR INSTRUCTIONAL EMPLOYEES.—

(1) IN GENERAL.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 102(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(2) APPLICATION.—The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 102(e)(2).

(d) RULES APPLICABLE TO PERIODS NEAR THE CONCLUSION OF AN ACADEMIC TERM.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:

(1) LEAVE MORE THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under section 102 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 102(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or

school may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 104(a)(1)(B) (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary or secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary or secondary school that has violated this title proves to the satisfaction of the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of this title, such court may, in the discretion of the court, reduce the amount of the liability provided for under section 107(a)(1)(A) to the amount and interest determined under clauses (i) and (ii), respectively, of such section.

SEC. 109. NOTICE.

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

(b) PENALTY.—Any employer that willfully violates this section may be assessed a civil money penalty not to exceed $100 for each separate offense.

TITLE II—LEAVE FOR CIVIL SERVICE EMPLOYEES

SEC. 201. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

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

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"§ 6381. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means any individual who—

"(A) is an 'employee', as defined by section 6301(2), including any individual employed in a position referred to in clause (v) or (ix) of section 6301(2), but excluding any individual employed by the government of the District of Columbia and any individual employed on a temporary or intermittent basis; and

"(B) has completed at least 12 months of service as an employee (within the meaning of subparagraph (A));

"(2) the term 'health care provider' means—

"(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; and

"(B) any other person determined by the Director of the Office of Personnel Management to be capable of providing health care services;

"(3) the term 'parent' means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter;

"(4) the term 'reduced leave schedule' means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee;

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

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

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

"(6) the term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

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

"§ 6382. Leave requirement

"(a)(1) Subject to section 6383, an employee shall be entitled to a total of 12 administrative workweeks of leave during any 12-month period for one or more of the following:

"(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

"(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

"(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

"(D) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

"(2) The entitlement to leave under subparagraph (A) or (B) of paragraph (1) based on the birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(b)(1) Leave under subparagraph (A) or (B) of subsection (a)(1) shall not be taken by an employee intermittently or on a reduced leave schedule unless the employee and the employing agency of the employee agree otherwise. Subject to paragraph (2), subsection (e)(2), and section 6383(b)(5), leave under subparagraph (C) or (D) of subsection (a)(1) may be taken intermittently or on a reduced leave schedule when medically necessary. In the case of an employee who takes leave intermittently or on a reduced leave schedule pursuant to this paragraph, any hours of leave so taken by such employee shall be subtracted from the total amount of leave remaining available to such employee under subsection (a), for purposes of the 12-month period involved, on an hour-for-hour basis.

"(2) If an employee requests intermittent leave, or leave on a reduced leave schedule, under subparagraph (C) or (D) of subsection (a)(1), that is foreseeable based on planned medical treatment, the employing agency may require such employee to transfer temporarily to an available alternative position offered by the employing agency for which the employee is qualified and that—

"(A) has equivalent pay and benefits; and

"(B) better accommodates recurring periods of leave than the regular employment position of the employee.

"(c) Except as provided in subsection (d), leave granted under subsection (a) shall be leave without pay.

"(d) An employee may elect to substitute for leave under subparagraph (A), (B), (C), or (D) of subsection (a)(1) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subsection, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave.

"(e)(1) In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or placement requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

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

"(B) shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"§ 6383. Certification

"(a) An employing agency may require that a request for leave under subparagraph (C) or (D) of section 6382(a)(1) be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employing agency.

"(b) A certification provided under subsection (a) shall be sufficient if it states—

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

"(2) the probable duration of the condition;

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

"(4)(A) for purposes of leave under section 6382(a)(1)(C), a statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and

"(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

"(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave.

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

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a

third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

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

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

"§ 6384. Employment and benefits protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

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

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

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Except as otherwise provided by or under law, nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(d) As a condition to restoration under subsection (a) for an employee who takes leave under section 6382(a)(1)(D), the employing agency may have a uniformly applied practice or policy that requires each such employee to receive certification from the health care provider of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

"§ 6385. Prohibition of coercion

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

"(b) For the purpose of this section—

"(1) the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation); and

"(2) the term 'employee' means any 'employee', as defined by section 2105.

"§ 6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

"§ 6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall, to the extent appropriate, be consistent with the regulations prescribed by the Secretary of Labor under title I of the Family and Medical Leave Act of 1993.".

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

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Certification.
"6384. Employment and benefits protection.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C); and

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

"(E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or".

TITLE III—COMMISSION ON LEAVE

SEC. 301. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (referred to in this title as the "Commission").

SEC. 302. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave;

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

(C) alternative and equivalent State enforcement of title I of this Act with respect to employees described in section 108(a); and

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report concerning the subjects listed in paragraph (1).

SEC. 303. MEMBERSHIP.

(a) COMPOSITION.—

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

(A) SENATORS.—One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority Leader of the Senate.

(B) MEMBERS OF HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two Members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the Majority Leader of the Senate;

(III) the Minority Leader of the House of Representatives; and

(IV) the Minority Leader of the Senate.

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

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

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

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

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

SEC. 304. COMPENSATION.

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

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

SEC. 305. POWERS.

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

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

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

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

(e) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to serve as an Executive Director of the Commission or assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(f) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

SEC. 306. TERMINATION.

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

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTIDISCRIMINATION LAWS.—Nothing in this Act or any

amendment made by this Act shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

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

SEC. 402. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

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

(b) LESS PROTECTIVE.—The rights established for employees under this Act or any amendment made by this Act shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 403. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

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

SEC. 404. REGULATIONS.

The Secretary of Labor shall prescribe such regulations as are necessary to carry out title I and this title not later than 120 days after the date of the enactment of this Act.

SEC. 405. EFFECTIVE DATES.

(a) TITLE III.—Title III shall take effect on the date of the enactment of this Act.

(b) OTHER TITLES.—

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

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

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

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

TITLE V—COVERAGE OF CONGRESSIONAL EMPLOYEES

SEC. 501. LEAVE FOR CERTAIN SENATE EMPLOYEES.

(a) COVERAGE.—The rights and protections established under sections 101 through 105 shall apply with respect to a Senate employee and an employing office. For purposes of such application, the term "eligible employee" means a Senate employee and the term "employer" means an employing office.

(b) CONSIDERATION OF ALLEGATIONS.—

(1) APPLICABLE PROVISIONS.—The provisions of sections 304 through 313 of the Government Employee Rights Act of 1991 (2 U.S.C. 1204–1213) shall, except as provided in subsections (d) and (e)—

(A) apply with respect to an allegation of a violation of a provision of sections 101 through 105, with respect to Senate employment of a Senate employee; and

(B) apply to such an allegation in the same manner and to the same extent as such sections of the Government Employee Rights Act of 1991 apply with respect to an allegation of a violation under such Act.

(2) ENTITY.—Such an allegation shall be addressed by the Office of Senate Fair Employment Practices or such other entity as the Senate may designate.

(c) RIGHTS OF EMPLOYEES.—The Office of Senate Fair Employment Practices shall ensure that Senate employees are informed of their rights under sections 101 through 105.

(d) LIMITATIONS.—A request for counseling under section 305 of such Act by a Senate employee alleging a violation of a provision of sections 101 through 105 shall be made not later than 2 years after the date of the last event constituting the alleged violation for which the counseling is requested, or not later than 3 years after such date in the case of a willful violation of section 105.

(e) APPLICABLE REMEDIES.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 101 through 105 shall be such remedies as would be appropriate if awarded under paragraph (1) or (3) of section 107(a).

(f) EXERCISE OF RULEMAKING POWER.—The provisions of subsections (b), (c), (d), and (e), except as such subsections apply with respect to section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209), are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate. No Senate employee may commence a judicial proceeding with respect to an allegation described in subsection (b)(1), except as provided in this section.

(g) SEVERABILITY.—Notwithstanding any other provision of law, if any provision of section 309 of the Government Employee Rights Act of 1991 (2 U.S.C. 1209), or of subsection (b)(1) insofar as it applies such section 309 to an allegation described in subsection (b)(1)(A), is invalidated, both such section 309, and subsection (b)(1) insofar as it applies such section 309 to such an allegation, shall have no force and effect, and shall be considered to be invalidated for purposes of section 322 of such Act (2 U.S.C. 1221).

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

(1) EMPLOYING OFFICE.—The term "employing office" means the office with the final authority described in section 301(2) of such Act (2 U.S.C. 1201(2)).

(2) SENATE EMPLOYEE.—The term "Senate employee" means an employee described in subparagraph (A) or (B) of section 301(c)(1) of such Act (2 U.S.C. 1201(c)(1)) who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office.

SEC. 502. LEAVE FOR CERTAIN CONGRESSIONAL EMPLOYEES.

(a) IN GENERAL.—The rights and protections under sections 102 through 105 (other than section 104(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.

(b) ADMINISTRATION.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(c) DEFINITION.—As used in this section, the term "Fair Employment Practices Resolution" means the resolution in rule LI of the Rules of the House of Representatives.

Mr. KENNEDY. Mr. President, today, Senator DODD and I are introducing S. 5, the Family and Medical Leave Act. The time for enacting this legislation is long overdue. For too long, the working men and women of our Nation have been living with the fear that they can easily lose their jobs when they fulfill their family obligations. Today, the new spirit of cooperation between the Congress and President Clinton means that family and medical leave will at last be signed into law.

The Family and Medical Leave Act is essential social justice and sound economic policy. It is good for business, and good for the working families of America, and it will achieve substantial savings for businesses and taxpayers. Taxpayers spend over $4 billion a year for welfare, unemployment compensation, food stamps, and Medicaid to support workers who have lost their jobs due to the lack of medical leave. It is more expensive for companies to terminate a worker and hire and train a new employee than it is to provide unpaid family and medical leave. Successful businesses provide such leave because they know it means higher employee morale, a more experienced work force and a more profitable company.

Balancing work and family commitments is a serious issue for all working Americans and their families. Enactment of this bill will provide desperately needed leave to the growing number of working men and women who must care for their sick children or elderly parents, or who are sick themselves. The Family and Medical Leave Act will finally guarantee that millions of American workers will no longer be forced to make the impossible choice between the job they need and the family they love. I urge swift passage of this legislation.

Mr. METZENBAUM. Mr. President, I rise as original cosponsor of the Family and Medical Leave Act of 1993. I want to commend Senator DODD for his steadfast leadership on this critical issue for working families.

This legislation should have been signed into law years ago. But regrettably, President Bush vetoed it on two occasions. I now look forward to its swift enactment under the leadership of President Clinton.

In the past two decades we have witnessed profound changes in the American working family. Today, most American families cannot survive on just one income. Both parents have to work just to put food on the table and a roof over their heads.

The business community prefers voluntary leave to mandatory leave. But the reality is that most of corporate America has not responded to this revolutionary change. Even in the biggest companies, only half of all the working mothers have adequate maternity leave. Roughly a third of American businesses provide no sick leave at all. And only 14 percent of American businesses provide spousal or elder care leave.

Workers are all too often faced with an agonizing choice between their job and their family. No worker should lose a job because he or she needs to take a few days or a few weeks off to care for a newborn infant, a sick child, or a dying parent or spouse.

And let's not kid ourselves—it is low-income workers who are most likely to have no leave. It is low-income families who are most dependent on two wage-earners. And it is they who stand to lose the most when they lose a job because they have to care for a sick family member.

The business community's opposition to this legislation is absurd. First, let's remember, this bill provides only unpaid leave. In a study of States that already require family and medical leave, 91 percent of employers said the requirements were not difficult to implement.

And under the bill's small business exemption, 95 percent of the businesses in this country would not even be covered, leaving over 60 percent of the work force unprotected. This bill ought to protect all workers, not just an arbitrary fraction. But I recognize that compromise is part of the legislative process.

Mr. President, this pro-family legislation is a matter of basic human decency. Over 70 percent of Americans support it, as do most of the Members of this body. I urge the Senate to move swiftly to enact this legislation and forward it to President Clinton for his signature.

Mr. FEINGOLD. Mr. President, I am pleased to join my distinguished colleague Senator DODD as an original cosponsor of the Family and Medical Leave Act.

I was a proud sponsor of Wisconsin's family and medical leave law which has been in effect since 1988, and hope this year we will be able to create the same pro-family atmosphere for working families across the Nation.

Indeed, we are the only industrialized country that does not have a uniform policy determining family and medical leave benefits. Both the 101st and 102d Congress passed legislation establishing family and medical leave policies, and in both instances those bills were vetoed.

Now we face a fresh opportunity to assist working families. The Family and Medical Leave Act is a reasonable response to the changing needs of our work force. With more single-parent families, and more families where both parents work, caring for a sick child or parent poses special challenges. These challenges should not be compounded by fear of losing one's job.

Throughout the committee action and debate of the last two Congresses, I believe a very workable bill has been crafted. The Family and Medical Leave Act would require employers with more than 50 employees to provide up to 12 weeks of unpaid leave yearly. Coverage includes caring for a newborn or newly adopted child, caring for a seriously ill child, parent or spouse, or the employee's own serious illness. the bill would require continued health insurance, and reinstatement in the same or similar job at the end of leave. Accrued paid leave could be substituted.

Despite warnings raised during legislative debate on the Wisconsin law about the potential harmful effects on the State's business, Wisconsin's economy has continued to outperform many other States with no such law. In fact, by the end of the legislative debate on the issue, the bill was endorsed by the largest business lobby in our State, and was signed by Republican Gov. Tommy Thompson.

At the Federal level as well, this has become a bipartisan issue. Both Republicans and Democrats realize that a parent who is distracted by thoughts of a sick child at home, is not the most productive employee. They also realize that the failure to provide family or medical leave presents other hardships for employees striving to balance the needs of their families with the demands of their jobs.

For instance, as our elderly population grows, more and more adults contribute to the care of both their children and their parents while working full-time. Striving to keep parents in their own homes and relatively independent provides a real benefit to society as well as the family structure and should not be punished by loss of a job. Both our society and our families have undergone substantial change, our family leave policies must also change.

I join my colleagues in seeking swift passage of this important family values legislation.

Mr. PELL. Mr. President, I once again join the Senator from Connecticut and many of my other colleagues in introducing family and medical leave legislation. S. 5, the Family and Medical Leave Act of 1993, is almost identical to legislation that has already been passed by the Congress and vetoed twice by President Bush.

There is a real difference this year. For the first time since the bill's introduction over 7 years ago, we have a President who will not only sign this bill, but who actively supports this legislation and recognizes its value to families across the Nation.

As you know, Mr. President, the family and medical leave bill has existed in a variety of forms since it was first introduced. But it has consistently offered us the opportunity to address what are certain well-documented needs of many American families. Today's work force includes a majority of both men and women; and about 25 percent of all households are headed by single parents. In many homes in America today, there is simply no one family member who can address urgent family needs without risking the loss of his or her job.

Mr. President, we have discussed the many benefits, and even the possible problems, of a national family and medical leave law for many years now. Such a law has existed for some years in my own State of Rhode Island and is working quite well. I do not think we need to revisit all these issues again. The American people have made it clear that they want a family and medical leave law. Many responsible and profitable corporations have enacted such policies with great success, and numerous States have adopted or are considering such laws.

It is clear that the people of this Nation are quite ready to move forward. We have elected a new President, we have many new Members of Congress, and we have reached a strong bipartisan consensus on the need for prompt enactment of family and medical leave legislation. Let us take the best possible first step in this era of change and send a family and medical leave law to President Clinton as soon as we can.

• Mr. BOND. Mr. President, I congratulate my friend from Connecticut, Senator DODD, on nearing completion of the long journey he has had with the family leave bill. We know that the question for family leave is no longer whether or not, but when.

The bill we are introducing today is nearly identical to our amendment which passed the Senate overwhelmingly in October 1991 and which was sent to the President last September. The bill provides up to 12 weeks unpaid leave per covered employee per year for the birth or adoption of a child or for family medical emergencies. Workers do not now have this basic job protection, and evidence suggests that many, many people need it.

Over these past few years we have heard many people discussing the family, family values and how we must strengthen the family. As one who believes that for too long Government has ignored the importance of families, or worse yet created policies more likely to break them up than keep them together, I welcome this discussion.

Many of the problems facing society today can be attributed to the weakening of the American family. Drugs, violence, crime, declining educational performance, and poverty can be traced back to an empty childhood or a shattered family. There is a great need to strengthen the American family by reinforcing the tie and sense of responsibility between parents and children.

Of all the efforts and initiatives that I have been involved in since coming to the Senate, none have been more important to me than my efforts in the area of family preservation and children's issues.

Thus for the past several years, working with organizations in Missouri as well as other interested individuals I

have been actively pushing a series of reforms and new policies designed for the sole purpose of keeping families together.

I believe that programs to help children and families are long-term investments by today's generation that will brighten the future of our Nation.

I believe that our solutions should be preventive rather than reactive. We must address the root causes of problems rather than simply applying Band-Aids to deep cuts.

America's children hold the key to our long-term prosperity. They will lead America in the years to come and affect the progress of our country. The motivation and the capacity to learn start with from birth and need constant attention. Parental involvement in the lives of their young children is the single most important factor ensuring the children's long-term success. So as Government leaders and as employers we must make policy decisions that help parents counteract the trends of having too little time and extended family separation, or too few resources to make stable family life possible.

In particular I believe we should address the foster care crisis, lack of child immunization, lack of parent education and early childhood education, and the infant mortality crisis in this Congress. I have specific legislative proposals in each of these areas and in some cases, have devoted my entire career to solving those problems.

But while all these efforts are important I believe the single most important step we can take to help all families in America is to try to reinstill individual and family responsibility. And to do that, we as a society need to make family obligation something we encourage rather than discourage. That's why I believe we should enact the Family and Medical Leave Act.

As a society we should never force a parent to choose between a sick child and his or her job.

We should never force a parent to choose between caring for an aged parent and a job.

And we should never force a mother to leave her newborn days after its birth in order to stay employed.

That is why I developed the compromise we passed overwhelmingly in 1991 and in 1992; that is why I will continue to urge Senators of both political parties to support it. Mr. President, some feel this issue is about mandates. I believe it is simply job protection at a time when it is needed most in a family. As a society we must begin to place a higher value on parenting and family obligation.

The workplace of the nineties cannot live by the rules of the 1950's. The fact is that more mothers of young children, even infants, work outside the home than ever before. In 1988, married women with young children comprised the majority of new entrants into the labor force. More than half of women with young infants return to work outside the home within a year of their child's birth. And contrary to what some may have you believe, it is not necessarily out of choice—it simply takes two incomes to pay the bills.

To prove my point: We know that more than two-thirds of women in the work force today are either single parents or have husbands who earn less than $18,000 per year. The fact is a family of three or four cannot live comfortably on under $18,000 per year in most parts of this country. Surveys show us that many married couples would choose to have one person stay home full time if money were not an object, but it is.

So what happens when a family faces an emergency, an illness, or unexpected chance to adopt, but both partners work? Well, they had better hope they have an understanding employer.

A 1990 Bureau of Labor statistics found that only 37 percent of female employees have any type of maternity leave. And of the fortune 1,500 companies, where one might expect the best coverage of workers, only half offered parental leave beyond the standard 6-week maternity as disability period.

Paternity leave is extremely scarce. Only 18 percent of fathers at medium and large firms are covered by unpaid paternity leave.

According to the Chamber of Commerce, 82 percent of employers provide no leave to care for sick children.

And if an employee is sick himself or herself, there is a good chance that he or she works for a company that does not even provide sick leave.

That is why this bill is vital. During that unforeseen family emergency, we want our Nation's parents to think about their families' well-being, and not worry about whether their jobs will be there when their youngsters get out of the hospital.

Mr. President, I have thought long and hard about these issues, and I believe the compromise developed with Senator DODD 2 years ago which we are reintroducing today is important, necessary, and should be signed into law.

I do not take lightly criticism I have received from the business community about this bill. Some have characterized family leave as a mandated benefit and have accused me of disregarding the impact on jobs. I view the family leave bill, based on the compromise we reached 2 years ago, as a basic job protection for workers who most need it. We have made improvements to the bill in response to legitimate business concerns about the potential for abuse of leave. In addition, we have told the employee that he or she bears some responsibility in notifying employers of plans for leave, and must also provide documentation to ensure that the leave is necessary.

It is in the interest of all of us—of any political party or no political party—to keep families strong. We have a unique opportunity to forge a bipartisan consensus on children and family issues in this Congress. We will enact a family leave law this year with full congressional support. Our bipartisan efforts on behalf of family leave can serve as a model of what we can accomplish on other efforts to help children and families—specifically the parents as teachers program and reform of the child welfare system. We must take a bipartisan approach to ensure that the 103d will become the children's Congress.

This can be the Congress that does something for kids. The American family is the very foundation of our society, yet if anything, Government policy seems oftentimes to burden families, or ignore them. American families are overtaxed, and the reality of living in the 1990's is that parents don't spend enough time with their kids. Working parents can't be sure that their children are being properly cared for while they are at work. Times are tough for family life, and even tougher for poor families. When families are stressed, it's the kids who suffer most.

In the over 20 years I have worked on children and family issues, I have never suggested that Government should step in and solve all family problems. In fact, we should remember as we're tempted to do this and that for kids over the next few years, that parents know better than anyone, including all 535 Members of Congress, what is best for their own children.

But our policy decisions as Government leaders and as employers must help parents counteract the trends of having too little time and extended family separation, or too few resources to make stable family life possible.

So we begin by introducing the Family and Medical Leave Act. We can work together to pass this legislation but it will again take bipartisan support.

During this Congress, with the help of the new President we will have the opportunity to follow up on many of the good recommendations of the National Commission on Children, the Children's Defense Fund, the Child Welfare League and others who make it their business to make life better for our next generation. While I do not agree with all of the recommendations of these groups, I believe the basic premise is right on target: We should develop policies that make it possible for parents to fulfill the economic and child-rearing responsibilities they have to their children. I believe that preservation of America's families is the most critical challenge we face as individuals and as a nation as we move into the 21st century.●

● Mr. CHAFEE. Mr. President, I am pleased to join as a cosponsor of the

Family and Medical Leave Act of 1993. I have supported family leave legislation for 8 years, and I am delighted that this bill is a top priority for both the 103d Congress and the new administration.

The past quarter century has seen dramatic changes in the make-up of the Nation's work force. Women have entered the work force in record numbers, in fact about two-thirds of all women with children work full time. One-quarter of all children are being raised by single parents. And in 9 out of 10 two-parent families, both parents work outside the home—usually out of economic necessity. For most Americans it takes two incomes just to make ends meet.

The Family and Medical Leave Act would provide employees with 12 weeks of job security in the event that a worker must take leave to care for a newborn, a sick child, or an ailing parent. It would ease the fears of employees who fear dismissal if they take unpaid leave due to a family emergency. In short, it is a good bill that responds to the changing needs of the American family and the American worker.

I believe that the time has come for a strong Federal law in support of family leave policies. No father should be forced to choose between caring for a sick child and his job. No mother should fear that she will be fired from her job—and lose her health insurance—because she needs to take a few unpaid weeks of leave to stay home with her newborn. Working men and women should not have to give up their job security to care for a failing elderly parent.

This bill retains essentially the same form as the family and medical leave bill of the 102d Congress. Accordingly, it recognizes the stiff economic challenges confronting the Nation's small business community—as a result, businesses with fewer than 50 employees are exempt from the act. In addition, it limits employee eligibility to those individuals who have worked 1,250 hours, or an average of 25 hours per week, over the previous 12 months. The bill is also designed to prevent abuses by requiring employees to repay health insurance premiums if that employee does not return to work at the end of his or her absence from the work force. These are important provisions that balance the needs of working families with the legitimate concerns of the Nation's business community.

The family and medical leave bill of 1993 is the product of years of debate, compromise, and revision. I look forward to speedy Senate action on this bill, and I am hopeful that this bill will be enacted into law as quickly as possible.●

● Mr. PACKWOOD. Mr. President, I am pleased to again be an original cosponsor of the Family and Medical Leave Act for what I hope will be its last introduction in Congress.

The concept of family and medical leave, which originated as legislation back in 1985, has never seemed to me a radical idea. It is common sense that workers need and deserve certain basic benefits, not as a matter of largess by employers but because people are more productive when they can count on, for instance, a living wage, health insurance, safe work environments, and all the other things we as a nation have adopted as good policy. It is not a far jump to also consider the plight of a breadwinner—or cobreadwinner in the case of a two-earner family—who has a new baby, or an aging parent with a serious medical problem. That worker's presence in the home for the time it takes to get the family through the situation will make a difference not only in the worker's peace of mind during the crisis, but in her or his ability to do their job well for months and years after they return to work.

Mr. President, as much as I have been proud and pleased to support family and medical leave legislation for the past several years, I will be even more happy to see this bill with a public law number assigned to it. Those Members or Congress and organizations who have put in yeomans' service in this effort can then move on to other pressing issues facing American families. Thank you, Mr. President.●

Mrs. BOXER. Mr. President, it has been a long difficult fight, but today we stand a few short steps from victory. We now have a Congress that will pass the Family and Medical Leave Act and a President who has agreed to sign it into law. I am proud to be an original cosponsor of this legislation.

The Family and Medical Leave Act, which provides families with job security at a time when they most need it, is long overdue. No worker should be subject to termination for taking time off to care for a sick child. I believe that not only will this bill institute more humane workplace policies, it will make workers more productive by eliminating the prospect that they would leave to choose between their families and their jobs.

I urge my colleagues to join me in working for fast action on the Family and Medical Leave Act.

By Mr. DOLE (for himself, Mr. THURMOND, Mr. SIMPSON, Mr. MCCAIN, Mr. SPECTER, and Mr. COVERDELL):

S. 6. A bill to prevent and punish sexual violence and domestic violence, to assist ad protect the victims of such crimes, to assist State and local effects, and for other purposes; to the Committee on the Judiciary.

SEXUAL ASSAULT PREVENTION ACT OF 1993

Mr. DOLE. Mr. President, as I stated earlier, I am joined today by several of my Republican colleagues in introducing the Sexual Assault Prevention Act of 1993.

As is my right as Republican leader, I have asked that this bill be designated as "S. 6," symbolizing the fact that this bill is a top priority of Senate Republicans. This legislation is also being introduced in the House by Congresswoman SUSAN MOLINARI of New York.

I first introduced legislation similar to S. 6 in February of 1991—nearly 2 years ago. I reintroduced the legislation last fall. I know that Senator BIDEN is also very interested in this issue, and hope we can work together to write legislation that will protect women from crime in the streets and crime in their own home.

The bill contains three titles. Title I is concerned with violent sex crimes. Subtitle A of title I increases penalties for sexual violence and strengthens the rights and remedies available to victims of sexual violence.

Subtitle B contains changes in rules of evidence, practice, and procedure to facilitate effective prosecution of violent sex offenders, and to prevent abuse of victims and increase the rights of victims.

Subtitle C addresses the problem of sexual assaults at colleges and universities.

Subtitle D contains new justice assistance measures to enhance State and Local efforts against sexual violence.

Title II of the bill concerns domestic violence, stalking, and offenses against the family. It strengthens the Federal response to domestic violence, stalking, and noncompliance with child support obligations in cases with interstate elements, requires reports on a number of issues of importance to protecting the victims of domestic violence, and establishes a new justice assistance program to enhance State and local efforts to combat domestic violence and stalking, and to enforce child support obligations.

Title III of the bill establishes a national task force on violence against women. The task force would carry out a comprehensive examination of violent crime against women and recommend additional reforms and improvements.

I look forward to working with the distinguished chairman of the Judiciary Committee in finding common ground in our legislative proposals, and seeing them adopted into law.

I ask unanimous consent that the text of the bill and any additional statements be printed in the CONGRESSIONAL RECORD.

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

S. 6

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sexual Assault Prevention Act of 1993".

SEC. 2. TABLE OF CONTENTS.

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

TITLE I—SEXUAL VIOLENCE

SUBTITLE A—PENALTIES AND REMEDIES

Sec. 101. Pre-trial detention in sex offense cases.
Sec. 102. Death penalty for murders committed by sex offenders.
Sec. 103. Increased penalties for recidivist sex offenders.
Sec. 104. Increased penalties for sex offenses against victims below the age of 16.
Sec. 105. Sentencing guidelines increase for sex offenses.
Sec. 106. HIV testing and penalty enhancement in sex offense cases.
Sec. 107. Payment of cost of HIV testing for victims in sex offense cases.
Sec. 108. Increased penalties for drug distribution to pregnant women.
Sec. 109. Extension and strengthening of restitution.
Sec. 110. Enforcement of restitution orders through suspension of federal benefits.
Sec. 111. Civil remedy for victims of sexual violence.

SUBTITLE B—RULES OF EVIDENCE, PRACTICE, AND PROCEDURE

Sec. 121. Admissibility of evidence of similar crimes in sex offense cases.
Sec. 122. Extension and strengthening of rape victim shield law.
Sec. 123. Inadmissibility of evidence to show provocation or invitation by victim in sex offense cases.
Sec. 124. Right of the victim to fair treatment in legal proceedings.
Sec. 125. Right of the victim to an impartial jury.
Sec. 126. Victim's right of allocation in sentencing.
Sec. 127. Victim's right of privacy.

SUBTITLE C—SAFE CAMPUSES

Sec. 131. National baseline study on campus sexual assault.

SUBTITLE D—ASSISTANCE TO STATES AND LOCALITIES

Sec. 141. Sexual violence grant program.
Sec. 142. Supplementary grants for states adopting effective laws relating to sexual violence.

TITLE II—DOMESTIC VIOLENCE, STALKING, AND OFFENSES AGAINST THE FAMILY

Sec. 201. Interstate travel to commit spouse abuse or to violate protective order; interstate stalking.
Sec. 202. Full faith and credit for protective orders.
Sec. 203. Non-compliance with child support obligations in interstate cases.
Sec. 204. Presumption against child custody for spouse abusers.
Sec. 205. Report on battered women's syndrome.
Sec. 206. Report on confidentiality of addresses for victims of domestic violence.
Sec. 207. Report on recordkeeping relating to domestic violence.
Sec. 208. Domestic Violence and family support grant program.

TITLE III—NATIONAL TASK FORCE ON VIOLENCE AGAINST WOMEN

Sec. 301. Establishment.
Sec. 302. Duties of task force.
Sec. 303. Membership.
Sec. 304. Pay.
Sec. 305. Executive director and staff.
Sec. 306. Powers of task force.
Sec. 307. Report.
Sec. 308. Authorization of appropriation.
Sec. 309. Termination.

TITLE I—SEXUAL VIOLENCE

SUBTITLE A—PENALTIES AND REMEDIES

SEC. 101. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended by striking ", or" at the end of subparagraph (A) and inserting a semicolon, by striking the period at the end of subparagraph (B) and inserting "; or", and by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110 of this title."

SEC. 102. DEATH PENALTY FOR MURDERS COMMITTED BY SEX OFFENDERS.

Title 18 of the United States Code is amended—

(a) by adding the following new section at the end of chapter 51:

"§ 1118. Capital Punishment for Murders Committed by Sex Offenders

"(a) OFFENSE.—Whoever—

"(1) causes the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life; or

"(2) causes the death of a person through the intentional infliction of serious bodily injury;

shall be punished as provided in subsection (c) of this section.

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the course of another offense against the United States.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d)–(l), except that a sentence of death may not be imposed on a defendant who was below the age of eighteen at the time of the commission of the crime.

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN COURSE OF DESIGNATED SEX CRIMES.—The conduct resulting in death occurred in the course of an offense defined in chapter 109A, 110, or 117 of this title.

"(2) KILLING IN CONNECTION WITH SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant committed a crime of sexual assault or crime of child molestation, as defined in subsection (x), in the course of an offense on which federal jurisdiction is based under subsection (b).

"(3) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant has previously been convicted of a crime of sexual assault or crime of child molestation as defined in subsection (x).

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time before trial as the court may permit for good cause. If the court permits a late filing of the notice upon a showing of good cause, the court shall ensure that the defendant has adequate time to prepare for trial. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant. The information presented may include trial transcripts and exhibits. Information presented by the government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair

prejudice, confusing the issues, or misleading the jury. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, that is authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated with an appeal of the judgment of conviction and shall have priority over all non-capital matters in the court of appeals. The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for and raised on appeal. In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was not supported by the evidence and information if at least one aggravating factor set forth in subsection (e) which was found to exist remains and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed, or in the manner prescribed by the law of another State designated by the court if the law of the State in which the sentence was imposed does not provide for implementation of a sentence of death. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no person providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subjection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiori by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make a determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q)-(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness of incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section

2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'crime of sexual assault' means a crime under Federal or State law that involved—

"(A) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(B) contact, without consent, between the genitals or anus of the defendant and any part of the body of another person;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A)-(C);

"(2) 'crime of child molestation' means a crime under Federal or State law that involved—

"(A) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(B) contact between the genitals or anus of the defendant and any part of the body of a child;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A)-(C); and

"(3) 'child' means a person below the age of 14."; and

(b) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital Punishment for Murders Committed by Sex Offenders.".

SEC. 103. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.—

(a) Section 2245 of title 18, United States Code, is redesignated section 2246.

(b) 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.".

(c) The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking "2245" and inserting in lieu thereof "2246"; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 104. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.—

Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting in lieu thereof "; or"; 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;".

SEC. 105. SENTENCING GUIDELINES INCREASE FOR SEX OFFENSES.

The United States Sentencing Commission shall amend the sentencing guidelines to increase by at least 4 levels the base offense level for an offense under section 2241 (aggravated sexual abuse) or section 2242 (sexual abuse) of title 18, United States Code, and shall consider whether any other changes are warranted in the guidelines provisions applicable to such offenses to ensure realization of the objectives of sentencing. In amending the guidelines in conformity with this section, the Sentencing Commission shall review the appropriateness and adequacy of existing offense characteristics and adjustments applicable to such offenses, taking into account the heinousness of sexual abuse offenses, the severity and duration of the harm caused to victims, and any other relevant factors. In any subsequent amendment to the sentencing guidelines, the Sentencing Commission shall maintain minimum guidelines sentences for the offenses referenced in this section which are at least equal to those required by this section.

SEC. 106. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL OFFENSE CASES

(a) Chapter 109A of title 18, United States Code, is amended by inserting at the end the following new section:

"§ 2247. Testing for Human Immunodeficiency Virus; Disclosure of Test Results to Victim; Effect on Penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed six months and twelve months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

"(b) CLERICAL AMENDMENT.—The table of sections for chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"2247. Testing for Human Immunodeficiency Virus; Disclosure of Test Results to Victim; Effect on Penalty".

SEC. 107. PAYMENT OF COST OF HIV TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of trans-

mission of the human immunodeficiency virus to the victim as the result of the assault".

SEC. 108. INCREASED PENALTIES FOR DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 405 of the Controlled Substances Act (21 U.S.C. 859) is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

SEC. 109. EXTENSION AND STRENGTHENING OF RESTITUTION.

Secton 3663 of title 18, United States Code, is amended—

(1) in subsection (b), by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim" in paragraph (2);

(2) in subsection (b), by striking "and" at the end of paragraph (3), by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and"; and

(3) in subsection (d), by inserting at the end the following: "However, the court shall issue an order requiring restitution of the full amount of the victim's losses and expenses for which restitution is authorized under this section in imposing sentence for an offense under chapter 109A or chapter 110 unless the government and the victim do not request such restitution.".

SEC. 110. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

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

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 111. CIVIL REMEDY FOR VICTIMS OF SEXUAL VIOLENCE.

(a) CAUSE OF ACTION.—Whoever, in violation of the Constitution or laws of the United States, engages in sexual violence against another, shall be liable to the injured party in an action under this section. The relief available in such an action shall include compensatory and punitive damages and any appropriate equitable or declaratory relief.

(b) DEFINITION.—For purposes of this section, "sexual violence" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison.

(c) ATTORNEY'S FEES.—The Civil Rights Attorney's Fees Award Act of 1976 (42 U.S.C. 1988) is amended by striking "or" after "Public Law 92-318" and by inserting after "1964" the following: ", or section 111 of the Sexual Assault Prevention Act of 1993,".

SUBTITLE B—RULES OF EVIDENCE, PRACTICE, AND PROCEDURE

SEC. 121. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) For purposes of this Rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the government intends to offer evidence under this Rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule.

"(d) For purposes of this Rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these Rules.

"(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This Rule shall not be construed to limit the admission or consideration of evidence under any other Rule."

SEC. 122. EXTENSION AND STRENGTHENING OF RAPE VICTIM SHIELD LAW.

(a) AMENDMENTS TO RAPE VICTIM SHIELD LAW.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in subdivisions (a) and (b), by striking "criminal case" and inserting "criminal or civil case";

(2) in subdivisions (a) and (b), by striking "an offense under chapter 109A of title 18, United States Code," and inserting "an offense or civil wrong involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison,";

(3) in subdivision (a), by striking "victim of such offense" and inserting "victim of such conduct";

(4) in subdivision (c)—

(A) by striking in paragraph (1) "the person accused of committing an offense under chapter 109A of title 18, United States Code" and inserting "the accused"; and

(B) by inserting at the end of paragraph (3) the following: "An order admitting evidence under this paragraph shall explain the reasoning leading to the finding of relevance, and the basis of the finding that the probative value of the evidence outweighs the danger of unfair prejudice notwithstanding the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased inferences."; and

(5) in subdivision (d), by striking "an offense under chapter 109A of title 18, United States Code" and inserting "the conduct proscribed by chapter 109A of title 18, United States Code,".

(b) INTERLOCUTORY APPEAL.—Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following:

"An appeal by the United States before trial shall lie to a court of appeals from an order of a district court admitting evidence of an alleged victim's past sexual behavior in a criminal case in which the defendant is charged with an offense involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison.".

SEC. 123. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

The Federal Rules of Evidence are amended by adding after Rule 415 (as added by section 121 of this Act) the following:

"Rule 416. Inadmissibility of evidence to show invitation or provocation by victim in sexual abuse cases.

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This Rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these Rules.".

SEC. 124. RIGHT OF THE VICTIM TO FAIR TREATMENT IN LEGAL PROCEEDINGS.

The following rules, to be known as the Rules of Professional Conduct for Lawyers in Federal Practice, are enacted as an appendix to title 28, United States Code:

"RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

"Rule 1. Scope
"Rule 2. Abuse of Victims and Others Prohibited
"Rule 3. Duty of Enquiry in Relation to Client
"Rule 4. Duty to Expedite Litigation
"Rule 5. Duty to Prevent Commission of Crime

"Rules 1. Scope

"(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before federal tribunals.

"(b) For purposes of these rules, 'federal tribunal' and 'tribunal' mean a court of the United States or an agency of the federal government that carries out adjudicatory or quasiadjudicatory functions.

"Rule 2. Abuse of Victims and Others Prohibited

"(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

"(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

"(c) A lawyer shall not offer evidence that the lawyer knows to be false or attempt to discredit evidence that the lawyer knows to be true.

"Rule 3. Duty of Enquiry in Relation to Client

"A laywer shall attempt to elicit from the client a truthful account of the material facts concerning the matters in issue. In representing a client charged with a crime or civil wrong, the duty of enquiry under this rule includes—

(1) "attempting to elicit from the client a materially complete account of the alleged criminal activity or civil wrong if the client acknowledges involvement in the alleged activity or wrong; and

"(2) attempting to elicit from the client the material facts relevant to a defense of alibi if the client denies such involvement.

"Rule 4. Duty to Expedite Litigation

"(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

"(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

"(1) evidence will become unavailable;

"(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

"(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

"Rule 5. Duty to Prevent Commission of Crime

"(a) A lawyer may disclose information relating to the representation of a client to the extent necessary to prevent the commission of a crime or other unlawful act.

"(b) A lawyer shall disclose information relating to the representation of a client where disclosure is required by law. A lawyer shall also disclose such information to the extent necessary to prevent—

"(1) the commission of a crime involving the use or threatened use of force against another, or a substantial risk of death or serious bodily injury to another; or

"(2) the commission of a crime of sexual assault or child molestation.

"(c) For purposes of this rule, 'crime' means a crime under the law of the United States or the law of a State, and 'unlawful act' means an act in violation of the law of the United States or the law of a State.".

SEC. 125. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges."

SEC. 126 VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.

SEC. 127. VICTIM'S RIGHT OF PRIVACY.

(a) FINDINGS.—The Congress finds that—

(1) the crime of rape is underreported to law enforcement authorities because of its traumatic effect on victims and the stigmatizing nature of the crime;

(2) rape victims may be further victimized by involuntary public disclosure of their identities;

(3) rape victims should be encouraged to come forward and report the crime without fear of being revictimized through involuntary public disclosure of their identities; and

(4) any interest of the public in knowing the identity of a rape victim notwithstanding the victim's wishes to the contrary is outweighed by the interest of protecting the privacy of rape victims and encouraging rape victims to report the crime and assist in prosecution.

(b) SENSE OF CONGRESS.—It is the sense of Congress that news media, law enforcement personnel, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

SUBTITLE C—SAFE CAMPUSES

SEC. 131. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with alleged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

SUBTITLE D—ASSISTANCE TO STATES AND LOCALITIES

SEC. 141. SEXUAL VIOLENCE GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish sexual violence, and to assist and protect the victims of sexual violence.

(b) AUTHORIZATION OF GRANTS.—The Attorney General, through the Bureau of Justice Assistance, the Office for Victims of Crime, and the Bureau of Justice Statistics, may make grants to support projects and programs relating to sexual violence, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of sexual violence;

(2) law enforcement and prosecutorial units and teams that target sexual violence;

(3) victim services programs for victims of sexual violence;

(4) educational and informational programs relating to sexual violence;

(5) improved systems for collecting, keeping, and disseminating records and data concerning sexual violence and offenders who engage in sexual violence;

(6) background check systems that enable employers to determine whether employees and applicants for employment have criminal histories involving sexual violence, in relation to employment positions for which a person may be unsuitable on the basis of such a history, such as child care positions and positions involving access to people's homes;

(7) registration systems which require persons convicted of sexual violence to keep law enforcement authorities informed of their addresses or locations;

(8) security measures in parks, public transportation systems, public buildings and facilities, and other public places which reduce the risk that acts of sexual violence will occur in such places;

(9) programs addressing campus sexual assaults, as defined in section 131 of this Act;

(10) programs assisting runaway and homeless children or other persons who have been subjected to or are at risk of sexual violence or sexual exploitation, including sexual exploitation through prostitution or in the production of pornography;

(11) training programs for judges in relation to cases involving sexual violence; and

(12) treatment programs in a correctional setting for offenders who engage in sexual violence, which may include aftercare components, and which shall include an evaluation component to determine the effectiveness of the treatment in reducing recidivism.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 0.25 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Attorney General a plan for addressing sexual violence in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, has been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project of program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of four years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(4) PAYMENT OF COST OF FORENSIC MEDICAL EXAMINATIONS.—It is a condition of eligibility for grants under subsection (c) that a State pay the cost of forensic medical examinations for victims of sexual violence.

(5) POLICIES AGAINST CAMPUS SEXUAL ASSAULTS.—For an institution of postsecondary education seeking a grant under subsection (d), it is a condition of eligibility that the institution articulate and communicate to its students a clear policy that sexual violence will not be tolerated by the institution.

(g) EVALUATION.—The National Institute of Justice shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the National Institute of Justice.

(h) COORDINATION.—The Attorney General may utilize the Office of Justice Programs to coordinate the administration of grants under this section. The coordination of grants under this section shall include prescribing consistent program requirements for grantees, allocating functions and the administration of particular grants among the components that participate in the administration of the program under this section, coordinating the program under this section with the Domestic Violence and Family Support Grant Program established by section 208 of this Act, and coordinating the program under this section with other grant programs administered by components of the Department of Justice.

(i) DEFINITION.—For purposes of this section, "sexual violence" includes non-consensual sex offenses and sex offenses involving victims who are not able to give legally effective consent because of age or incompetency.

(j) REPORT.—The Attorney General shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in each of fiscal years 1994, 1995, and 1996, $250,000,000 to carry out this section, and such sums as may be necessary in each fiscal year thereafter.

SEC. 142. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) SUPPLEMENTARY GRANTS.—The Attorney General may, in each fiscal year, authorize the award to a State of an aggregate amount of up to $1 million under the Sexual Violence Grant Program established by section 141 of this Act, in addition to any funds that are otherwise authorized under that program. The authority to award additional funding under this section is conditional on

certification by the Attorney General that the State has laws relating to sexual violence that exceed or are reasonably comparable to the provisions of federal law (including changes in federal law adopted by this Act) in the following areas:

(1) Authorization of pre-trial detention of defendants in sexual assault cases where prevention of flight or the safety of others cannot be reasonably assured by other means, and denial of release pending appeal for persons convicted of sexual assault offenses who have been sentenced to imprisonment.

(2) Authorization of severe penalties for sexual assault offenses.

(3) Pre-trial testing for the human immunodeficiency virus of persons charged with sexual assault offenses, with disclosure of test results to the victim.

(4) Payment of the cost of medical examinations and the cost of testing for the human immunodeficiency virus for victims of sexual assaults.

(5) According the victim of a sexual assault the right to be present at judicial proceedings in the case.

(6) Protection of victims from inquiry into unrelated sexual behavior in sexual assault cases.

(7) Rules of professional conduct for lawyers that protect victims from unwarranted cross-examination and impeachment, dilatory tactics, and other abuses in sexual assault cases.

(8) Authorization of admission and consideration in sexual assault cases of evidence that the defendant has committed sexual assaults on other occasions.

(9) Authorization of the victim in sexual assault cases to address the court concerning the sentence to be imposed.

(10) Authorization of the award of restitution to victims of sexual assaults as part of a criminal sentence.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out this section.

TITLE II—DOMESTIC VIOLENCE, STALKING, AND OFFENSES AGAINST THE FAMILY

SEC. 201. INTERSTATE TRAVEL TO COMMIT SPOUSE ABUSE OR TO VIOLATE PROTECTIVE ORDER; INTERSTATE STALKING.

(a) OFFENSE.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following:

"CHAPTER 110A—DOMESTIC VIOLENCE AND STALKING

"Sec.
"2261. Domestic violence and stalking.

"2261. Domestic violence and stalking

(a) OFFENSE.—Whoever causes or attempts to cause bodily injury to, engages in sexual abuse against, or violates a protective order in relation to, another shall be punished—

"(1) if death results, by death or by imprisonment for any term of years or for life;

"(2) if permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years;

"(3) if serious bodily injury results, or if a firearm, knife, or other dangerous weapon is possessed, carried, or used during the commission of the offense, by imprisonment for not more than 10 years; and

"(4) in any other case, by imprisonment for not more than five years.

If, however, the defendant engages in sexual abuse and the penalty authorized for such conduct under chapter 109A exceeds the penalty which would otherwise be authorized under this subsection, then the penalty authorized for such conduct under chapter 109A shall apply.

"(b) MANDATORY PENALTIES.—A sentence under this section shall include at least three months of imprisonment if the offense involves the infliction of bodily injury on or the commission of sexual abuse against the victim. A sentence under this section shall include at least six months of imprisonment if the offense involves the violation of a protective order and the defendant has previously violated a protective order in relation to the same victim.

"(c) JURISDICTION.—There is Federal jurisdiction to prosecute an offense under this section if the defendant traveled in interstate or foreign commerce, or transported or caused another to move in interstate or foreign commerce, with the intention of committing or in furtherance of committing the offense, and—

"(1) the victim was a spouse or former spouse of the defendant, was cohabiting with or had cohabited with the defendant, or had a child in common with the defendant; or

"(2) the defendant on two or more occasions—

"(A) has caused or attempted or threatened to cause death or serious bodily injury to or engaged in sexual abuse in relation to the victim; or

"(B) has engaged in any conduct that caused or was intended to cause apprehension by the victim that the victim would be subjected to death, serious bodily injury, or sexual abuse.

"(d) DEFINITIONS.—For purposes of this section—

"(1) 'protective order' means an order issued by a court of a State prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person;

"(2) 'sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison;

"(3) 'serious bodily injury' and 'bodily injury' have the meanings given in section 1365(g); and

"(4) 'State' has the meaning given in section 513(c)(5).".

"(b) CLERICAL AMENDMENT.—The analysis for Part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following:

"110A. Domestic violence and offenses against the family ..... 2261".

"(c) MANDATORY RESTITUTION.—Section 3663 of title 18, United States Code, as amended by section 109 of this Act, is further amended by striking "or chapter 110" and inserting ", chapter 110, or section 2261" in each of subsection (b)(2) and subsection (d).

"(d) INTERIM PROTECTION.—Section 3156(a)(4)(C) of title 18, United States Code, as added by section 101 of this Act, is amended by striking "or chapter 110" and inserting ", chapter 110, or section 2261".

"(e) DEATH PENALTY PROCEDURES.—Section 1118 of title 18, United States Code, as enacted by section 102 of this Act, is amended in paragraph (1) of subsection (e) by inserting "or section 2261" after "117".

SEC. 202. FULL FAITH AND CREDIT FOR PROTECTIVE ORDERS.

"(a) REQUIREMENT OF FULL FAITH AND CREDIT.—Chapter 110A of title 18, United States Code, as enacted by section 201, is amended by adding at the end the following:

"§ 2262. Full Faith and Credit for Protective Orders

"(a) A protective order issued by a court of a State shall have the same full faith and credit in a court in another State that it would have in a court of the State in which issued, and shall be enforced by the courts of any State if it were issued in that State.

"(b) For purposes of this section—

"(1) 'protective order' means an order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person; and

"(2) 'State' has the meaning given in section 513(c)(5).".

(b) CLERICAL AMENDMENT.—The analysis for chapter 110A of title 18, United States Code, as enacted by section 201, is amended by inserting at the end of the following:

"§ 2262. Full Faith and Credit for Protective Orders.".

SEC. 203. NON-COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS IN INTERSTATE CASES.

Chapter 11A of title 18, United States Code, is amended to read as follows:

"CHAPTER 11A—CHILD SUPPORT

"Sec.
"228. Non-compliance with child support obligations.

"§ 228. Non-compliance with child support obligations.

"(a) OFFENSE.—Whoever—

"(1) leaves or remains outside a State with intent to avoid payment of a child support obligation; or

"(2) fails to pay a major child support obligation, as defined in subsection (e), with respect to a child who resides in another State, despite having the financial resources to pay the obligation or the ability to acquire such resources through reasonable diligence;

shall be punished as provided in subsection (c).

"(b) PRESUMPTION.—In relation to an offense charged under paragraph (1) of subsection (a), the absence of the defendant from the State for an aggregate period of six months without payment of the child support obligation shall create a rebuttable presumption that the intent existed to avoid payment of the obligation.

"(c) PENALTY.—A person convicted of an offense under this section shall be punished by imprisonment for up to six months, and on a second or subsequent conviction, by imprisonment for up to two years.

"(d) RESTITUTION.—In addition to any restitution that may be ordered pursuant to section 3663, a sentence for an offense under this section shall include an order of restitution in an amount equal to the past due support obligation as it exists at the time of sentencing. Subsections (e)–(i) of section 3663 shall apply to an order of restitution pursuant to this subsection.

"(e) DEFINITIONS.—For purposes of this section—

"(1) 'child support obligation' means an amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support of a child or of a child and the parent with whom the child is living;

"(2) 'major child support obligation' means a child support obligation that has remained unpaid for a period exceeding one year, or that is greater than $5,000;

"(3) 'past due support obligation' means a child support obligation that is unpaid at the time of sentencing for an offense under this section; and

"(4) 'State' has the meaning given in section 513(c)(5).".

SEC. 204. PRESUMPTION AGAINST CHILD CUSTODY FOR SPOUSE ABUSERS.

(a) The Congress finds that—

(1) courts fail to recognize the detrimental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as they do not hear or weigh evidence of domestic violence in child custody litigation;

(2) joint custody forced upon hostile parents can create a damaging psychological environment for a child;

(3) physical abuse of a spouse is relevant to the likelihood of child abuse in child custody disputes;

(4) the effects on children of physical abuse of a spouse include—

(A) traumatization and psychological damage to children resulting from observation of the abuse and the climate of violence and fear existing in a home where abuse takes place;

(B) the risk that children may become targets of physical abuse when they attempt to intervene on behalf of an abused parent; and

(C) the negative effects on children of exposure to an inappropriate role model, in that witnessing an aggressive parent may communicate to children that violence is an acceptable means of dealing with others; and

(5) the harm to children from spouse abuse may be compounded by award of exclusive or joint custody to an abuser because further abuse may occur when the abused spouse is forced to have contact with the abuser as a result of the custody arrangement, and because the child or children may be exposed to abuse committed by the abuser against a subsequent spouse or partner.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that, for purposes of determining child custody, evidence establishing that a parent engages in physical abuse of a spouse should create a statutory presumption that is detrimental to the child to be placed in the custody of the abusive spouse.

SEC. 205. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) COMPONENTS OF REPORT.—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 206. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) The Attorney General may utilize the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 207. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 208. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS.—The Attorney General, through the Bureau of Justice Assistance, the Office for Victims of Crime, and the Bureau of Justice Statistics, may make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) shelters that provide services for victims of domestic violence and related programs;

(8) educational and informational programs relating to domestic violence;

(9) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(10) coalitions of domestic violence service providers, agencies, and programs;

(11) training programs for judges and court personnel in relation to cases involving domestic violence; and

(12) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 0.25 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations; for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Attorney General a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include.—

(1) certification that the Federal funding provided will be use to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature of a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, has been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of four years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (C) may be used for costs incurred to administer the grant.

(g) EVALUATION.—The National Institute of Justice shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the National Institute of Justice.

(h) COORDINATION.—The Attorney General may utilize the Office of Justice Programs to coordinate the administration of grants under this section. The coordination of grants under this section shall include prescribing consistent program requirements for grantees, allocating functions and the administration of particular grants among the components that participate in the administration of the program under this section, coordinating the program under this section with the Sexual Violence Grant Program established by section 141 of this Act, and coordinating the program under this section with other grant programs administered by components of the Department of Justice.

(i) DEFINITION.—For purposes of this section, "domestic violence" includes any act of criminal violence in which the offender and the victim are members of the same household or relatives, or in which the offender

and the victim are present or former spouses or cohabitors or have a child in common.

(j) REPORT.—The Attorney General shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in each of fiscal years 1994, 1995, and 1996, $250,000,000 to carry out this section, and such sums as may be necessary in each fiscal year thereafter.

TITLE III—NATIONAL TASK FORCE ON VIOLENCE AGAINST WOMEN

SEC. 301. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the "National Task Force on Violence Against Women" (referred to in this title as the "task force").

SEC. 302. DUTIES OF TASK FORCE.

(a) GENERAL PURPOSE OF TASK FORCE.—The task force shall recommend Federal, State, and local strategies aimed at protecting women against violent crime, punishing persons who commit such crimes, and enhancing the rights of victims of such crimes.

(b) DUTIES OF TASK FORCE.—The task force shall perform such functions as the Attorney General deems appropriate to carry out of the purposes of the task force, including—

(1) considering the reports and recommendations of past Federal and State studies of violent crime, family violence, and the treatment of crime victims, including the Report of the Attorney General to the President on Combating Violent Crime (1992), the Report of the Attorney General's Task Force on Family Violence (1984), the Report of the President's Task Force on Victims of Crime (1982), and the reports and recommendations of the task forces and commissions established by the States of Alabama, Alaska, Arkansas, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, Rhode Island, Virginia, Texas, and Wyoming;

(2) developing strategies for Federal, State, and local law enforcement designed to protect women against violent crime, and to prosecute those responsible for such crime;

(3) evaluating the adequacy of rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, and making recommendations for the improvement of such rules;

(4) evaluating the adequacy of pre-trial release, sentencing, incarceration, and post-conviction release in relation to violent offenders against women, and making recommendations designed to ensure that such offenders are restrained from causing further harm to the victim and others and receive appropriate punishment, including means of ensuring that the efficacy of criminal sanctions will not be undermined by parole or other early release mechanisms;

(5) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for the effective use of such orders to protect women from violence;

(6) assessing the problem of stalking and persistent menacing of women, and recommending effective means of response to the problem;

(7) assessing the problem of sexual exploitation of women and youths through prostitution and in the production of pornography, and recommending effective means of response to the problem; and

(8) generally evaluating the treatment of women as victims of violent crime in the criminal justice system, and making recommendations designed to improve such treatment.

SEC. 303. MEMBERSHIP.

(a) IN GENERAL.—The task force shall consist of up to 10 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this Act. The Attorney General shall ensure that the task force includes representatives of State and local law enforcement, the State and local judiciary, and groups dedicated to protecting the rights of victims.

(b) CHAIRMAN.—The Attorney General or the Attorney General's designee shall serve as chairman of the task force.

SEC. 304. PAY.

(a) NO ADDITIONAL COMPENSATION.—Members of the task force who are officers of employees of a governmental agency shall receive no additional compensation by reason of their service on the task force.

(b) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the task force, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 305. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The task force shall have an Executive Director who shall be appointed by the Attorney General not later than 30 days after the task force is fully constituted under section 303.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS–18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the task force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the task force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the task force appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the task force, the Executive Director may procure temporary intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 306. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purpose of carrying out this title, the task force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the task force considers appropriate. The task force may administer oaths before the task force.

(b) DELEGATION.—Any member or employee of the task force may, if authorized by the task force, take any action that the task force is authorized to take under this title.

(c) ACCESS TO INFORMATION.—The task force may secure directly from any executive department or agency such information as may be necessary to enable the task force to carry out this title, to the extent access to such information is permitted by law. On request of the Attorney General, the head of such a department or agency shall furnish such permitted information to the task force.

(d) MAIL.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 307. REPORT.

Not later than 1 year after the date on which the task force is fully constituted under section 303, the Attorney General shall submit a detailed report to the Congress on the findings and recommendations of the task force.

SEC. 308. AUTHORIZATION OF APPROPRIATION.

There is authorized to be appropriated for fiscal year 1994, $500,000 to carry out the purposes of this title.

SEC. 309 TERMINATION.

The task force shall cease to exist 30 days after the date on which the Attorney General's report is submitted under section 307. The Attorney General may extend the life of the task force for a period of not to exceed one year.

Mr. MCCAIN. Mr. President, I am very pleased to again be a cosponsor of the Sexual Assault Prevention Act, and I commend the Republican leader for his zeal and expedience in reintroducing this bill early in this session of Congress.

The phrase "increased crime in America" is no longer met with wide-eyed surprise. There was a time when law-abiding citizens reacted with skepticism at the idea that our Nation could be so riddled with crimes committed in our cities, our streets, and our homes. Now, the American people have become so accustomed to hearing over and over again that crime is on the rise that they no longer respond with surprise, but instead cry out in anger and frustration.

This outrage is especially strong against the cruel, perverse crimes committed against women. One of the most disturbing crimes infecting our society is that of sexual assault and forcible rape. These acts of violent, demented, bald-faced aggression are tantamount to terrorism against women, and the number of forcible rapes in this country is staggering. There were approximately 106,593 rapes reported in 1991, 4 percent higher than that in 1990. In my State of Arizona alone 1,590 rapes were reported.

We cannot, and must not, tolerate violence of this nature. Women in this country are singled out for this kind of violent aggression by criminals who know that our legal system is bogged down with loopholes which only succeed in keeping criminals from serving time behind bars. It is abhorrent to me that women live in fear of rape, and the victims of rape and sexual assault experience the fear and frustration of knowing that their assailant walks the streets freely where law-abiding citizens cannot.

Women in this country face distinct types of crime which need to be addressed specifically. For this reason, I believe that it is imperative that Congress enact the Sexual Assault Prevention Act. This legislation would address the crimes facing women in several ways. First, it authorizes the death penalty for murders committed by sex offenders. Second, the bill would double the maximum penalty for repeat offenders of sexual assaults. Third, it would require the testing of those accused of sexual assaults for the acquired immune deficiency syndrome [AIDS] virus, and disclosing the results of those tests to the victim. Fourth, it authorizes the admission of evidence of prior sexual assault offenses by the defendant in sexual assault trials. Fifth, it designates spousal abuse, including violation of protective orders, and "stalking," as a Federal crime. Finally, the bill would establish a comprehensive grant program to assist State and local efforts to combat sexual violence and domestic violence, and to enforce child support obligations.

Crimes against women are rampant, and this legislation would send a clear, strong message: Those who commit sexual assaults against anyone will be met with swift, stiff penalties.

Mr. President, it is untenable that the greatest democracy in the world should also suffer from this kind of cruel violence. We must use our democratic system as a tool to turn this trend around and make our lives safe again.

By Mr. DOLE (for himself, Mr. MCCONNELL, Mr. PACKWOOD, Mr. LOTT, Mr. GORTON, Mr. THURMOND, Mr. DOMENICI, Mr. LUGAR, Mr. D'AMATO, Mr. SIMPSON, Mr. STEVENS, Mr. NICKLES, and Mr. CHAFEE):

S. 7. A bill to amend the Federal Election Campaign Act of 1971 to reduce special interest influence on elections, to increase competition in politics, to reduce campaign costs, and for other purposes; to the Committee on Rules and Administration.

COMPREHENSIVE CAMPAIGN FINANCE REFORM ACT

Mr. MCCONNELL. Mr. President, the distinguished Republican leader this morning in his remarks made reference to S. 7, the Republican campaign finance bill.

Mr. President, the Republican leader and I believe that this proposal is clearly in the best interests of the country as we seek to improve how elections are handled in the United States.

Mr. President, in 1992 voter turnout increased. Electoral competition increased. Congressional turnover increased. And campaign spending increased.

Most objective observers would say these are indications of a thriving political system. Less objective participants will twist it to fit their objective—partisan revision of campaign finance laws.

All indications are that campaign finance reform is on a fast-track—seemingly easily achievable. Something for the President and Congress to have to show for the next 100 days.

Keeping in mind that the reverberations of whatever passes likely will extend far beyond 100 days, I urge my colleagues to take great care in putting a final bill together.

Mr. President, we should not pass something that is reform in name only just for the sake of passing something.

"Change" and "reform" are terms used rather loosely around here. They are not interchangeable, not synonymous. To change is to alter. To reform is to improve.

Democratic campaign finance bills based on spending limits and taxpayer financing do indeed constitute change. They do not, however, reform. They do not improve the electoral process.

The democratic bills we have seen in the past were good public relations, but lousy legislation. Spending limits have been totally discredited in the Presidential system. Mandatory spending limits are unconstitutional. A taxpayer funded congressional campaign system to provide inducements, or penalties, is not palatable to American taxpayers. In fact, the Presidential Election Campaign Fund is on the verge of bankruptcy, because taxpayers have resoundingly voted no on their annual tax returns.

In the most extensive poll we ever take in this country, every April 15 taxpayers get a chance to vote on how they feel about the public funding of elections. In overwhelming numbers, they are increasingly voting no.

Mr. President, the Democratic campaign finance bills that passed in the last two Congresses were unconstitutional. If the majority goes down that road again and the President signs such a bill into law, then my colleagues can be assured that final disposition will rest with the Supreme Court.

Republicans will not stand by while the first amendment is sacrificed for a facade of reform.

Mr. President, campaign finance reform need not be unconstitutional, partisan, bureaucratic, or taxpayer-funded.

The minority leader and I, joined by Republican colleagues, have today introduced the Comprehensive Campaign Finance Reform Act—the most extensive and effective reform bill before this Congress, bar none.

It bans PAC's, the epitome of special interest influence and a major incumbent protection tool. Our bill bans soft money. All soft money—party, labor, and that spent by tax exempt organizations. It cuts campaign costs. Provides seed money to challengers, paid for not by taxpayers, but by the political parties. It constricts the millionaire's loophole; restricts and regulates independent expenditures; fights election fraud; and restricts gerrymandering.

Real reform. In stark contrast to the Democrats' bill, the Republican bill puts all the campaign money on top of the table where voters can see it. Nothing would have a more cleansing effect on the electoral process.

Mr. President, I ask unanimous consent that at this point in the RECORD S. 7 appear in its entirety. I am introducing it on behalf of the Republican leader, and myself, as well as Senators PACKWOOD, LOTT, GORTON, THURMOND, DOMENICI, LUGAR, D'AMATO, SIMPSON, STEVENS, and CHAFEE. I anticipate that virtually all of the Republicans will join this bill shortly.

I also ask unanimous consent that a section-by-section analysis be included at this point.

S. 7

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

SECTION 1. SHORT TITLE; AMENDMENT OF FECA; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Campaign Finance Reform Act of 1993".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of FECA; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Elimination of Political Action Committees From Federal Election Activities

Sec. 101. Ban on activities of political action committees in Federal elections.

Subtitle B—Ban on Soft Money in Federal Elections

Sec. 111. Ban on soft money.
Sec. 112. Restrictions on party committees.
Sec. 113. Protections for employees.
Sec. 114. Restrictions on soft money activities of tax-exempt organizations.
Sec. 115. Denial of tax-exempt status for certain politically active organizations.
Sec. 116. Contributions to certain political organizations maintained by a candidate.
Sec. 117. Contributions to State and local committees.

Subtitle C—Other Activities

Sec. 121. Modifications of contribution limits on individuals.
Sec. 122. Political parties.
Sec. 123. Contributions through intermediaries and conduits.
Sec. 124. Independent expenditures.

TITLE II—INCREASE OF COMPETITION IN POLITICS

Sec. 201. Seed money for challengers.
Sec. 202. Candidate expenditures from personal funds.
Sec. 203. Franked communications.

Sec. 204. Limitations on gerrymandering.
Sec. 205. Election fraud, other public corruption, and fraud in interstate commerce.
TITLE III—REDUCTION OF CAMPAIGN COSTS
Sec. 301. Broadcast discount.
TITLE IV—MISCELLANEOUS PROVISIONS
Subtitle A—Federal Election Commission Enforcement Authority
Sec. 401. Elimination of reason to believe standard.
Sec. 402. Injunctive authority.
Sec. 403. Time periods.
Sec. 404. Knowing violation penalties.
Sec. 405. Court resolved violations and penalties.
Sec. 406. Private civil actions.
Sec. 407. Knowing violations resolved in court.
Sec. 408. Action on complaint by Commission.
Sec. 409. Violation of confidentiality requirement.
Sec. 410. Penalty in Attorney General actions.
Sec. 411. Amendments relating to enforcement and judicial review.
Sec. 412. Tightening enforcement.
Subtitle B—Other Provisions
Sec. 421. Disclosure of debt settlement and loan security agreements.
Sec. 422. Contributions for draft and encouragement purposes with respect to elections for Federal office.
Sec. 423. Severability.
Sec. 424. Effective date.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Elimination of Political Action Committees From Federal Election Activities

SEC. 101. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.".

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Section 301(4) of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof;

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of $5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of $5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of $1,000 during a calendar year; and

"(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities.".

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be deemed to be an authorized committee of such candidate or officeholder.".

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.".

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association,

to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of $1,000.

Subtitle B—Ban on Soft Money in Federal Elections

SEC. 111. BAN ON SOFT MONEY.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) BAN ON SOFT MONEY.—(1) It shall be unlawful for the purpose of influencing any election to Federal office—

"(A) to solicit or receive any soft money; or

"(B) to make any payments from soft money.

"(2) For purposes of paragraph (1), the term 'soft money' means any amount—

"(A) solicited or received from a source which is prohibited under section 316(a);

"(B) contributed, solicited, or received in excess of the contribution limits under section 315; or

"(C) not subject to the recordkeeping, reporting, or disclosure requirements under section 304 or any other provision of this Act.".

SEC. 112. RESTRICTIONS ON PARTY COMMITTEES.

(a) DISCLOSURE OF INFORMATION BY POLITICAL COMMITTEE.—(1) Section 302(c) of FECA (2 U.S.C. 432(c)) is amended—

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

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

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

"(6) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account.".

(2) Section 304(b) of FECA (2 U.S.C. 434(b)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; and"; and

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

"(9) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account.".

(b) ALLOCATION OF EXPENDITURES FOR MIXED ACTIVITIES.—Title III of FECA, as amended by section 101(a), is amended by adding at the end the following new section:

"REQUIRED ALLOCATION OF CONTRIBUTIONS AND EXPENDITURES FOR MIXED ACTIVITIES BY POLITICAL PARTY COMMITTEES

"SEC. 325. (a) REGULATIONS REQUIRING ALLOCATION FOR MIXED ACTIVITIES.—Not later than 180 days after the date of the enactment of this section, the Commission shall issue regulations providing for a method for allocating the contributions and expenditures for any mixed activity between Federal and non-Federal accounts.

"(b) GUIDELINES FOR ALLOCATION.—(1) The regulations issued under subsection (a) shall—

"(A) provide for the allocation of contributions and expenditures in accordance with this subsection; and

"(B) require reporting under this Act of expenditures in connection with a mixed activity to disclose—

"(i) the method and rationale used in allocating the cost of the mixed activity to Federal and non-Federal accounts; and

"(ii) the amount and percentage of the cost of the mixed activity allocated to such accounts.

"(2) In the case of a mixed activity that consists of a voter registration drive, get-out-the-vote drive, or other activity designed to contact voters (other than an activity to which paragraph (3) or (4) applies), amounts shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than—

"(A) 33⅓ percent of the total amount in the case of the national committee of a political party; or

"(B) 25 percent of the total amount in the case of a State or local committee of a political party or any subordinate committee thereof.

"(3) In the case of a mixed activity that consists of preparing and distributing brochures, handbills, slate cards, or other printed materials identifying or seeking support of (or opposition to) candidates for both Federal offices and non-Federal offices, amounts shall be allocated on the basis of total space devoted to such candidates, except that in no event shall the amounts allocated to the Federal account be less than the percentages under subparagraph (A) or (B) of paragraph (2).

"(4)(A) In the case of a mixed activity by a national committee of a political party that consists of broadcast media advertising (or any portion thereof) that promotes (or is in opposition to) a political party without mentioning the name of any individual candidate for Federal office or non-Federal office,

amounts allocated to the Federal account shall not be less than—

"(i) 50 percent of the total amount in the case of advertising in the national media market; and

"(ii) 40 percent in the case of advertising in other than the national media market.

"(B) In the case of a mixed activity by a State or local committee of a political party or any subordinate committee thereof that consists of broadcast media advertising (or any portion thereof) described in subparagraph (A), costs shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than 33⅓ percent of the total amount.

"(5) Overhead and fundraising costs of a political committee of a political party for each 2-calendar year period ending with the calendar year in which a regularly scheduled election for Federal office occurs shall be allocated to the Federal account on the basis of the same ratio which—

"(A) the aggregate amount of receipts and disbursements of such political committee during such period in connection with elections for Federal office, bears to

"(B) the aggregate amount of receipts and disbursements of such political committee during such period.

"(c) MIXED ACTIVITY.—(1) For purposes of this section, the term 'mixed activity' means an activity the expenditures in connection with which are required under this Act to be allocated between Federal and non-Federal accounts because such activity affects 1 or more elections for Federal office and 1 or more non-Federal elections.

"(2) Activities under paragraph (1) include—

"(A) voter registration drives, get-out-the-vote drives, telephone banks, and membership communications in connection with elections for Federal offices and elections for non-Federal offices;

"(B) general political advertising, brochures, or other materials that include any reference (however incidental) to both a candidate for Federal office and a candidate for non-Federal office, or that urge support for or opposition to a political party or to all the candidates of a political party;

"(C) overhead expenses; and

"(D) activities described in clauses (v), (x), and (xii) of section 301(8)(B).

"(d) ACCOUNTS.—For purposes of this section—

"(1) the term 'Federal account' means an account to which receipts and disbursements are allocated to elections for Federal offices; and

"(2) the term 'non-Federal account' means an account to which receipts and disbursements are allocated to elections other than non-Federal offices.".

SEC. 113. PROTECTION FOR EMPLOYEES.

(a) CONTRIBUTIONS TO ALL POLITICAL COMMITTEES INCLUDED.—Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by inserting "political committee," after "campaign committee,".

(b) APPLICABILITY OF REQUIREMENTS TO LABOR ORGANIZATIONS.—Section 316(b) of FECA (2 U.S.C. 441b(b)) is amended by adding at the end the following new paragraph:

"(8)(A) Subparagraphs (A), (B), and (C) of paragraph (2) shall not apply to a labor organization unless the organization meets the requirements of subparagraphs (B), (C), and (D).

"(B) The requirements of this subparagraph are met only if the labor organization provides, at least once annually, to all employees within the labor organization's bargaining unit or units (and to new employees within 30 days after commencement of their employment) written notification presented in a manner to inform any such employee—

"(i) that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns;

"(ii) that no employee may be required actually to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization;

"(iii) that the amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to the employee's collective bargaining unit, including 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;

"(v) that the cost of the labor organization's exclusive representation services, and the amount of spending by such organization for political activities, shall be computed on the basis of such cost and spending for the immediately preceding fiscal year of such organization; and

"(vi) of the amount of the labor organization's 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 the agency fee for the current year.

"(C) The requirements of this subparagraph are met only if, for purposes of verifying the cost of such labor organization's exclusive representation services, the labor organization provides all represented employees an annual examination by an independent certified public accountant of financial statements supplied by such organization which verify the cost of such services; except that such examination shall, at a minimum, constitute a 'special report' as interpreted by the Association of Independent Certified Public Accountants.

"(D) The requirements of this subparagraph are met only if the labor organization—

"(i) maintains procedures to promptly determine the costs that may properly be charged to agency fee payors as costs of exclusive representation, and explains such procedures in the written notification required under subparagraph (B); and

"(ii) if any person challenges the costs which may be properly charged as costs of exclusive representation—

"(I) provides a mutually selected impartial decisionmaker to hear and decide such challenge pursuant to rules of discovery and evidence and subject to de novo review by the National Labor Relations Board or an applicable court; and

"(II) places in escrow amounts reasonably in dispute pending the outcome of the challenge.

"(E)(i) A labor organization that does not satisfy the requirements of subparagraphs (B), (C), and (D) shall finance any expenditures specified in subparagraph (A), (B), or (C) of paragraph (2) only with funds legally collected under this Act for its separate segregated fund.

"(ii) For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications expressly advocating the election or defeat of any clearly identified candidate for elective public office.".

SEC. 114. RESTRICTIONS ON SOFT MONEY ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for Federal office.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any participation or intervention by an organization on or after September 1, 1992.

SEC. 115. DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax), as amended by section 114, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.—

"(1) IN GENERAL.—An organization shall not be treated as exempt from tax under subsection (a) if—

"(A) such organization devotes any of its operating budget to—

"(i) voter registration or get-out-the-vote campaigns; or

"(ii) participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office; and

"(B) a candidate, or an authorized committee of a candidate, has—

"(i) solicited contributions to, or on behalf of, such organization; and

"(ii) the solicitation is made in cooperation, consultation, or concert with, or at the request or suggestion of, such organization.

"(2) CANDIDATE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'candidate' has the meaning given such term by paragraph (2) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(2)).

"(B) MEMBERS OF CONGRESS.—The term 'candidate' shall include any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress unless—

"(i) the date for filing for nomination, or election to, such office has passed and such individual has not so filed, and

"(ii) such individual is not otherwise a candidate described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of

this Act, but only with respect to solicitations or suggestions by candidates made after the date of enactment of this Act.

SEC. 116. CONTRIBUTIONS TO CERTAIN POLITICAL ORGANIZATIONS MAINTAINED BY A CANDIDATE.

(a) CONTRIBUTIONS BY PERSONS IN GENERAL AND BY MULTICANDIDATE POLITICAL COMMITTEES.—(1) Section 315(a)(1)(A) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "candidate and his authorized political committees" and inserting "candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,".

(2) Section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) is amended by striking "candidate and his authorized political committees" and inserting "candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,".

(3) Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 101(c), is amended by inserting at the end the following new paragraph:

"(10) For the purposes of paragraphs (1)(A) and (2)(A), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

"(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

"(B) for which that candidate has solicited a contribution.".

(b) CONTRIBUTIONS BY NATIONAL BANKS, CORPORATIONS, AND LABOR ORGANIZATIONS.—(1) Section 316(b)(2) of the FECA (2 U.S.C. 441b(b)(2)) is amended by striking "candidate, campaign committee" and inserting "candidate, political organization (other than an authorized committee) maintained by a candidate, campaign committee,".

(2) Section 316(b) of FECA (2 U.S.C. 441b(b)), as amended by section 113(b), is amended by inserting at the end the following new paragraph:

"(9) For the purposes of paragraph (2), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

"(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

"(B) for which that candidate has solicited a contribution.".

(c) DATE OF APPLICATION.—The amendments made by subsections (a) and (b) shall apply to contributions described in sections 315 and 316 of FECA (2 U.S.C. 441a and 441b) made in response to solicitations made after January _____, 1993.

SEC. 117. CONTRIBUTIONS TO STATE AND LOCAL PARTY COMMITTEES.

Section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; or"; and

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

"(D) to the political committees established and maintained by a State or local political party, in connection with any activity that may influence an election for Federal office, in any calendar year which, in the aggregate, exceed the lesser of

"(i) $50,000; or

"(ii) the difference between $50,000 and the amount of contributions made by such person to any political committees established and maintained by a national political party.".

Subtitle C—Other Activities

SEC. 121. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) INCREASE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "$1,000" and inserting "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 116(a)(3), is amended by adding at the end the following new paragraph:

"(11) For purposes of subsection (a)(1)(A)—

"(A) The term 'applicable amount' means—

"(i) $1,000 in the case of contributions by a person to—

"(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

"(II) any other candidate or such candidate's authorized committees if, at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

"(ii) $500 in the case of contributions by any other person to a candidate described in clause (i)(II) or such candidate's authorized committees.

"(B) At the beginning of 1993, and each odd-numbered calendar year thereafter, the Secretary of Labor shall certify in the same manner as under subsection (c)(1) the percent difference between the price index for the preceding calendar year and the price index for calendar year 1991. Each of the dollar limits under subparagraph (A) shall be increased by such percent difference and rounded to the nearest $100. Each amount so increased shall be the amount in effect for the calendar year for which determined and the succeeding calendar year.".

SEC. 122. POLITICAL PARTIES.

ITEMS NOT TREATED AS CONTRIBUTIONS OR EXPENDITURES.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clauses (x) and (xii), by inserting "national," after "the payment by a"; and

(B) in clause (xii), by inserting "general research activities," after "the costs of".

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clauses (viii) and (ix), by inserting "national," after "the payment by a"; and

(B) in clause (ix), by inserting "general research activities," after "the costs of".

SEC. 123. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

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:

"(8) 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) If a contribution is 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.

"(C) No conduit or intermediary shall deliver or arrange to have delivered contributions from more than 2 persons who are employees of the same employer or who are members of the same trade association, membership organization, or labor organization.

"(D) No person required to register with the Clerk of the House of Representatives or the Secretary of the Senate under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), or an officer, employee or agent of such a person, may act as an intermediary or conduit with respect to a contribution to a candidate for Federal office.".

SEC. 124. INDEPENDENT EXPENDITURES.

(a) ATTRIBUTION OF COMMUNICATIONS; REPORTS.—(1) Section 318 of FECA (2 U.S.C. 441d) is amended by adding at the end the following new subsection:

"(c)(1) If any person makes an independent expenditure through a broadcast communication on any television or radio station, the broadcast communication shall include a statement—

"(A) in such television broadcast, that is clearly readable to the viewer and appears continuously during the entire length of such communication; or

"(B) in such radio broadcast, that is clearly audible to the viewer and is aired at the beginning and ending of such broadcast,

setting forth the name of such person and, in the case of a political committee, the name of any connected or affiliated organization.

"(2) If any person makes an independent expenditure through a newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, the communication shall include, in addition to the other information required by this section—

"(A) the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.'; and

"(B) a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization, and the name of the president or treasurer of such organization.

"(3) Any person making an independent expenditure described in paragraph (1) or (2) shall furnish, by certified mail, return receipt requested, the following information, to each candidate and to the Commission, not later than the date and time of the first public transmission of the communication:

"(A) Effective notice that the person plans to make an independent expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate.

"(B) An exact copy of the intended communication, or a complete description of the contents of the intended communication, including the entirety of any texts to be used in conjunction with such communication, and a complete description of any photographs, films, or any other visual devices to be used in conjunction with such communication.

"(C) All dates and times when such communication will be publicly transmitted.".

(2) Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended by striking "Whenever" and inserting "Except as provided in subsection (c), whenever".

(b) DEFINITION OF INDEPENDENT EXPENDITURE.—Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended—

(1) by striking "(17) The term" and inserting "(17)(A) The term"; and

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

"(B) For the purpose of subparagraph (A), an expenditure shall be considered to be made in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, authorized committee, or agent, if there is any arrangement, coordination, or direction by the candidate or the candidate's agent prior to the publication, distribution, display, or broadcast of a communication, and it shall be presumed to be so made when it is—

"(i) based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or

"(ii) made by or through any person who is, or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees;

"(II) serving as an officer of the candidate's authorized committees; or

"(III) providing professional services to, or receiving any form of compensation or reimbursement from, the candidate, the candidate's committee, or agent.".

(c) HEARINGS ON COMPLAINTS.—Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end the following new paragraph:

"(13) Within 3 days after the Commission receives a complaint filed pursuant to this section which alleges that an independent expenditure was made with the cooperation or consultation of a candidate, or an authorized committee or agent of such candidate, or was made in concert with or at the request or suggestion of an authorized committee or agent of such candidate, the Commission shall provide for a hearing to determine such matter.".

(d) EXPEDITED JUDICIAL REVIEW.—Section 310 of the FECA (2 U.S.C. 437h) is amended by adding at the end the following new sentence: "It shall be the duty of the courts to advance on the docket and to expedite to the greatest possible extent the disposition of any matter relating to the making or alleged making of an independent expenditure.".

TITLE II—INCREASE OF COMPETITION IN POLITICS

SEC. 201. SEED MONEY FOR CHALLENGERS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 111, is amended by adding at the end the following new subsection:

"(j)(1) Notwithstanding subsection (a)(2), the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees) which in the aggregate do not exceed the lesser of—

"(A) $100,000; or

"(B) the aggregate qualified matching contributions received by such candidate and the candidate's authorized committees.

"(2) Any contribution under paragraph (1) shall not be treated as an expenditure for purposes of subsection (d)(3).

"(3) For purposes of this subsection, the term 'qualified matching contributions' means contributions made during the period of the election cycle preceding the primary election by an individual who, at the time such contributions are made, is a resident of the State in which the election with respect to which such contributions are made is to be held.

"(4) For purposes of this subsection, the term 'eligible candidate' means a candidate for Federal office (other than President or Vice President) who does not hold Federal office.".

SEC. 202. CANDIDATE EXPENDITURES FROM PERSONAL FUNDS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 201, is amended by adding at the end the following new subsection:

"(k)(1)(A) Not less than 15 days after a candidate qualifies for a primary election ballot under State law, the candidate shall file with the Commission, and each other candidate who has qualified for that ballot, a declaration stating whether the candidate intends to expend for the primary and general election an amount exceeding $250,000 from—

"(i) the candidate's personal funds;

"(ii) the funds of the candidate's immediate family; and

"(iii) personal loans incurred by the candidate and the candidate's immediate family in connection with the candidate's election campaign.

"(B) The declaration required by subparagraph (A) shall be in such form and contain such information as the Commission may require by regulation.

"(2) Notwithstanding subsection (a), if a candidate—

"(A) declares under paragraph (1) that the candidate intends to expend for the primary and general election funds described in such paragraph an amount exceeding $250,000;

"(B) expends such funds in the primary and general election an amount exceeding $250,000; or

"(C) fails to file the declaration required by paragraph (1),

the limitations on contributions under subsection (a), and the limitations on expenditures under subsection (d), shall be modified as provided under paragraph (3) with respect to other candidates for the same office who are not described in subparagraph (A), (B), or (C).

"(3) For purposes of paragraph (2)—

"(A) the limitation under subsection (a)(1)(A) shall be increased to $5,000; and

"(B) if a candidate described in paragraph (2)(B) expends more than $1,000,000 of funds described in paragraph (1) in the primary and general election—

"(i) the limitation under subsection (a)(1)(A) shall not apply;

"(ii) the limitation under subsection (a)(2) shall not apply to any political committee of a political party; and

"(iii) the limitation under subsection (d)(3) shall not apply.

The $5,000 amount under subparagraph (A) shall be adjusted each calendar year in the same manner as amounts are adjusted under subsection (a)(11)(B).

"(4) If—

"(A) the modifications under paragraph (3) apply for a convention or a primary election by reason of 1 or more candidates taking (or failing to take) any action described in subparagraph (A), (B), or (C) of paragraph (2); and

"(B) such candidates are not candidates in any subsequent election in the same election campaign, including the general election,

paragraph (3) shall cease to apply to the other candidates in such campaign.

"(5) A candidate who—

"(A) declares, pursuant to paragraph (1), that the candidate does not intend to expend funds described in paragraph (1) in excess of $250,000; and

"(B) subsequently changes such declaration or expends such funds in excess of that amount,

shall file an amended declaration with the Commission and notify all other candidates for the same office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending a notice by certified mail, return receipt requested.

"(6) Contributions to a candidate or a candidate's authorized committees may be used to repay any expenditure or personal loan incurred in connection with the candidate's election to Federal office by a candidate or a member of the candidate's immediate family only to the extent that such repayment—

"(A) is limited to the amount of such expenditure or the principal amount of such loan (and no interest is paid); and

"(B) is not made from any such contributions received after the date of the general election to which such expenditure or loan relates.

"(7) For purposes of this subsection, the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of a person described in subparagraph (B).

"(8) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to ensure compliance with this subsection.".

SEC. 203. FRANKED COMMUNICATIONS.

(a) AMENDMENT OF TITLE 39, UNITED STATES CODE.—(1) Section 3210(a)(6)(A) of title 39, United States Code is amended—

(A) by striking clause (i) and inserting the following new clause:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II), by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(2) Section 3210(a)(6)(C) of title 39, United States Code, is amended by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(3) Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed.

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Mem-

ber shall register annually with the Clerk of the House of Representatives such mass mailings. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed.".

(b) AMENDMENT OF STANDING RULES OF THE SENATE.—(1) Paragraph 1 of Rule XL of the Standing Rules of the Senate is amended by striking "less than sixty days immediately before the date" and inserting "during the year".

(2) This subsection is enacted—

(A) as an exercise of the rulemaking power of the Senate; and

(B) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 204. LIMITATIONS ON GERRYMANDERING.

(a) REAPPORTIONMENT OF REPRESENTATIVES.—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 (2 U.S.C. 2a), is amended—

(1) by striking subsection (c); and

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

"(c)(1) In each State entitled in the One Hundred Third Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the second paragraph 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), as in effect prior to the date of enactment of this subsection, there shall be established in the manner provided by the law of the State 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 1 Representative.

"(2) 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 One Hundred Third Congress and in each fifth Congress thereafter.

"(d)(1) 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.

"(2) 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 or 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 so 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, those materials shall be made available by the 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 (42 U.S.C. 1973 et seq.).

"(l)(1) A State may establish by law criteria for implementing the standards set forth in this section.

"(2) Nothing in this section shall be construed as limiting the power of a State to strengthen or add to the standards set forth in this section, or to interpret those standards in a manner consistent with the law of the State, to the extent that any additional criteria or interpretations are not in conflict with this section.

"(m)(1) The district courts of the United States shall have exclusive jurisdiction to hear and determine any action to enforce subsections (c) through (l).

"(2) A person who meets a State's qualifications for voting in an election of a Member of the House of Representatives from the State may bring an action in the district court for the district in which the person resides to enforce subsections (c) through (l) with regard to the State in which the person resides.

"(3) Notwithstanding any other provision of this section, the district courts of the United States 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 this section.

"(4) With the exception of actions brought for the relief described in paragraph (3), the district court for the purposes of this section shall be a three-judge district court pursuant to section 2284 of title 28, United States Code.

"(5) On motion of any party in accordance with section 1657 of title 28, United States Code, 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 compliance with this Act.

"(6) An action to challenge the establishment of a congressional district in a State after a Federal decennial census may not be brought after the end of the 9-month period beginning on the date on which the last such district is so established.

"(7) 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 section 1253 of title 28, United States Code.

"(8) If a 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.

"(9) If a district court determines that the congressional districts established by a 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 subsections (c) through (l). The district court shall retain jurisdiction over the case after remand.

"(10) If, after a remand under paragraph (9), the district court determines that the congressional districts established by a State's redistricting authority under the remand order are not consistent with subsections (c) through (l), the district court shall enter an order establishing districts that are consistent with subsections (c) through (l) for the next general congressional election.

"(11) 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 the question to the highest court of the State whose law is in question. Such certification shall not stay the proceedings in the district court or delay the court's determination of the question of State law.

"(12) With the exception of actions brought for the relief described in paragraph (3), an appeal from a decision of the district court under this section shall be taken in accordance with section 1253 of title 28, United States Code. An appeal under this paragraph shall be noticed in the district court and perfected by docketing in the Supreme Court within thirty days of the entry of judgment below. Appeals brought to the Supreme Court under this paragraph shall be heard as soon as practicable.

"(13) For purposes of this section, the term 'redistricting authority' means the officer or public body having initial responsibility for the congressional redistricting of a State.".

(b) CONFORMING AMENDMENTS AND REPEALER.—(1) The first sentence of section 1657 of title 28, United States Code, is amended by striking "chapter 153 or" and inserting "chapter 153, any action under subsection (m) through (l) of section 22 of the Act entitled 'An Act to provide for the fifteenth and subsequent censuses and to provide for apportionment of Representatives in Congress,' approved June 18, 1929 (2 U.S.C. 2a), or".

(2) Section 141(c) of title 13, United States Code, is amended by adding at the end the following: "In circumstances in which this subsection requires that the Secretary provide criteria to, consult with, or report tabulations of population to (or if the Secretary for any reason provides material or information to) the public bodies having responsibility for the legislative apportionment or districting of a 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, the term 'political party' means 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 5 most recent general congressional elections. Such materials may include those developed by the Census Bureau for redistricting purposes for the 1990 Census.".

(3) The second paragraph 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.

SEC. 205. ELECTION FRAUD, OTHER PUBLIC CORRUPTION, AND FRAUD IN INTERSTATE COMMERCE.

(a) ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.—(1) Chapter 11 of title 18, United States Code, is amended by adding at the end 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 10 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, runoff, 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 10 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 10 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 to 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 10 years, or both.

"(f) Whoever, being an official, 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 an employee or official of the United States or any State or political subdivision of a 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 5 years or both.

"(g)(1) An 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 or official 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 bring a civil action and shall be entitled to all relief necessary to make such employee or official whole. Such relief shall include reinstatement with the same seniority status that the employee or official would have had but for the discrimination, 3 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 shall not be entitled to relief under paragraph (1) if the individual participated in the violation of this section with respect to which relief is sought.

"(3) A civil action brought under paragraph (1) shall be stayed by a court upon the certification of an attorney for the Government, stating that the action may adversely affect the interests of the Government in a current 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 and 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 that the person 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.".

(2)(A) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following item:

"225. Public Corruption.".

(B) 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) 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),".

(b) FRAUD IN INTERSTATE COMMERCE.—(1) Section 1343 of title 18, United States Code, is amended—

(A) by 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

(B) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(2)(A) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(B) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the item for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce.".

TITLE III—REDUCTION OF CAMPAIGN COSTS

SEC. 301. BROADCAST DISCOUNT.

(a) FINDINGS.—The Congress finds that—

(1) in the 45 days preceding a primary election, and in the 60 days preceding a general election, candidates for political office need to be able to buy, at the lowest unit charge, nonpreemptible advertising spots from broadcast stations and cable television stations to ensure that their messages reach the intended audience and that the voting public has an opportunity to make informed decisions;

(2) since the Communications Act of 1934 was amended in 1972 to guarantee the lowest unit charge for candidates during these important preelection periods, the method by which advertising spots are sold in the broadcast and cable industries has changed significantly;

(3) changes in the method for selling advertising spots have made the interpretation and enforcement of the lowest unit charge provision difficult and complex;

(4) clarification and simplification of the lowest unit charge provision in the Communications Act of 1934 is necessary to ensure compliance with the original intent of the provision; and

(5) in granting discounts and setting charges for advertising time, broadcasters and cable operators should treat candidates for political office at least as well as the most favored commercial advertisers.

(b) AMENDMENT OF COMMUNICATIONS ACT.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (b)(1) by striking "class and";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) A licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased such use pursuant to subsection (b)(1).".

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Federal Election Commission Enforcement Authority

SEC. 401. ELIMINATION OF REASON TO BELIEVE STANDARD.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by striking the first sentence and inserting the following: "Except as otherwise provided in subparagraph (B), if the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities determines, by an affirmative vote of 4 of its members, that an allegation of a violation or from pending violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986 states a claim of violation that would be sufficient under the standard applicable to a motion under rule 12(b)(6) of the Federal Rules of Civil Procedure, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such vote shall occur within 90 days after receipt of such complaint.".

SEC. 402. INJUNCTIVE AUTHORITY.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 401, is amended by adding at the end the following new subparagraph:

"(B) The Commission may petition the appropriate court for an injunction if—

"(i) the Commission believes that there is a substantial likelihood that a violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) such expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction.".

SEC. 403. TIME PERIODS.

Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i)—

(A) by striking ", for a period of at least 30 days,"; and

(B) by striking "90 days" and inserting "60 days"; and

(2) in clause (ii) by striking "at least" and inserting "no more than".

SEC. 404. KNOWING VIOLATION PENALTIES.

Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of $5,000 or an amount equal to any contribution or expenditure involved in such violation, except that if the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 has been committed during the 15-day period immediately preceding any election, a conciliation agreement entered into by the Commission under paragraph (4)(A) shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation".

SEC. 405. COURT RESOLVED VIOLATIONS AND PENALTIES.

Section 309(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)) is amended—

(1) in subparagraph (A)—

(A) by striking "Commission may" and inserting "Commission shall";

(B) by striking "including" and inserting "which shall include"; and

(C) by striking "which does not exceed the greater of $5,000 or an amount equal to any" and inserting "which equals the greater of $10,000 or an amount equal to 200 percent of any"; and

(2) in subparagraph (B)—

(A) by striking "court may" and inserting "court shall"; and

(B) by striking ", including" and inserting "which shall include"; and

(C) by striking "which does not exceed the greater of $5,000 or an amount equal to any" and inserting "which equals the greater of $10,000 or an amount equal to 200 percent of any".

SEC. 406. PRIVATE CIVIL ACTIONS.

Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)), as amended by section 405, is amended—

(1) by inserting "(i)" after "(6)(A)"; and

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

"(ii) If, by a tie vote, the Commission does not vote to institute a civil action pursuant to clause (i), the candidate involved in such election, or an individual authorized to act on behalf of such candidate, may file an action for appropriate relief in the district court for the district in which the respondent is found, resides, or transacts business. If the court determines that a violation has occurred, the court shall impose the appropriate civil penalty. Any such award of a civil penalty made under this paragraph shall be made in favor of the United States. In addition to any such civil penalty, the court shall award to the prevailing party in any action under this paragraph, all attorneys' fees and actual costs reasonably incurred in the investigation and pursuit of any such action, including those attorneys' fees and costs reasonably incurred in bringing or defending the proceeding before the Commission.".

SEC. 407. KNOWING VIOLATIONS RESOLVED IN COURT.

Section 309(a)(6)(C) of FECA (2 U.S.C. 437g(a)(6)(C)) is amended by striking "may impose a civil penalty which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "shall impose a civil penalty which is not less than the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation, except that if such violation was committed during the 15-day period immediately preceding the election, the court shall impose a civil penalty which is not less than the greater of $15,000 or an amount equal to 300 percent of any contribution or expenditure involved in such violation".

SEC. 408. ACTION ON COMPLAINT BY COMMISSION.

Section 309(a)(8)(A) of FECA (2 U.S.C. 437g(a)(8)(A)) is amended—

(1) by striking "act on" and inserting "reasonably pursue";

(2) by striking "120-day" and inserting "60-day"; and

(3) by striking "United States District Court for the District of Columbia" and inserting "appropriate court".

SEC. 409. VIOLATION OF CONFIDENTIALITY REQUIREMENT.

Section 309(a)(12)(B) of FECA (2 U.S.C. 437g(a)(12)(A)) is amended—

(1) by striking "$2,000" and inserting "$5,000"; and

(2) by striking "$5,000" and inserting "$10,000".

SEC. 410. PENALTY IN ATTORNEY GENERAL ACTIONS.

Section 309(d)(1)(A) of FECA (2 U.S.C. 437g(d)(1)(A)) is amended by striking "exceed" and inserting "be less than".

SEC. 411. AMENDMENTS RELATING TO ENFORCEMENT AND JUDICIAL REVIEW.

(a) TIME LIMITATIONS FOR AND INDEX OF INVESTIGATIONS.—Section 309(a) of FECA (2 U.S.C. 437g(a)), as amended by section 124, is amended by adding at the end the following new paragraphs:

"(14) The Commission shall establish time limitations for investigations under this subsection.

"(15) The Commission shall publish an index of all investigations under this section and shall update the index quarterly.".

(b) PROCEDURE ON INITIAL DETERMINATION.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 402, is amended by adding at the end the following: "Before a vote based on information ascertained in the normal course of carrying out supervisory responsibilities, the person alleged to have committed the violation shall be notified of the allegation and shall have the opportunity to demonstrate, in writing, to the Commission within 15 days

after notification that no action should be taken against such person on the basis of the information. Prior to any determination, the Commission may request voluntary responses to questions from any person who may become the subject of an investigation. A determination under this paragraph shall be accompanied by a written statement of the reasons for the determination.".

(c) PROCEDURE ON PROBABLE CAUSE DETERMINATION.—(1) Section 309(a)(3) of FECA (2 U.S.C. 437g(a)(3)) is amended by adding at the end the following: "The Commission shall make available to a respondent any documentary or other evidence relied on by the general counsel in making a recommendation under this subsection. Any brief or report by the general counsel that replies to the respondent's brief shall be provided to the respondent.".

(2) Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended by adding at the end the following new clauses:

"(iii) A determination under clause (i) shall be made only after opportunity for a hearing upon request of the respondent and shall be accompanied by a statement of the reasons for the determination.

"(iv) The Commission shall not require that any conciliation agreement under this paragraph contain an admission by the respondent of a violation of this Act or any other law.".

(d) ELIMINATION OF EN BANC HEARING REQUIREMENT.—Section 310 of FECA (2 U.S.C. 437h), as amended by section 124(d), is amended by striking ", which shall hear the matter sitting en banc".

SEC. 412. TIGHTENING ENFORCEMENT.

(a) REPEAL OF PERIOD OF LIMITATION.—Section 406 of FECA (2 U.S.C. 455) is repealed.

(b) SUPPLYING OF INFORMATION TO THE ATTORNEY GENERAL.—Section 309(a)(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(12)(A)) is amended by adding at the end the following new subparagraph:

"(C) Nothing in this section shall be deemed to prohibit or prevent the Commission from making information contained in compliance files available to the Attorney General, at the Attorney General's request, in connection with an investigation or trial.".

Subtitle B—Other Provisions

SEC. 421. DISCLOSURE OF DEBT SETTLEMENT AND LOAN SECURITY AGREEMENTS.

Section 304(b) of FECA (2 U.S.C. 434(b)), as amended by section 112, is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and by inserting a semicolon; and

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

"(10) for the reporting period, the terms of any settlement agreement entered into with respect to a loan or other debt, as evidenced by a copy of such agreement filed as part of the report; and

"(11) for the reporting period, the terms of any security or collateral agreement entered into with respect to a loan, as evidenced by a copy of such agreement filed as part of the report.".

SEC. 422. CONTRIBUTIONS FOR DRAFT AND ENCOURAGEMENT PURPOSES WITH RESPECT TO ELECTIONS FOR FEDERAL OFFICE.

(a) DEFINITION.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended by striking "or" after the semicolon at the end of clause (i), by striking the period at the end of clause (ii) and inserting "; and", and by adding at the end the following new clause:

"(iii) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of drafting a clearly identified individual as a candidate for Federal office or encouraging a clearly identified individual to become a candidate for Federal office.".

(b) DRAFT AND ENCOURAGEMENT CONTRIBUTIONS TO BE TREATED AS CANDIDATE CONTRIBUTIONS.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by this Act, is amended by adding at the end the following new paragraph:

"(12) For purposes of paragraph (1)(A) and paragraph (2)(A), any contribution described in section 301(8)(A)(iii) shall be treated, with respect to the individual involved, as a contribution to a candidate, whether or not the individual becomes a candidate.".

SEC. 423. SEVERABILITY.

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.

SEC. 424. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on November 9, 1994, and shall apply to all contributions and expenditures made after that date.

DOLE-MCCONNELL CFR PROPOSAL

SPECIAL INTEREST INFLUENCE

PAC Ban

Eliminates all "special interest" political action committees (corporate, union, and trade association PACs). Also bans all non-connected or ideological PACs and all "leadership" PACs. [Note: if a ban on non-connected PACs is determined to be unconstitutional by the Supreme Court, the legislation will subject non-connected PACs to a $1000 per election contribution limit.]

Soft Money Ban

Bans all "soft" money from being used to influence a federal election. "Soft" money is defined as the raising and spending of political money outside of the source restrictions, contribution limits, and disclosure requirements of the Federal Election Campaign Act and its regulations.

Political Parties

Establishes new rules for political party committees to ensure that "soft" money is not used to influence federal elections, including:

(1) the requirement that national, state and local political parties establish a separate account for activities benefiting federal candidates and a separate account for activities benefiting state candidates;

(2) the requirement of full disclosure of all accounts by any political party committee that maintains a federal account; and

(3) the establishment of minimum percentages of federal funds which must be used for any party building program (e.g. voter registration, get-out-the-vote, absentee ballot, ballot security) which benefits both federal and state candidates.

Exempts certain organizational activities (research, GOTV, voter registration) from coordinated or other limitations; requires disclosure and allocation for these activities; and retains the same coordinated expenditure limits for media expenditures. Maintains the limit on total contributions of Federal party accounts at $20,000; limits to $50,000 per calendar year the total amount of contributions an individual or other entity may make to national, state and local party accounts combined.

Labor Soft Money/Employee Protections

Codifies the Supreme Court decision in Beck v. Communications Workers of America and provides certain rights for employees who are union members.

501(c) Soft Money Restrictions

Prohibits tax-exempt, 501(c) organizations from engaging in any activity which attempts to influence a federal election on behalf of a specific candidate for public office. Extends to all 501(c) organizations the current prohibition on campaign activity which applies to 501(c)(3) charities. Restricts tax-exempt organizations from engaging in voter registration or GOTV activities (which are not candidate-specific) if a candidate or Member of Congress solicits money for the organization.

State PACS Controlled Federal Candidates

Restricts federal activities by state PACs created by Members of Congress.

Individual Contribution Limits

Reduces from $1000 to $500 the maximum allowable contribution by individuals residing outside of a candidate's state. Indexes the individual contribution limit ($1000 per election for in-state contributions or $500 per election for out-of-state contributions) for Congressional candidates using the Consumer Price Index; adjustments would be rounded to the nearest $100.

Bundling

Prohibits "bundling" by registered, lobbyists, unions, trade associations, corporations, and other employers. Bundled contributions which are permitted must be made payable to the candidate and disclosed to the candidate and the Federal Election Commission.

Independent Expenditures

Requires all independently-financed political communications to disclose the person or organization financing it; requires that disclosure be complete and conspicuous; and requires timely notice to all candidates of the communications' placement and content. Defines "independent expenditure" to prohibit consultation with a candidate or his agents; requires the FCC to hold a hearing within 3 days of any formal complaint of collusion between an independent expenditure committee and a candidate. Creates an expedited cause of action in federal courts for a candidate seeking relief from expenditures which are not "independent".

CAMPAIGN COST REDUCTION

Broadcast Discount

Allows Presidential and Congressional candidates to purchase non-preemptible time at the lowest unit rate for preemptible time, in the last 45 days before a primary and the last 60 days before the general election.

COMPETITIVENESS

Challenger Seed Money

Permits political party committees to use a special coordinated expenditure fund to "match" early, in-state contributions by challengers to help begin a campaign. Party committee matching funds would be permitted to a maximum of $100,000 for any House or Senate candidate who is a challenger.

Millionaire's Loophole

Requires Congressional candidates to declare upon filing for an election whether they intend to spend or loan over $250,000 in

personal funds in the race; raises the individual contribution limit to $5000 per election from $1000 for all opponents of a candidate who declares such an intention. No limits would apply to individual contributions and expenditures by party committees if a candidate spends more than $1 million in personal funds. Also prohibits candidates from recovering personal funds or loans used in their race from contributions raised after the election.

Franked Mail

Prohibits franked "mass mailings" during the election year of a Member of Congress, and requires more disclosure of the use of the frank for unsolicited mailings.

Gerrymandering

Requires new standards for Congressional reapportionment and redistricting, including the full and fair enforcement of the Voting Rights Act. This provision would: (1) codify current case law and maintain previous statutory requirements that Congressional districts be of equal population, and be contiguous and compact in form; (2) repeal current statutory provisions permitting multi-member Congressional districts and require single-member Congressional districts; and (3) limit the division of county and political subdivision boundary lines, as well as redistricting egregious partisan gerrymandering.

MISCELLANEOUS

Enhanced FEC Enforcement

Eliminates the "reason to believe" standard. The Commission, upon receiving a complaint, will have to investigate a complaint if the identity of the complainant is known, and the complaint is sufficient on its face.

Provides the FEC the authority to seek injunctive relief to stop certain violations or an impending violation. Reduces the time period by which the Commission must act on a complaint from 120 to 60 days. Streamlines the administrative procedures for a complaint brought by the Commission by eliminating the minimum waiting period of 30 days and lowering the maximum period for post-probable cause conciliation bargaining to 60 days.

Increases the penalties for knowing and willful violations which are resolved informally and requires these penalties to be mandatory. Increases the penalty for violations that must be resolved in court and requires the penalty to be mandatory.

Permits a candidate, or a person authorized by a candidate, to sue on a complaint whenever the Commission declines to pursue an alleged violation by a tie vote. Increases the penalties for knowing and willful violations resolved in court.

Increases the fines for violations of the confidentiality requirement. Increases the penalties for violations of the election laws where the Attorney General separately prosecutes.

Implements procedural recommendations proposed by the 1990 Mitchell/Dole Panel on Campaign Finance Reform. Provides the Commission with more authority to: informally resolve investigations before any determination by the Commission; provide respondents with more access to documents provided by third parties; provide respondents with access to any report submitted to the Commission by the General Counsel; and provide respondents with the right to present oral arguments before a Commission finding of probable cause. Also eliminates the ability of the Commission to routinely require admissions by the respondent that a violation has occurred; and establishes time limits for investigations, requiring the Commission to publish an index of all investigations which have been concluded.

Repeals the shortened 3-year statute of limitations for violations of the Act and returns to the general 5-year statute of limitations. Also permits the Attorney General to have access to FEC compliance files pursuant to a criminal investigation or trial.

Election Fraud/Public Corruption

Creates a new public corruption statute which codifies current case law and increases the authority of the U.S. Justice Department to combat election fraud at all levels of government.

Draft/Exploratory Committees

Defines "contribution" to include donations made to draft or exploratory committees advocating that a clearly identified individual becomes a candidate for federal office.

Severability

Provides that if any portion of this Act is found to be invalid, then the remaining portions of the Act shall continue in full force and effect.

• Mr. PACKWOOD, Mr. President, I rise today to once again join with my colleagues in introducing a very far-reaching, comprehensive campaign finance reform bill. This measure, the subject of extensive debate in the last several Congresses as well, goes farther than any other reform proposal we've had before us. It achieves what I believe should be the goals of campaign finance reform. As I have stated here on more than one occasion, I believe those goals to be twofold.

First, if the perception is that PAC's are an evil, then ban PAC contributions altogether. Whatever may have been the public perception of campaign financing in the past, there is today widespread feeling that elections are principally financed by groups who have a very narrow interest as opposed to a broad public interest. In a democracy, the public must perceive the law to be fair or confidence is severely undermined. The obvious way to respond to the growing perception that Members of Congress are bought and paid for by the special interests is to eliminate all PAC contributions—corporate, labor, trade association and independent. The bill we are introducing today does this.

Second, any campaign finance reform bill should encourage massive participation in campaigns. You don't accomplish this with expenditure limits. Such limits simply drive a candidate to raise money in the least expensive, quickest way possible and with the least effort. The candidate contracts a minimal number of contributors who are able to give the largest amount until the contribution limits are reached. I do not think this is what we want to achieve. Our goal should be to encourage millions of people to give small financial contributions directly to campaigns. If we can encourage 10 to 20 million people to give $5, $10, or $50 directly to a campaign, we will ensure the massive voter participation we are trying to achieve. While the bill before us does not go as far as I would like in this regard, it is a good start. We cut in half, from $1,000 to $500, the individual contribution limit for out-of-State contributions. The in-State individual contribution limit is left unchanged at $1,000.

The challenge is to make congressional campaigns more competitive, less dependent on large contributors, and financed by a broader segment of the population. The bill we are introducing today puts people back into the political process.

In addition to eliminating PAC contributions and lowering the out-of-State individual contribution limit, the bill contains a number of other sweeping and, I believe, very necessary reforms. We get rid of soft money contributions. We limit bundling and independent expenditures. We eliminate the millionaire's loophole. A candidate should work hard to get elected. He or she should earn the seat.

The effect of these provisions, the inevitable result, is that spending will go down. Under this bill, candidates will have to go out and raise money in smaller amounts from many, many more people. Congress to this point has taken the easy route to raising money, that is to raise it in large contributions from relatively few people or PAC's. Under this bill, we will have to broaden our base. Instead of $5,000 PAC contributions from one source, we will have to seek much smaller contributions from many sources.

What we really want to accomplish with campaign reform legislation is voter participation, a galvanization of grassroots volunteers, and money raised in small amounts. This is good for the voters, good for our States, good for politics, and good for challengers who are in local politics in our home States. You then have every benefit without having to resort to PAC's, soft money, or bundling. What you have then is a de facto reduction in spending. At the same time, you are able to run a successful campaign without 1 penny of public funds.

The real stumbling block in all our discussions on campaign finance reform has been over the issue of public funding, taxpayer financing of campaigns. That is a touchstone difference, and make no mistake, if there is any disincentive to voter participation, it is public financing. With public financing, the voter has no sense of connection to the candidate.

The spending limits as embodied in all previous Democrat campaign finance reform measures considered by the Senate are necessarily dependent on some form of public funds, of Federal largess. It may not be money directly from the Treasury, but it will be some form of Federal largess, nonetheless, in exchange for agreeing to spending limits; it will be in the form of re-

duced mail rates or free television time or free something else if you agree to spending limits. Public financing of campaigns, whether it be direct or indirect, is not in this bill.

Republicans are very adverse to asking the taxpayers to fund our campaigns when we are running $300 billion deficits. Whether it is direct money from the Treasury, as in Presidential campaigns, or subsidized mailing rates, it is still money from the Government. When we are running $300 billion deficits, we should not be asking on top of that for taxpayers to fund our campaigns, either fully or partially. When we don't have enough money for education, child nutrition, and all our other human resource needs, are we then going to say to the taxpayer, let's establish a new entitlement program for Senators, for Congress? Let's have the taxpayers pay for our campaigns?

I contend, and I repeat, when you have gotten rid of PAC's and soft money contributions, when you have gotten rid of bundling and lower the out-of-State contribution limit to $500 or less, the effect will be to drive campaign spending down. So I would hope that the Senate would accept this. I think most people of good conscience can say these reforms go in the right direction.

Mr. President, it is time to put aside partisan differences and ambitions and correct the flaws in our campaign finance system. There is genuine bipartisan agreement on a number of the proposed solutions. It is my hope that this session of Congress will see a real breakthrough in the negotiations between Republicans and Democrats. The time has come, and I believe we have the commitment, to enact comprehensive, meaningful reform, reform which will foster competition and encourage broad-based individual participation in our Nation's political process.●

By Mr. HATCH (for himself, Mr. THURMOND, Mr. SIMPSON, Mr. GRASSLEY, Mr. SPECTER, Mr. DOLE, Mr. BROWN, Mr. PRESSLER, and Mr. NICKLES):

S. 8. A bill to control and prevent crime; to the Committee on the Judiciary.

CRIME CONTROL ACT

Mr. HATCH. Mr. President, I rise today to introduce the Crime Control Act of 1993—a comprehensive anticrime measure. This bill: First, provides needed assistance to our country's frontline officers; second, beefs up Federal antidrug, crime, and gang initiatives in rural and urban areas; and third, proposes reform measures that will return some measure of credibility to our criminal justice system.

Rural States, like my State of Utah, have seen a dramatic increase in crime which exceeds that of many more populated areas. For example, FBI figures show that, in 1991, violent crime rose 35 percent faster in rural counties than it did in America's eight largest cities. This bill authorizes additional resources for States like Utah in addition to help for more urban States. We cannot be guided by the erroneous view that crime is a serious problem only for States with large urban centers.

The Crime Control Act of 1993 treats rural States' problems as seriously as others by ensuring that law enforcement grants are equitably distributed and by requiring that a larger percentage of new Federal agents are assigned to rural States. The bill also establishes Federal rural crime and drug task forces throughout the Nation. Also, the bill includes a comprehensive antigang program which responds to the growing problem of juvenile gangs in urban and rural States. Passage of this legislation will ensure that States like Utah are provided their fair share of Federal law enforcement aid and assistance.

Our Nation is faced with a growing violent crime epidemic which the Congress has failed to address adequately. The crisis we face is evident when one reviews the staggering statistics. In 1991, there were 24,000 murders committed in our country—which equates to 1 murder every 21 minutes. There were also 106,000 rapes—one every 5 minutes. In all, violent crimes reported to law enforcement exceeded 1.9 million offenses. In other words, there were more violent crimes committed in 1991 than ever before—a 5-percent increase in just 1 year and a 29-percent increase since 1987.

Any true reform strategy must recognize that acts of violence will only be deterred by actually punishing individuals for violent acts. My bill does so. It includes a comprehensive Federal death penalty which will ensure that the most heinous crimes against the people of the United States are appropriately punished. While the Federal Government has been a leader in other criminal reform areas, it has failed to do what 36 States have done—enact a comprehensive death penalty statute. Drug kingpins, terrorists, and other violent killers must be appropriately punished, and the Federal Government is in the best position to capture and prosecute these heinous offenders.

The Crime Control Act of 1993 also reforms Federal habeas corpus procedures. Federal habeas corpus laws, which currently serve as a de facto, and unlimited, Federal appellate jurisdiction over State criminal judgments, are largely responsible for the endless reexamination of criminal cases. This saps judicial and prosecutorial resources while diminishing the deterrent and retributive effect of punishment. My habeas proposal is identical to that which overwhelmingly passed the proposal is identical to that which overwhelmingly passed the Senate last Congress. It establishes a more appropriate standard of review in habeas corpus cases by according greater deference to the results of State adjudications. This habeas reform measure will return credibility to the Federal criminal justice system and enable the States to do so as well.

This bill also responds to the growing problem of violent crimes perpetrated against women by incorporating much of Senator DOLE's proposals in this area. It greatly enhances the effectiveness of the criminal justice system in preventing, prosecuting, and punishing sexual violence and child abuse and in safeguarding victims of rape, child molestation, and other violent crimes from gratuitous abuse and traumatization.

In addition, this bill reforms the exclusionary rule by taking the common sense step of allowing the admission of evidence obtained in warrantless searches where law enforcement officers act in an objectively reasonable belief that their search was lawful. This extends the so-called good faith exception to the exclusionary rule embodied in the Supreme Court's 1984 decision in United States versus Leon.

Finally, the bill comes through with added assistance to law enforcement. It provides over $1 billion in aid to State and local law enforcement which they can use to hire additional law enforcement officers, and it creates a $150 million grant program to encourage States and local communities to institute community policing initiatives.

In closing, President Clinton has pledged to work with the Congress in an effort to solve this country's diverse domestic problems. There is no doubt that violent crime must be one of his top priorities. I look forward to reviewing the Clinton administration's anticrime legislation, assuming Congress receives one, and I plan to work with the new administration in a bipartisan effort to pass tough, true anticrime legislation. In the meantime, I urge my colleagues to give serious consideration to the proposals I have included in this bill. I welcome their support.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

S. 8

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Crime Control Act of 1993".

(b) TABLE OF CONTENTS.—The following is the table of contents for this Act:

Sec. 1. Short title and table of contents.

TITLE I—DEATH PENALTY

Sec. 101. Short title.

Sec. 102. Death penalty procedures.
Sec. 103. Conforming amendment relating to destruction of aircraft or aircraft facilities.
Sec. 104. Conforming amendment relating to espionage.
Sec. 105. Conforming amendment relating to transporting explosives.
Sec. 106. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 107. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 108. Conforming amendment relating to murder.
Sec. 109. Conforming amendment relating to killing official guests or internationally protected persons.
Sec. 110. Murder by Federal prisoner.
Sec. 111. Conforming amendment relating to kidnapping.
Sec. 112. Conforming amendment relating to hostage taking.
Sec. 113. Conforming amendment relating to mailability of injurious articles.
Sec. 114. Conforming amendment relating to Presidential assassination.
Sec. 115. Conforming amendment relating to murder for hire.
Sec. 116. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 117. Conforming amendment relating to wrecking trains.
Sec. 118. Conforming amendment relating to bank robbery.
Sec. 119. Conforming amendment relating to terrorist acts.
Sec. 120. Conforming amendment relating to aircraft hijacking.
Sec. 121. Conforming amendment to controlled substances act.
Sec. 122. Conforming amendment relating to genocide.
Sec. 123. Protection of court officers and jurors.
Sec. 124. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 125. Death penalty for murder of Federal law enforcement officers.
Sec. 126. Death penalty for murder of State or local law enforcement officers assisting Federal law enforcement officers.
Sec. 127. Implementation of the 1988 protocol for the suppression of unlawful acts of violence at airports serving international civil aviation.
Sec. 128. Amendment to Federal Aviation Act.
Sec. 129. Offenses of violence against maritime navigation or fixed platforms.
Sec. 130. Torture.
Sec. 131. Weapons of mass destruction.
Sec. 132. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 133. Death penalty for civil rights murders.
Sec. 134. Death penalty for murder of Federal witnesses.
Sec. 135. Drive-by shootings.
Sec. 136. Death penalty for gun murders during Federal crimes of violence and drug trafficking crimes.
Sec. 137. Death penalty for rape and child molestation murders.
Sec. 138. Protection of jurors and witnesses in capital cases.
Sec. 139. Inapplicability to uniform code of military justice.
Sec. 140. Death penalty for causing death in the sexual exploitation of children.
Sec. 141. Murder by escaped prisoners.
Sec. 142. Death penalty for murders in the District of Columbia.

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

Sec. 201. Short title.
Sec. 202. Period of limitation.
Sec. 203. Appeal.
Sec. 204. Amendment of Federal rules of appellate procedure.
Sec. 205. Section 2254 amendments.
Sec. 206. Section 2255 amendments.

Subtitle B—Death Penalty Litigation Procedures

Sec. 211. Short title for Subtitle B.
Sec. 212. Death penalty litigation procedures.

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

Sec. 221. Funding for death penalty prosecutions.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—RURAL CRIME AND DRUG CONTROL

Subtitle A—Drug Trafficking in rural areas

Sec. 401. Authorizations for rural law enforcement agencies.
Sec. 402. Rural crime and drug enforcement task forces.
Sec. 403. Cross-designation of Federal officers.
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Subtitle B—Increases in Penalties for Certain Drug Trafficking Offenses

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TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1993".

SEC. 102. DEATH PENALTY PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 18, UNITED STATES CODE.—Title 18, United States Code, is amended by inserting after chapter 227 the following new chapter:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral attack on judgment imposing sentence of death.
"3600. Application in Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381;

"(2) an offense described in section 1751(c) if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section which involved not less than twice the quantity of controlled substance described in subsection (b)(2)(A) or twice the gross receipts described in subsection (b)(2)(B);

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer, or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or members of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, intending to cause death or acting with reckless disregard for human life, engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(6) any other offense for which a sentence of death is provided if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 18 years of age at the time of the offense or who is mentally retarded.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) NO SIGNIFICANT CRIMINAL HISTORY.—The defendant did not have a significant history of other criminal conduct.

"(5) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(6) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS ESPIONAGE OR TREASON CONVICTION.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) RISK OF SUBSTANTIAL DANGER TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) RISK OF DEATH TO ANOTHER.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) CONDUCT OCCURRED DURING COMMISSION OF SPECIFIED CRIMES.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339A (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm (as defined in section 921); or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than 1 year,

involving the use of attempted or threatened use of a firearm (as defined in section 921), against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of 2 or more Federal or State offenses, each punishable by a term of imprisonment of more than 1 year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A), if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with sections 1 and 2 of title 3; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3), (4), or (5), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm (as defined in section 921) to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER 21.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act (21 U.S.C. 859) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act (21 U.S.C. 860) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act (21 U.S.C. 861) which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which no-

tice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided. The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant. The information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (2) or (6), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591 (3), (4), or (5), an aggravating factor required to be considered under section 3592(d) is found to exist,

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) AFFIRMANCE.—If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal,

it shall affirm the sentence.

"(2) REMAND.—In a case in which the sentence is not affirmed under paragraph (1), the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor required to be considered under section 3592 remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors.

"(3) STATEMENT OF REASONS.—The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—This section shall govern the appointment of counsel for any defendant against

whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) has occurred. This section shall not affect the appointment of counsel and the provision of ancillary legal services under section 408(q) (4), (5), (6), (7), (8), (9), and (10) of the Controlled Substances Act (21 U.S.C. 848 (q) (4), (5), (6), (7), (8), (9), and (10)).

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005. At least 1 counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within 10 days after receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order—

"(1) appointing 1 or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel;

"(2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation.

Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least 1 counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least 1 counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet the standards prescribed in the 2 preceding sentences, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which a sentence of death has been imposed, and the judgment has become final as described in section 3598(c), a motion in the case under section 2255 of title 28 shall be filed within 90 days of the issuance of the order relating to appointment of counsel under section 3598(c). The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the motion under that section is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of the decision to do so, the defendant waives the right to file a motion under section 2255 of title 28.

"(c) FINALITY OF DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was—

"(A) the result of governmental action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 3600. Application in Indian country

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has made an election that this chapter have effect over land and persons subject to its criminal jurisdiction.".

(b) TECHNICAL AMENDMENT.—The part analysis for part II of title 18, United States Code, is amended by adding after the item relating to chapter 227 the following new item:

"228. Death penalty procedures ..... 3591.".

SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18, United States Code, is amended by striking the period at the end and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 that the offense directly concerned—

"(1) nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack;

"(2) war plans;

"(3) communications intelligence or cryptographic information;

"(4) sources or methods of intelligence or counterintelligence operations; or

"(5) any other major weapons system or major element of defense strategy.".

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.

Section 1111(b) of title 18, United States Code, is amended to read as follows:

"(b) Within the special maritime and territorial jurisdiction of the United States—

"(1) whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life; and

"(2) whoever is guilty of murder in the second degree shall be imprisoned for any term of years or for life".

SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18, United States Code, is amended by striking the comma after "title" and all that follows through "years".

SEC. 110. MURDER BY FEDERAL PRISONER.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) DEFINITIONS.—For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least 15 years and a maximum of life, or an unexecuted sentence of death.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Murder by a Federal prisoner.".

SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203(a) of title 18, United States Code, is amended by striking the period at the end and inserting "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Section 1751(c) of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, by death or imprisonment for any term of years or for life.".

SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine in accordance with this title, or both, and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both;".

SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The penultimate paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "life" and all that follows through "order".

SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18, United States Code, as redesignated by section 601(b)(2), is amended to read as follows:

"(1) if the killing is murder as defined in section 1111(a), be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1473) is amended by striking subsection (c).

SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q) (1), (2), and (3), and (r).

SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 and imprisonment for life" and inserting "death or imprisonment for life and a fine of not more than $1,000,000".

SEC. 123. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "commissioner" each place it appears and inserting "magistrate judge"; and

(B) by striking "fined not more than $5,000 or imprisoned not more than five years, or both" and inserting "punished as provided in subsection (b)"; and

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

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than 20 years; and

"(3) in any other case, imprisonment for not more than 10 years.".

SEC. 124. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS, AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting before subsection (b), as redesignated by paragraph (1), the following new subsection:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer,

shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

"(B) in the case of an attempt, imprisonment for not more than 20 years.".

SEC. 125. DEATH PENALTY FOR MURDER OF FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by striking "be punished as provided under sections 1111 and 1112 of this title, except that" and inserting ", in the case of murder (as defined in section 1111), be punished by death or imprisonment for life, and, in the case of manslaughter (as defined in section 1112), be punished as provided in section 1112, and".

SEC. 126. DEATH PENALTY FOR MURDER OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS ASSISTING FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," after "other statutory authority".

SEC. 127. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport,

if such an act endangers or is likely to endanger safety at the airport, or attempts to do such an act, shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the prohibited activity takes place in the United States; or

"(2) the prohibited activity takes place outside the United States and the offender is later found in the United States.".

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

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 128. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended—

(1) by striking paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3).

SEC. 129. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

(a) OFFENSE.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new sections:

"§ 2280. Violence against maritime navigation

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of an offense described in paragraph (1), (2), (3), (4), (5), or (6); or

"(8) attempts to commit any act prohibited under paragraph (1), (2), (3), (4), (5), (6), or (7),

shall be fined under this title, imprisoned not more than 20 years, or both, and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to commit any act prohibited under subsection (a) (2), (3), or (5), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured, or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) DELIVERY OF PROBABLE OFFENDER.—The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he or she has on board the ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action the master should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his or her intention to deliver such person and the reason therefor. If the master delivers such person, the master shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) DEFINITIONS.—As used in this section—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft, but does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship that has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through, or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) OFFENSE.—Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance that is likely to destroy the fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or attempted commission of an offense described in paragraph (1), (2), (3), or (4); or

"(6) attempts to do anything prohibited under paragraphs (1), (2), (3), (4), or (5);

shall be fined under this title, imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) THREATENED OFFENSE.—Whoever threatens to do anything prohibited under subsection (a) (2) or (3), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—There is jurisdiction over the activity prohibited in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) DEFINITIONS.—As used in this section—

"(1) 'continental shelf' means the seabed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the seabed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands, and all territories and possessions of the United States.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 111 of title 18, United States Code, is amended by adding at the end the following new items:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date on which the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date on which the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 130. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
"2340. Definitions.
"2340A. Torture.
"2340B. Exclusive remedies.

"§ 2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control;

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from—

"(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

"(B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

"(C) the threat of imminent death; or

"(D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places described in sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301(38)).

"§ 2340A. Torture

"(a) OFFENSE.—Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) JURISDICTION.—There is jurisdiction over the activity prohibited in subsection (a) if—

"(1) the alleged offender is a national of the United States; or

"(2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§ 2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 113A the following new item:

"113B. Torture ..... 2340.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the date of enactment of this Act; or

(2) the date on which the United States has become a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 131. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction (as defined in the amendment made by subsection (b)) gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, as amended by section 601(b), is amended by adding at the end the following new section:

"§ 2339A. Use of weapons of mass destruction

"(a) OFFENSE.—Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

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

"(1) 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(A) a destructive device (as defined in section 921);

"(B) poison gas;

"(C) a weapon involving a disease organism; and

"(D) a weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(c), is amended by adding at the end the following new item:

"2339A. Use of weapons of mass destruction.".

SEC. 132. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended—

(1) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (a), by striking "(c)" and inserting "(d)"; and

(3) by inserting after subsection (b) the following new subsection:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder (as defined in section 1111(a)), be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113.".

SEC. 133. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended by striking "shall be subject to imprisonment for any term of years or for life" and inserting "shall be punished by death or imprisonment for any term of years or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting "the death penalty or" before "imprisonment".

SEC. 134. DEATH PENALTY FOR MURDER OF FEDERAL WITNESSES.

Section 1512(a)(2)(A) of title 18, United States Code, is amended to read as follows:

"(A) in the case of murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;".

SEC. 135. DRIVE-BY SHOOTINGS.

(a) OFFENSE.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 931. Drive-by shootings

"(a) OFFENSE.—Whoever knowingly discharges a firearm at a person—

"(1) in the course of or in furtherance of drug trafficking activity; or

"(2) from a motor vehicle,

shall be punished by imprisonment for not more than 25 years, and if death results shall be punished by death or by imprisonment for any term of years or for life.

"(b) DEFINITION.—As used in this section, the term 'drug trafficking activity' means a drug trafficking crime (as defined in section 929(a)(2)), or a pattern or series of acts involving one or more drug trafficking crimes.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"931. Drive-by shootings.".

SEC. 136. DEATH PENALTY FOR GUN MURDERS DURING FEDERAL CRIMES OF VIOLENCE AND DRUG TRAFFICKING CRIMES.

Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(i) Whoever, in the course of a violation of subsection (c), causes the death of a person through the use of a firearm, shall—

"(1) if the killing is a murder (as defined in section 1111), be punished by death or by imprisonment for any term of years or for life; and

"(2) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

SEC. 137. DEATH PENALTY FOR RAPE AND CHILD MOLESTATION MURDERS.

(a) OFFENSE.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Sexual abuse resulting in death

"Whoever, in the course of an offense under this chapter, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by striking the item relating to section 2245 and inserting the following:

"2245. Sexual abuse resulting in death.
"2246. Definitions for chapter.".

SEC. 138. PROTECTION OF JURORS AND WITNESSES IN CAPITAL CASES.

Section 3432 of title 18, United States Code, is amended by striking the period and inserting: ", except that the list of the veniremen and witnesses need not be furnished if the court finds by a preponderance of the evidence that providing the list may jeopardize the life or safety of any person.".

SEC. 139. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

SEC. 140. DEATH PENALTY FOR CAUSING DEATH IN THE SEXUAL EXPLOITATION OF CHILDREN.

Section 2251(d) of title 18, United States Code, is amended by adding at the end the following new sentence: "Whoever, in the course of an offense under this section, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.".

SEC. 141. MURDER BY ESCAPED PRISONERS.

(a) OFFENSE.—Chapter 51 of title 18, United States Code, as amended by section 110, is amended by adding at the end the following new section:

"§ 1119. Murder by escaped prisoners

"(a) OFFENSE.—A person who, having escaped from a Federal prison where the person was confined under a sentence for a term of life imprisonment, kills another person, shall be punished as provided in sections 1111 and 1112.

"(b) DEFINITION.—As used in this section, the terms 'Federal prison' and 'term of life imprisonment' have the meanings stated in section 1118.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1119. Murder by escaped prisoners.".

SEC. 142. DEATH PENALTY FOR MURDERS IN THE DISTRICT OF COLUMBIA.

Title 18 of the United States Code is amended—

(a) by adding the following new section at the end of chapter 51:

"§ 1118. Capital punishment for murders in the District of Columbia

"(a) OFFENSE.— It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) FEDERAL JURISDICTION.—There is a federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the District of Columbia.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in subsections (d)–(1).

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2 of this title) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors—

"(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnaping, or arson.

"(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm as defined in section 921 of this title.

"(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than one year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"(i) while such public servant was engaged in the performance of his or her official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

"(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have twelve members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be

prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, then the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—

"(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

"(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

"(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the United States Marshals Service, or the Federal Bureau of Prisons, and no person providing services to that department, service, or bureau under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005 of this title, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsections (q)-(r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least three years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a case under this section shall not be a ground for

relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28, United States Code, attacking a sentence of death under this section, or the conviction on which it is predicated, must be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—For purposes of this section—

"(1) 'State' has the meaning given in section 513 of this title, including the District of Columbia;

"(2) 'Offense', as used in paragraphs (2), (5), and (13) of subsection (e), and in paragraph (5) of this subsection, means an offense under the law of the District of Columbia, another State, or the United States;

"(3) 'Drug trafficking activity' means a drug trafficking crime as defined in section 929(a)(2) of this title, or a pattern or series of acts involving one or more drug trafficking crimes;

"(4) 'Robbery' means obtaining the property of another by force or threat of force;

"(5) 'Burglary' means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"(6) 'Sexual abuse' means any conduct proscribed by chapter 109A of this title, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"(7) 'Arson' means damaging or destroying a building or structure through the use of fire or explosives;

"(8) 'Kidnapping' means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"(9) 'Pre-trial release', 'probation', 'parole', 'supervised release', and 'other post-conviction conditional release', as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"(10) 'Public servant' means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of this title.

"(y) When an offense is charged under this section, the government may join any charge under the District of Columbia Code that arises from the same incident."; and

"(b) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in the District of Columbia.".

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 201. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1993".

SEC. 202. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of—

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 203. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 204. AMENDMENT OF FEDERAL RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"*Rule 22. Habeas corpus and section 2255 proceedings*

"(*a*) *Application for an Original Writ of Habeas Corpus.*—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(*b*) *Necessity of Certificate of Probable Cause for Appeal.*—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.".

SEC. 205. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following new subsection:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.";

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a per-

son in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(5) by adding at the end the following new subsection:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

SEC. 206. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second paragraph and the penultimate paragraph; and

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

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 211. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1993".

SEC. 212. DEATH PENALTY LITIGATION PROCEDURES.

(a) ADDITION OF CHAPTER TO TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended by inserting after chapter 153 the following new chapter:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) APPLICATION OF CHAPTER.—This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) ESTABLISHMENT OF APPOINTMENT MECHANISM.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) OFFER OF COUNSEL.—Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing 1 or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) PREVIOUS REPRESENTATION.—No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) NO GROUND FOR RELIEF.—The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) STAY.—Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) EXPIRATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court;

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) LIMITATION ON FURTHER STAY.—If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within 180 days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition

for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed 60 days, if—

"(A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and

"(B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) REVIEW OF RECORD; HEARING.—Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) ADJUDICATION.—Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2261. Application to State unitary review procedure

"(a) IN GENERAL.—For purposes of this section, the term 'unitary review procedure' means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. This chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) OFFER OF COUNSEL.—A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) APPLICATION OF OTHER SECTIONS.—Sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, the start of the 180-day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or the prisoner's counsel.

"§ 2262. Limitation periods for determining petitions

"(a) IN GENERAL.—The adjudication of any petition under section 2254 that is subject to this chapter, and the adjudication of any motion under section 2255 by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) A Federal district court shall determine such a petition or motion within 110 days of filing.

"(2)(A) The court of appeals shall hear and determine any appeal relating to such a petition or motion within 90 days after the notice of appeal is filed.

"(B) The court of appeals shall decide any application for rehearing en banc within 20 days of the filing of the application unless a responsive pleading is required, in which case the court of appeals shall decide the application within 20 days of the filing of the responsive pleading. If en banc consideration is granted, the en banc court shall determine the appeal within 90 days of the decision to grant such consideration.

"(3) The Supreme Court shall act on any application for a writ of certiorari relating to such a petition or motion within 90 days after the application is filed.

"(b) APPLICATION OF SECTION.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the redetermination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) RULE OF CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) NO GROUND FOR RELIEF.—The failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"(e) REPORT.—The Administrative Office of the United States Courts shall report annually to Congress on the compliance by the courts with the time limits established in this section.

"§ 2263. Rule of construction

"This chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

(b) TECHNICAL AMENDMENT.—The part analysis for part IV of title 28, United States Code, is amended by adding after the item relating to chapter 153 the following new item:

"154. Special habeas corpus procedures in capital cases ..... 2256.".

Subtitle C—Equalization of Capital Habeas Corpus Litigation Funding

SEC. 221. FUNDING FOR DEATH PENALTY PROSECUTIONS.

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 inserting after section 511 the following new section:

"FUNDING FOR DEATH PENALTY PROSECUTIONS

"SEC. 511A. Notwithstanding any other provision of this part, the Director shall provide grants to the States, from the funding allocated pursuant to section 511, for the purpose of supporting litigation pertaining to Federal habeas corpus petitions in capital cases. The total funding available for such grants within any fiscal year shall be equal to the funding provided to capital resource centers, pursuant to Federal appropriation, in the same fiscal year.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—Evidence that is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(b) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 223 of title 28, United States Code, is amended by adding at the end the following new item:

"3509. Admissibility of evidence obtained by search or seizure.".

TITLE IV—RURAL CRIME AND DRUG CONTROL

Subtitle A—Drug Trafficking in Rural Areas

SEC. 401. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end the following new paragraph:

"(7) There are authorized to be appropriated $50,000,000 for fiscal year 1994 and such sums as are necessary for fiscal years 1995 and 1996 to carry out part O of this title.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting "$250,000".

SEC. 402. RURAL CRIME AND DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Crime and Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial districts. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service;

(5) the Customs Service;

(6) the United States Marshals Service; and

(7) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 403. CROSS-DESIGNATION OF FEDERAL OFFICERS.

(a) IN GENERAL.—The Attorney General may cross-designate up to 100 law enforcement officers from each of the agencies specified under section 1502(b)(6) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands and title 18 of the United States Code to the extent necessary to effect the purposes of this Act.

(b) ADEQUATE STAFFING.—The Attorney General shall ensure that each of the task forces established in accordance with this title are adequately staffed with investigators and that additional investigators are provided when requested by the task force.

SEC. 404. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out subsection (a) $1,000,000 for each of fiscal years 1994, 1995 and 1996.

Subtitle B—Rural Drug Prevention and Treatment

SEC. 411. RURAL SUBSTANCE ABUSE TREATMENT AND EDUCATION GRANTS.

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 the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Director of the Office for Treatment Improvement (referred to in this section as the 'Director') shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Director at such time, in such manner, and containing such information as the Director shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) PREVENTION PROGRAMS.—

"(1) IN GENERAL.—Each entity receiving a grant under this section may use a portion of such grant funds to further community-based substance abuse prevention activities.

"(2) REGULATIONS.—The Director, in consultation with the Director of the Office of Substance Abuse Prevention, shall promulgate regulations regarding the activities described in paragraph (1).

"(e) SPECIAL CONSIDERATION.—In awarding grants under this section the Director shall give priority to—

"(1) 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;

"(2) 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

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(f) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Director may establish a procedure for renewal of grants under subsection (a).

"(g) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Director shall provide grants to fund at least one project in each State.

"(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there is authorized to be appropriated $25,000,000 for each of fiscal years 1994 and 1995.".

Subtitle C—Rural Areas Enhancement

SEC. 421. ASSET FORFEITURE.

The assets seized as a result of investigations initiated by a Rural Drug Enforcement Task Force shall be used primarily to enhance the operations of the task force and its participating State and local enforcement agencies.

SEC. 422. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) CRIMINAL CHARGES.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories, shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) CIVIL ACTIONS.—Federal prosecutors may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health related damages caused by the operators in their manufacture of illicit substances.

TITLE V—FIREARMS AND RELATED AMENDMENTS

SEC. 501. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 136, is amended by adding at the end the following new subsection:

"(j) Whoever, with the intent to engage in or to promote conduct that—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3) of this section),

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 502. PROHIBITION AGAINST THEFT OF FIREARMS OR EXPLOSIVES.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned not more than 10 years, fined in accordance with this title, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(j) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned not more than 10 years, fined in accordance with this title, or both.".

SEC. 503. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B) by striking "(a)(6),"; and

(2) in paragraph (2) by inserting "(a)(6)," after "subsection".

SEC. 504. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Any"; and

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

"(2) Notwithstanding paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer may destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within 60 days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 505. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein."; and

(2) in subsection (e)(1) by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

SEC. 506. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7)(C) by striking "and";

(2) in paragraph (8)(C) by striking the period and inserting "; and"; and

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

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.".

SEC. 507. PROHIBITION OF THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 402(a), is amended by adding at the end the following new subsection:

"(k) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 402(b), is amended by adding at the end the following new subsection:

"(k) Whoever steals any explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

SEC. 508. INCREASED PENALTY FOR INTERSTATE GUN TRAFFICKING.

Section 924 of title 18, United States Code, as amended by section 407(a), is amended by adding at the end the following new subsection:

"(l) Whoever, with the intent to engage in conduct that constitutes a violation of section 922(a)(1)(A), travels from any State or foreign country into any other State and acquires, or attempts to acquire, a firearm in such other State in furtherance of such purpose shall be imprisoned for not more than 10 years.".

SEC. 509. PROHIBITION OF TRANSACTIONS INVOLVING STOLEN FIREARMS WHICH HAVE MOVED IN INTERSTATE OR FOREIGN COMMERCE.

Section 922(j) of title 18, United States Code, is amended to read as follows:

"(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.".

SEC. 510. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 511. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel or rare or because of its association with some historical figure, period, or event, the Secretary may sell the firearm, after public notice, at public sale to a dealer licensed under chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, who shall destroy or provide for the destruction of such firearm; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 512. DEFINITION OF BURGLARY UNDER THE ARMED CAREER CRIMINAL STATUTE.

Section 924(e)(2) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

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

"(D) the term 'burglary' means a crime that—

"(i) consists of entering or remaining surreptitiously within a building that is the property of another person with intent to engage in conduct constituting a Federal or State offense; and

"(ii) is punishable by a term of imprisonment exceeding 1 year.".

TITLE VI—JUVENILES AND GANGS

SEC. 601. SHORT TITLE.

SHORT TITLE.—This title may be cited as the "Anti-Gang and Juvenile Offenders Act of 1993".

Subtitle A—Increased Penalties for Employing Children to Distribute Drugs Near Schools and Playgrounds

SEC. 611. STRENGTHENED FEDERAL PENALTIES.

Section 419 of the Controlled Substances Act (21 U.S.C. 860) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Notwithstanding any other law, any person at least 18 years of age who knowingly and intentionally—

"(1) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to violate this section; or

"(2) employs, hires, uses, persuades, induces, entices, or coerces a person under 18 years of age to assist in avoiding detection or apprehension for any offense under this section by any Federal, State, or local law enforcement official,

is punishable by a term of imprisonment, a fine, or both, up to triple those authorized by section 401.".

Subtitle B—Antigang Provisions

SEC. 621. GRANT PROGRAM.

Part B of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631 et seq.) is amended—

(1) by inserting after the part heading the following subpart heading:

"Subpart I—General Grant Programs";

and

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

"Subpart II—Juvenile Drug Trafficking and Gang Prevention Grants

"FORMULA GRANTS

"SEC. 231. (a) AUTHORIZATION.—The Administrator may make grants to States, units of general local government, private not-for-profit anticrime organizations, or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective programs including prevention and enforcement programs to reduce—

"(1) the formation or continuation of juvenile gangs; and

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

"(b) PARTICULAR PURPOSES.—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 reduce juvenile involvement in organized crime, drug and gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(3) To develop within the juvenile justice system, including the juvenile corrections system, innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(4) To reduce juvenile drug and gang-related activity in public housing projects.

"(5) To reduce and prevent juvenile drug and gang-related activity in rural areas.

"(6) To provide technical assistance and training to personnel and agencies responsible for the adjudicatory and corrections components of the juvenile justice system to—

"(A) identify drug-dependent or gang-involved juvenile offenders; and

"(B) provide appropriate counseling and treatment to such offenders.

"(7) To promote the involvement of all juveniles in lawful activities, including in-school and after-school programs for academic, athletic, or artistic enrichment that also teach that drug and gang involvement are wrong.

"(8) To facilitate Federal and State cooperation with local school officials to develop education, prevention, and treatment programs for juveniles who are likely to participate in drug trafficking, drug use, or gang-related activities.

"(9) To prevent juvenile drug and gang involvement in public housing projects through programs establishing youth sports and other activities, including girls' and boys' clubs, scout troops, and little leagues.

"(10) 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.

"(11) To provide education and treatment programs for juveniles exposed to severe violence in their homes, schools, or neighborhoods.

"(12) To establish sports mentoring and coaching programs in which athletes serve as role models for juveniles to teach that athletics provides a positive alternative to drug and gang involvement.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 232. There are authorized to be appropriated $100,000,000 for fiscal year 1994 and such sums as are necessary for fiscal year 1995 to carry out this subpart.

"ALLOCATION OF FUNDS

"SEC. 233. The amounts appropriated for this subpart for any fiscal year shall be allocated as follows:

"(1) $500,000 or 1.0 percent, whichever is greater, shall be allocated to each of the States.

"(2) Of the funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount that bears the same ratio to the amount of remaining funds described in this paragraph as the population of juveniles residing in the State bears to the population of juveniles residing in all the States.

"APPLICATION

"SEC. 234. (a) IN GENERAL.—Each State or entity applying for a grant under section 231 shall submit an application to the Administrator in such form and containing such information as the Administrator shall prescribe.

"(b) REGULATIONS.—To the extent practicable, the Administrator shall prescribe regulations governing applications for this subpart that are substantially similar to the regulations governing applications required under subpart I of this part and subpart II of part C, including the regulations relating to competition.".

SEC. 622. CONFORMING REPEALER AND AMENDMENTS.

(a) REPEAL OF PART D.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is repealed, and part E of title II of that Act is redesignated as part D.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 291 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "(1)" and by striking "(other than part D)"; and

(B) by striking paragraph (2); and

(2) in subsection (b) by striking "(other than part D)".

SEC. 623. CRIMINAL STREET GANGS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 25 the following new chapter:

"CHAPTER 26—CRIMINAL STREET GANGS

"Sec.

"521. Criminal street gangs.

"§ 521. Criminal street gangs

"(a) ENHANCED PENALTY.—A person who, under the circumstances described in subsection (c), commits an offense described in subsection (b), shall, in addition to any other sentence authorized by law, be sentenced to a term of imprisonment of not more than 10 years and may also be fined under this title. A sentence of imprisonment imposed under this subsection shall run consecutively to any other sentence that is imposed.

"(b) OFFENSES.—The offenses referred to in subsection (a) are—

"(1) a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

"(2) a Federal felony crime of violence;

"(3) a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.); and

"(4) a conspiracy to commit an offense described in paragraph (1), (2), or (3).

"(c) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

"(1) that the offense described in subsection (b) was committed by a member of, on behalf of, or in association with a criminal street gang; and

"(2) within 5 years prior to the date of the offense, the offender had been convicted of—

"(A) an offense described in subsection (b);

"(B) a State offense that—

"(i) involves a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)); or

"(ii) is a crime of violence for which the maximum penalty is more than 1 year's imprisonment;

"(C) a Federal or State offense that involves the theft or destruction of property for which the maximum penalty is more than 1 year's imprisonment; or

"(D) a conspiracy to commit an offense described in subparagraph (A), (B), or (C).

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'criminal street gang' means a group, club, organization, or association of 5 or more persons—

"(A) whose members engage, or have engaged within the past 5 years, in a continuing series of any of the offenses described in subsection (b); and

"(B) whose activities affect interstate or foreign commerce; and

"(2) the term 'conviction' includes a finding, under State or Federal law, that a person has committed an act of juvenile delinquency involving a violent felony or controlled substances felony.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 25 the following new item:

"26. Criminal street gangs ..... 521".

Subtitle C—Juvenile Penalties

SEC. 631. TREATMENT OF VIOLENT JUVENILES AS ADULTS.

(a) DESIGNATION OF UNDESIGNATED PARAGRAPHS.—Section 5032 of title 18, United States Code, is amended by designating the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth, and eleventh undesignated paragraphs as subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively.

(b) JURISDICTION OVER CERTAIN FIREARMS OFFENSES.—Section 5032(a) of title 18, United States Code, as designated by subsection (a), is amended by striking "922(p)" and inserting "924 (b), (g), or (h)".

(c) ADULT STATUS OF JUVENILES WHO COMMIT FIREARMS OFFENSES.—Section 5032(d) of title 18, United States Code, as designated by subsection (a), is amended to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), a juvenile who is alleged to have committed an act of juvenile delinquency and who is not surrendered to State authorities shall be proceeded against under this chapter unless the juvenile has requested in writing upon advice of counsel to be proceeded against as an adult.

"(2) With respect to a juvenile 15 years and older alleged to have committed an act after his or her 15th birthday which if committed by an adult would be a felony that is a crime of violence or an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959), or section 924 (b), (g), or (h) of this title, criminal prosecution on the basis of the alleged act may be begun by motion to transfer of the Attorney General in the appropriate district court of the United States, if such court finds, after hearing, that such a transfer would be in the interest of justice.

"(3) A juvenile who is alleged to have committed an act after his or her 16th birthday which if committed by an adult would be a felony offense that has as an element thereof the use, attempted use, or threatened use of physical force against the person of another, or that, by its very nature, involves a substantial risk that physical force against the person of another may be used in committing the offense, or would be an offense described in section 32, 81, 844 (d), (e), (f), (h), (i) or 2275 of this title, subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Con-

trolled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), and (3)), and who has previously been found guilty of an act which if committed by an adult would have been one of the offenses set forth in this subsection or an offense in violation of a State felony statute that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed, shall be transferred to the appropriate district court of the United States for criminal prosecution.".

SEC. 632. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

(a) ACT OF JUVENILE DELINQUENCY.—Section 924(e)(2)(A) of title 18, United States Code, as amended by section 422, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking "and" at the end of clause (iii) and inserting "or"; and

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

"(iv) any act of juvenile delinquency that, if it were committed by an adult, would be punishable under section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)); and".

(b) SERIOUS DRUG OFFENSE.—Section 924(e)(2)(C) of title 18, United States Code, is amended by adding "or serious drug offense" after "violent felony".

SEC. 633. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

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

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

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

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

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

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

"(6) community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

"SEC. 1602. STATE APPLICATIONS.

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

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

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

"(1) shall prepare the application required under section 1602; and

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

"SEC. 1603. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

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

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

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1601(b) for young offenders.

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

"SEC. 1604. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1602(b).

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

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

"(4) If an application under paragraph (1) is approved, the unit of local government is eligible to receive the funds requested.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

"SEC. 1605. ALLOCATION AND DISTRIBUTION OF FUNDS.

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

"(1) 1.0 percent shall be allocated to each of the participating States; and

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

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in the State for the purposes specified under section 1601 the portion of those funds that bears the same ratio to the aggregate amount of those funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in the State for criminal justice in the preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State for purposes specified under section 1601.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for the fiscal year will not be used by the State or that a State is not eligible to receive funds under section 1601, the Director shall award such funds to units of local government in the State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1602(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1606. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

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

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

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

"PART P—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1601. Grant authorization.

"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Allocation and distribution of funds.
"Sec. 1606. Evaluation.
"PART Q—TRANSITION; EFFECTIVE DATE; REPEALER
"Sec. 1701. Continuation of rules, authorities, and proceedings.".

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

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

(2) by striking the period at the end of paragraph (23) and inserting "; and"; and

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

"(24) The term 'young offender' means an individual 28 years of age or younger.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1401(e), is amended—

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

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

"(10) There is authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out projects under part P.".

Subtitle D—Other Provisions

SEC. 641. BINDOVER SYSTEM FOR CERTAIN VIOLENT JUVENILES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting "; and"; and

(3) by inserting after paragraph (21) the following new paragraph:

"(22) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-olds in courts with jurisdiction over adults for the crimes of—

"(A) murder in the first degree;

"(B) murder in the second degree;

"(C) attempted murder;

"(D) armed robbery when armed with a firearm;

"(E) aggravated battery or assault when armed with a firearm;

"(F) criminal sexual penetration when armed with a firearm; and

"(G) drive-by shootings as described in section 931 of title 18, United States Code.".

SEC. 642. GANG INVESTIGATION COORDINATION AND INFORMATION COLLECTION.

(a) COORDINATION.—The Attorney General (or the Attorney General's designee), in consultation with the Secretary of the Treasury (or the Secretary's designee), shall develop a national strategy to coordinate gang-related investigations by Federal law enforcement agencies.

(b) DATA COLLECTION.—The Director of the Federal Bureau of Investigation shall acquire and collect information on incidents of gang violence for inclusion in an annual uniform crime report.

(c) REPORT.—The Attorney General shall prepare a report on national gang violence outlining the strategy developed under subsection (a) to be submitted to the President and Congress by January 1, 1994.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1994 such sums as are necessary to carry out this section.

SEC. 643. CLARIFICATION OF REQUIREMENT THAT ANY PRIOR RECORD OF A JUVENILE BE PRODUCED BEFORE THE COMMENCEMENT OF JUVENILE PROCEEDINGS.

Section 5032(j) of title 18, United States Code, as designated by section 301(a), is amended by striking "Any proceedings against a juvenile under this chapter or as an adult shall not be commenced until" and inserting "A juvenile shall not be transferred to adult prosecution nor shall a hearing be held under section 5037 until".

TITLE VII—TERRORISM AND INTERNATIONAL MATTERS

SEC. 701. TERRORISM CIVIL REMEDY.

(a) REINSTATEMENT OF LAW.—The amendments made by section 132 of the Military Construction Appropriations Act, 1991 (104 Stat. 2250), are repealed effective as of April 10, 1991.

(b) TERRORISM.—Chapter 113A of title 18, United States Code, as amended by subsection (a), is amended—

(1) in section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 (as in effect prior to enactment of the Military Construction Appropriations Act, 1991) as section 2332 and amending the heading for section 2332, as redesignated, to read as follows:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332, as redesignated by paragraph (2), the following new section:

"§ 2331. Definitions

"In this chapter—

"'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.

"'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum.

"'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act.

"'person' means any individual or entity capable of holding a legal or beneficial interest in property."; and

(4) by inserting after section 2332, as redesignated by paragraph (2), the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902 (i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (k), (l), (n), and (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, any civil action under section 2333 against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy that is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 shall not be maintained unless commenced within 4 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or any concealment of the defendant's whereabouts, shall not be counted for the purposes of the period of limitation prescribed by subsection (a).

"§ 2336. Other limitations

"(a) ACTS OF WAR.—No action shall be maintained under section 2333 for injury or loss by reason of an act of war.

"(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to dis-

cover the investigative files of the Department of Justice, the attorney for the Government may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any objections raised by the Government in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure.

"(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§ 2337. Suits against Government officials

"No action shall be maintained under section 2333 against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within the officer's or employee's official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within the officer's or employee's official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter.".

(c) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 113A of title 18, United States Code is amended to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(2) The item relating to chapter 113A in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"113A. Terrorism ..... 2331".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

SEC. 702. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2339. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than 10 years, or both. For purposes of this section, material support or resources includes currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 113A of title 18, United States Code, as amended by section 601(b)(1), is amended by adding at the end the following new item:

"2339. Providing material support to terrorists.".

SEC. 703. FORFEITURE OF ASSETS USED TO SUPPORT TERRORISTS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) Any property, real or personal—

"(A) used or intended for use in committing or to facilitate the concealment or an escape from the commission of; or

"(B) constituting or derived from the gross profits or other proceeds obtained from,

a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339A of this title or section 902(i) of the Federal Aviation Act of 1958 (49 U.S.C. 1472(i)).".

SEC. 704. ALIEN WITNESS COOPERATION.

(a) AMENDMENT OF CHAPTER 224 OF TITLE 18.—Chapter 224 of title 18, United States Code, is amended—

(1) by redesignating section 3528 as section 3529; and

(2) by inserting after section 3527 the following new section:

"§ 3528. Aliens; waiver of admission requirements

"(a) IN GENERAL.—Upon authorizing protection to any alien under this chapter, the United States shall provide the alien with appropriate immigration visas and allow the alien to remain in the United States so long as that alien abides by all laws of the United States and guidelines, rules and regulations for protection. The Attorney General may determine that the granting of permanent resident status to such alien is in the public interest and necessary for the safety and protection of such alien without regard to the alien's admissibility under immigration or any other laws and regulations or the failure to comply with such laws and regulations pertaining to admissibility.

"(b) ALIEN WITH FELONY CONVICTIONS.—Notwithstanding any other provision of this chapter, an alien who would not be excluded because of felony convictions shall be considered for permanent residence on a conditional basis for a period of 2 years. Upon a showing that the alien is still being provided protection, or that protection remains available to the alien in accordance with this chapter, or that the alien is still cooperating with the Government and has maintained good moral character, the Attorney General shall remove the conditional basis of the status effective as of the second anniversary of the alien's obtaining the status of admission for permanent residence. Permanent resident status shall not be granted to an alien who would be excluded because of felony convictions unless the Attorney General determines, pursuant to regulations which shall be prescribed by the Attorney General, that granting permanent residence status to the alien is necessary in the interests of justice and comports with safety of the community.

"(c) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed 200 persons in any fiscal year. The decision to grant or deny permanent resident status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.

"(d) DEFINITIONS.—As used in this section, the terms 'alien' and 'United States' have the meanings stated in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 224 of title 18, United States Code, is amended by striking the item relating to section 3528 and inserting the following:

"3528. Aliens; waiver of admission requirements.
"3529. Definition.".

SEC. 705. TERRITORIAL SEA EXTENDING TO 12 MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 706. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code is amended—

(1) in subsection (a), by inserting after "title" the following: "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, territory, possession, or district"; and

(2) by inserting at the end the following new subsection:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, territory, possession, or district, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of the State, territory, possession, or district within which it would lie if the boundaries of the State, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 707. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code, is amended by inserting at the end the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

SEC. 708. PENALTIES FOR INTERNATIONAL TERRORIST ACTS.

Section 2332 of title 18, United States Code, as redesignated by section 601(a)(2), is amended—

(1) in subsection (a)—

(A) in paragraph (2) by striking "ten" and inserting "20"; and

(B) in paragraph (3) by striking "three" and inserting "10"; and

(2) in subsection (c) by striking "five" and inserting "10".

SEC. 709. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in each of the fiscal years 1994, 1995, and 1996, in addition to any other amounts specified in appropriations Acts, for counterterrorist operations and programs:

(1) for the Federal Bureau of Investigation, $25,000,000;

(2) for the Department of State, $10,000,000;

(3) for the United States Customs Service, $7,500,000;

(4) for the United States Secret Service, $2,500,000;

(5) for the Bureau of Alcohol, Tobacco, and Firearms, $2,500,000;

(6) for the Federal Aviation Administration, $2,500,000;

(7) for the United States Marshals Service, $2,500,000; and

(8) for grants to State and local law enforcement agencies, to be administered by the Office of Justice Programs in the Department of Justice, in consultation with the Federal Bureau of Investigation, $25,000,000.

SEC. 710. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) INTERNATIONAL ECONOMIC EMERGENCY POWERS ACT.—(1) Section 206(a) of the International Economic Emergency Powers Act (50 U.S.C. 1705(a)) is amended by striking "$10,000" and inserting "$1,000,000".

(2) Section 206(b) of the International Economic Emergency Powers Act (50 U.S.C. 1705(b)) is amended by striking "$50,000" and inserting "$1,000,000".

(b) SECTION 1541 OF TITLE 18.—Section 1541 of title 18, United States Code, is amended—

(1) by striking "$500" and inserting "$250,000"; and

(2) by striking "one year" and inserting "5 years".

(c) CHAPTER 75 OF TITLE 18.—Sections 1542, 1543, 1544, and 1546 of title 18, United States Code, are each amended—

(1) by striking "$2,000" each place it appears and inserting "$250,000"; and

(2) by striking "five years" each place it appears and inserting "10 years".

(d) SECTION 1545 OF TITLE 18.—Section 1545 of title 18, United States Code, is amended—

(1) by striking "$2,000" and inserting "$250,000"; and

(2) by striking "three years" and inserting "10 years".

SEC. 711. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission shall study and, if warranted, amend its sentencing guidelines to provide an increase in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

SEC. 712. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by inserting after section 3285 the following new section:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32, 36, 112, 351, 1116, 1203, 1361, 1751, 2280, 2281, 2332, 2339A, or 2340A of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1572 (i), (j), (k), (l), and (n)), unless the indictment is found or the information is instituted within 10 years next after such offense shall have been committed.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3285 the following new item:

"3286. Extension of statute of limitations for certain terrorism offenses.".

SEC. 713. INTERNATIONAL PARENTAL KIDNAPPING.

(a) IN GENERAL.—Chapter 55 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1204. International parental kidnapping

"(a) OFFENSE.—Whoever removes a child from the United States or retains a child (who has been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights shall be fined under this title, imprisoned not more than 3 years, or both.

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

"(1) the term 'child' means a person who has not attained the age of 16 years; and

"(2) the term 'parental rights', with respect to a child, means the right to physical custody of the child—

"(A) whether joint or sole (and includes visiting rights); and

"(B) whether arising by operation of law, court order, or legally binding agreement of the parties.

"(c) RULE OF CONSTRUCTION.—This section does not detract from The Hague Convention on the Civil Aspects of International Parental Child Abduction, done at The Hague on October 25, 1980.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 55 of title 18, United States Code, is amended by adding at the end the following new item:

"1204. International parental kidnapping.".

SEC. 714. FOREIGN MURDER OF UNITED STATES NATIONALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 141(a), is amended by adding at the end the following new section:

"§ 1120. Foreign murder of United States nationals

"(a) OFFENSE.—Whoever kills or attempts to kill a national of the United States while such national is outside the United States but within the jurisdiction of another country shall be punished as provided under sections 1111, 1112, and 1113.

"(b) APPROVAL OF PROSECUTION.—No prosecution may be instituted against any person under this section except upon the written approval of the Attorney General, the Deputy Attorney General, or an Assistant Attorney General, which function of approving prosecutions may not be delegated. No prosecution shall be approved if prosecution has been previously undertaken by a foreign country for the same act or omission.

"(c) CRITERIA FOR APPROVAL.—No prosecution shall be approved under this section unless the Attorney General, in consultation with the Secretary of State, determines that the act or omission took place in a country in which the person is no longer present, and the country lacks the ability to lawfully secure the person's return. A determination by the Attorney General under this subsection is not subject to judicial review.

"(d) ASSISTANCE FROM OTHER AGENCIES.—In the course of the enforcement of this section and notwithstanding any other law, the Attorney General may request assistance from any Federal, State, local, or foreign agency, including the Army, Navy, and Air Force.

"(e) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) TECHNICAL AMENDMENTS.—(1) Section 1117 of title 18, United States Code, is amended by striking "or 1116" and inserting "1116, or 1120".

(2) The chapter analysis for chapter 51 of title 18, United States Code, as amended by section 141(b), is amended by adding at the end the following new item:

"1120. Foreign murder of United States nationals.".

SEC. 715. EXTRADITION.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting "(a) IN GENERAL.—" before "The provisions of this chapter"; and

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

"(b) SURRENDER WITHOUT REGARD TO EXISTENCE OF EXTRADITION TREATY.—This chapter shall be construed to permit, in the exercise of comity, the surrender of persons who have committed crimes of violence against nationals of the United States in foreign countries without regard to the existence of any treaty of extradition with such foreign government if the Attorney General certifies in writing that—

"(1) evidence has been presented by the foreign government that indicates that, if the offenses had been committed in the United States, they would constitute crimes of violence (as defined under section 16); and

"(2) the offenses charged are not of a political nature.

"(c) DEFINITION.—As used in this section, the term 'national of the United States' has the meaning stated in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).".

(b) FUGITIVES.—Section 3184 of title 18, United States Code, is amended—

(1) in the first sentence by inserting after "United States and any foreign government," the following: "or in cases arising under section 3181(b),";

(2) in the first sentence by inserting after "treaty or convention," the following: "or provided for under section 3181(b),"; and

(3) in the third sentence by inserting after "treaty or convention," the following: "or under section 3181(b),".

SEC. 716. FBI ACCESS TO TELEPHONE SUBSCRIBER INFORMATION.

(a) REQUIRED CERTIFICATION.—Section 2709(b) of title 18, United States Code, is amended to read as follows:

"(b) REQUIRED CERTIFICATION.—

"(1) NAME, ADDRESS, AND LENGTH OF SERVICE ONLY.—The Director of the Federal Bureau of Investigation, or the Director's des-

ignee in a position not lower than Deputy Assistant Director, may request the name, address, and length of service of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of the provider, in communication with—

"(i) an individual who is engaging or has engaged in international terrorism (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States; or

"(ii) a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section) under circumstances giving reason to believe that the communication concerned international terrorism (as defined in that section) or clandestine intelligence activities that involve or may involve a violation of the criminal statutes of the United States.

"(2) NAME, ADDRESS, LENGTH OF SERVICE, AND TOLL BILLING RECORDS.—The Director of the Federal Bureau of Investigation, or the Director's designee in a position not lower than Deputy Assistant Director, may request the name, address, length of service, and toll billing records of a person or entity if the Director (or designee in a position not lower than Deputy Assistant Director) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the name, address, length of service, and toll billing records sought are relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801)) or an agent of a foreign power (as defined in that section).".

(b) REPORT TO JUDICIARY COMMITTEES.—Section 2709(e) of title 18, United States Code, is amended by adding after "Senate" the following: ", and the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate,".

TITLE VIII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS

Subtitle A—Sexual Violence and Child Abuse

SECTION 800. SHORT TITLE.

This subtitle may be cited as the "Sexual Assault Prevention Act of 1993".

CHAPTER 1—SEXUAL VIOLENCE

Subchapter A—Penalties and Remedies

SEC. 801. PRE-TRIAL DETENTION IN SEX OFFENSE CASES.

Section 3156(a)(4) of title 18, United States Code, is amended—

(1) by striking ", or" at the end of subparagraph (A) and inserting a semicolon;

(2) by striking the period at the end of subparagraph (B) and inserting "; or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) any felony under chapter 109A or chapter 110.".

SEC. 802. DEATH PENALTY FOR MURDERS COMMITTED BY SEX OFFENDERS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code is amended by adding at the end the following new section:

"§ 1118. Death penalty for murders committed by sex offenders

"(a) OFFENSE.—A person who—

"(1) causes the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life; or

"(2) causes the death of a person through the intentional infliction of serious bodily injury,

shall be punished as provided in subsection (c).

"(b) FEDERAL JURISDICTION.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the course of another offense against the United States.

"(c) PENALTY.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in this section, except that a sentence of death may not be imposed on a defendant who was below the age of 18 years at the time of the commission of the crime.

"(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"(2) DURESS.—The defendant was under unusual and substantial duress.

"(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 2) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f) of this section, including the following factors—

"(1) KILLING IN COURSE OF DESIGNATED SEX CRIMES.—The conduct resulting in death occurred in the course of an offense defined in chapter 109A, 110, or 117.

"(2) KILLING IN CONNECTION WITH SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant committed a crime of sexual assault or crime of child molestation in the course of an offense on which Federal jurisdiction is based under subsection (b).

"(3) PRIOR CONVICTION OF SEXUAL ASSAULT OR CHILD MOLESTATION.—The defendant has previously been convicted of a crime of sexual assault or crime of child molestation.

"(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the Government intends to seek the death penalty for an offense under this section, the attorney for the Government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time before trial as the court may permit for good cause. If the court permits a late filing of the notice upon a showing of good cause, the court shall ensure that the defendant has adequate time to prepare for trial. The notice shall set forth the aggravating factor or factors the Government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the judge. Upon motion of the defendant, with the approval of the attorney for the Government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to 'the jury' in this section, where applicable, shall be understood as referring to the judge.

"(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the Government or the defendant. The information presented may include trial transcripts and exhibits. Information presented by the Government in support of factors concerning the effect of the offense on the victim and the victim's family may include oral testimony, a victim impact statement that identifies the victim of the offense and the nature and extent of harm and loss suffered by the victim and the victim's family, and other relevant information. Information is admissible regardless of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and the attorney for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument, the defendant shall be permitted to reply, and the Government shall then be permitted to reply in rebuttal.

"(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the Government beyond a rea-

sonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that one or more aggravating factors set forth in this section exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, that is authorized by law.

"(m) REVIEW OF A SENTENCE OF DEATH.—The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated with an appeal of the judgment of conviction and shall have priority over all non-capital matters in the court of appeals. The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for and raised on appeal. In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was not supported by the evidence and information if at least one aggravating factor set forth in subsection (e) that was found to exist remains and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds no mitigating factor or finds that the remaining aggravating factor or factors which were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed, or in the manner prescribed by the law of another State designated by the court if the law of the State in which the sentence was imposed does not provide for implementation of a sentence of death. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no person providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in section 3005, and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, section 3006A shall apply to appointments under this section.

"(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make a determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable that counsel to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28 shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 2255 of title 28 attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28. The stay shall run continuously following imposition of the sentence and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28 within the time specified in subsection (u), or fails to make a

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timely application for court of appeals review following the denial of such a motion by a district court;

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 2255 of title 28.

"(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"(x) DEFINITIONS.—In this section—

"'child' means a person below the age of 14.

"'crime of child molestation' means a crime under Federal or State law that involved—

"(A) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(B) contact between the genitals or anus of the defendant and any part of the body of a child;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A) through (C).

"'crime of sexual assault' means a crime under Federal or State law that involved—

"(A) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(B) contact, without consent, between the genitals or anus of the defendant and any part of the body of another person;

"(C) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(D) an attempt or conspiracy to engage in any conduct described in paragraphs (A) through (C).".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 110A of title 18, United States Code, is amended by adding at the end the following new item:

"1118. Death penalty for murders committed by sex offenders.".

SEC. 803. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) PENALTIES FOR SUBSEQUENT OFFENSES.—Chapter 109A of title 18, United States Code, is amended—

(1) by redesignating section 2245 as section 2246; and

(2) by inserting after section 2244 the following new section:

"§ 2245. Penalties for subsequent offenses

"A person who violates this chapter, after a prior conviction under this chapter or the law of a State (as defined in section 513) for conduct proscribed by this chapter has become final, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, is amended—

(1) by striking "2245" and inserting "2246"; and

(2) by inserting after the item relating to section 2244 the following new item:

"2245. Penalties for subsequent offenses.".

SEC. 804. INCREASED PENALTIES FOR SEX OFFENSES AGAINST VICTIMS BELOW THE AGE OF 16.

Section 2245(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by striking "; and" at the end of subparagraph (C) and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 805. SENTENCING GUIDELINES INCREASE FOR SEX OFFENSES.

The United States Sentencing Commission shall study and, if necessary, amend the sentencing guidelines to increase by at least 4 levels the base offense level for an offense under section 2241 (relating to aggravated sexual abuse) or section 2242 (relating to sexual abuse) of title 18, United States Code, and shall consider whether any other changes are warranted in the guidelines provisions applicable to such offenses to ensure realization of the objectives of sentencing. In amending the guidelines in conformity with this section, the Sentencing Commission shall review the appropriateness and adequacy of existing offense characteristics and adjustments applicable to such offenses, taking into account the heinousness of sexual abuse offenses, the severity and duration of the harm caused to victims, and any other relevant factors.

SEC. 806. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL OFFENSE CASES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, as amended by section 803, is amended by inserting at the end the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person and that followup tests for the virus be performed 6 months and 12 months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within 24 hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed 6 months and 12 months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 109A of title 18, United States Code, as amended by section 803, is amended by adding at the end the following new item:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

SEC. 807. PAYMENT OF COST OF HIV TESTING FOR VICTIMS IN SEX OFFENSE CASES.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)(7)) is amended by inserting: ", the cost of up to two tests of the victim for the human immunodeficiency virus during the 12 months following the assault, and the cost of a counseling session by a medically trained professional on the accuracy of such tests and the risk of transmission of the human immunodeficiency virus to the victim as the result of the assault" before the period at the end.

SEC. 808. EXTENSION AND STRENGTHENING OF RESTITUTION.

Section 3663 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2) by inserting "or an offense under chapter 109A or chapter 110" after "an offense resulting in bodily injury to a victim";

(B) by striking "and" at the end of paragraph (3);

(C) by redesignating paragraph (4) as paragraph (5); and

(D) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecu-

tion of the offense or attendance at proceedings related to the offense; and''; and

(2) in subsection (d) by adding at the end: ''However, the court shall issue an order requiring restitution of the full amount of the victim's losses and expenses for which restitution is authorized under this section in imposing sentence for an offense under chapter 109A or chapter 110, unless the Government and the victim do not request such restitution.''.

SEC. 809. ENFORCEMENT OF RESTITUTION ORDERS THROUGH SUSPENSION OF FEDERAL BENEFITS.

Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

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

''(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

''(2) In this subsection—

''(A) 'Federal benefits'—

''(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or appropriated funds of the United States; and

''(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

''(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.''.

SEC. 810. CIVIL REMEDY FOR VICTIMS OF SEXUAL VIOLENCE.

(a) CAUSE OF ACTION.—A person who, in violation of the Constitution or laws of the United States, engages in sexual violence against another, shall be liable to the injured party in an action under this section. The relief available in such an action shall include compensatory and punitive damages and any appropriate equitable or declaratory relief.

(b) DEFINITION.—In this section, ''sexual violence'' means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison.

(c) ATTORNEY'S FEES.—Section 922 of the Revised Statutes (42 U.S.C. 1988) is amended—

(1) by striking ''or'' after ''Public Law 92–318''; and

(2) by inserting '', or section 111 of the Sexual Assault Prevention Act of 1993,'' after ''1964''.

Subchapter B—Rules of Evidence, Practice, and Procedure

SEC. 821. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEX OFFENSE CASES

The Federal Rules of Evidence are amended by adding after Rule 412 the following new rules:

''Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

''(a) EVIDENCE ADMISSIBLE.—In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

''(b) DISCLOSURE TO DEFENDANT.—In a case in which the government intends to offer evidence under this rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

''(c) EFFECT ON OTHER RULES.—This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

''(d) DEFINITION.—For purposes of this rule and rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

''(1) conduct proscribed by chapter 109A of title 18, United States Code;

''(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

''(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

''(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

''(5) an attempt or conspiracy to engage in conduct described in paragraph (1), (2), (3), or (4).

''Rule 414. Evidence of Similar Crimes in Child Molestation Cases

''(a) EVIDENCE ADMISSIBLE.—In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible and may be considered for its bearing on any matter to which it is relevant.

''(b) DISCLOSURE TO DEFENDANT.—In a case in which the government intends to offer evidence under this rule, the attorney for the government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

''(c) EFFECT ON OTHER RULES.—This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

''(d) DEFINITION.—For purposes of this rule and rule 414, 'child' means a person below the age of 14 years, and 'offense of child molestation' means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

''(1) conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

''(2) conduct proscribed by chapter 110 of title 18, United States Code;

''(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

''(4) contact between the genitals or anus of the defendant and any part of the body of a child;

''(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

''(6) an attempt or conspiracy to engage in conduct described in paragraph (1), (2), (3), (4), or (5).

''Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

''(a) EVIDENCE ADMISSIBLE.—In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in rule 413 and rule 414 of these rules.

''(b) DISCLOSURE TO OTHER PARTIES.—A party who intends to offer evidence under this rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least 15 days before the scheduled date of trial or at such later time as the court may allow for good cause.

''(c) EFFECT ON OTHER RULES.—This rule shall not be construed to limit the admission or consideration of evidence under any other rule.''.

SEC. 822. EXTENSION AND STRENGTHENING OF RAPE VICTIM SHIELD LAW.

(a) AMENDMENTS TO RAPE VICTIM SHIELD LAW.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in subdivisions (a) and (b) by striking ''criminal case'' and inserting ''criminal or civil case'';

(2) in subdivisions (a) and (b) by striking ''an offense under chapter 109A of title 18, United States Code,'' and inserting ''an offense or civil wrong involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison,'';

(3) in subdivision (a) by striking ''victim of such offense'' and inserting ''victim of such conduct'';

(4) in subdivision (c)—

(A) by striking in paragraph (1) ''the person accused of committing an offense under chapter 109A of title 18, United States Code'' and inserting ''the accused''; and

(B) by inserting at the end of paragraph (3): ''An order admitting evidence under this paragraph shall explain the reasoning leading to the finding of relevance, and the basis of the finding that the probative value of the evidence outweighs the danger of unfair prejudice notwithstanding the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased inferences.''; and

(5) in subdivision (d) by striking ''an offense under chapter 109A of title 18, United States Code'' and inserting ''the conduct proscribed by chapter 109A of title 18, United States Code,''.

(b) INTERLOCUTORY APPEAL.—Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

''An appeal by the United States before trial shall lie to a court of appeals from an order of a district court admitting evidence of an alleged victim's past sexual behavior in a criminal case in which the defendant is charged with an offense involving conduct proscribed by chapter 109A, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison.''.

SEC. 823. INADMISSIBILITY OF EVIDENCE TO SHOW PROVOCATION OR INVITATION BY VICTIM IN SEX OFFENSE CASES.

The Federal Rules of Evidence, as amended by section 821, are amended by adding after rule 415 the following new rule:

"Rule 416. Inadmissibility of Evidence to Show Invitation or Provocation by Victim in Sexual Abuse Cases

"In a criminal case in which a person is accused of an offense involving conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurred in the special maritime and territorial jurisdiction of the United States or in a Federal prison, evidence is not admissible to show that the alleged victim invited or provoked the commission of the offense. This rule does not limit the admission of evidence of consent by the alleged victim if the issue of consent is relevant to liability and the evidence is otherwise admissible under these rules.".

SEC. 824. RIGHT OF THE VICTIM TO FAIR TREATMENT IN LEGAL PROCEEDINGS.

Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United States shall review and make recommendations regarding the following Rules of Professional Conduct for Lawyers in Federal Practice:

"RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

"Rule 1. Scope
"Rule 2. Abuse of Victims and Others Prohibited
"Rule 3. Duty of Enquiry in Relation to Client
"Rule 4. Duty To Expedite Litigation
"Rule 5. Duty To Prevent Commission of Crime

"Rule 1. Scope

"(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before federal tribunals.

"(b) For purposes of these rules, 'federal tribunal' and 'tribunal' mean a court of the United States or an agency of the federal government that carries out adjudicatory or quasi-adjudicatory functions.

"Rule 2. Abuse of Victims and Others Prohibited

"(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

"(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

"(c) A lawyer shall not offer evidence that the lawyer knows to be false or attempt to discredit evidence that the lawyer knows to be true.

"Rule 3. Duty of Enquiry in Relation to Client

"A lawyer shall attempt to elicit from the client a truthful account of the material facts concerning the matters in issue. In representing a client charged with a crime or civil wrong, the duty of enquiry under this rule includes—

"(1) attempting to elicit from the client a materially complete account of the alleged criminal activity or civil wrong if the client acknowledges involvement in the alleged activity or wrong; and

"(2) attempting to elicit from the client the material facts relevant to a defense of alibi if the client denies such involvement.

"Rule 4. Duty To Expedite Litigation

"(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

"(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

"(1) evidence will become unavailable;

"(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

"(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

"Rule 5. Duty To Prevent Commission of Crime

"(a) A lawyer may disclose information relating to the representation of a client to the extent necessary to prevent the commission of a crime or other unlawful act.

"(b) A lawyer shall disclose information relating to the representation of a client where disclosure is required by law. A lawyer shall also disclose such information to the extent necessary to prevent—

"(1) the commission of a crime involving the use or threatened use of force against another, or a substantial risk of death or serious bodily injury to another; or

"(2) the commission of a crime of sexual assault or child molestation.

"(c) For purposes of this rule, 'crime' means a crime under the law of the United States or the law of a State, and 'unlawful act' means an act in violation of the law of the United States or the law of a State.".

SEC. 825. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1) by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before ", or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code; and

"(2) 'victim' means an individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian if the victim is below the age of 18 years or incompetent; or

"(B) one or more family members or relatives designated by the court if the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present.".

SEC. 826. VICTIM'S RIGHT OF PRIVACY.

(a) FINDINGS.—The Congress finds that—

(1) the crime of rape is underreported to law enforcement authorities because of its traumatic effect on victims and the stigmatizing nature of the crime;

(2) rape victims may be further victimized by involuntary public disclosure of their identities;

(3) rape victims should be encouraged to come forward and report the crime without fear of being revictimized through involuntary public disclosure of their identities; and

(4) any interest of the public in knowing the identity of a rape victim notwithstanding the victim's wishes to the contrary is outweighed by the interest of protecting the privacy of rape victims and encouraging rape victims to report the crime and assist in prosecution.

(b) SENSE OF CONGRESS.—It is the sense of Congress that news media, law enforcement personnel, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

Subchapter C—Safe Campuses

SEC. 831. NATIONAL BASELINE STUDY ON CAMPUS SEXUAL ASSAULT.

(a) STUDY.—The Attorney General shall provide for a national baseline study to examine the scope of the problem of campus sexual assaults and the effectiveness of institutional and legal policies in addressing such crimes and protecting victims. The Attorney General may utilize the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime in carrying out this section.

(b) REPORT.—Based on the study required by subsection (a), the Attorney General shall prepare a report including an analysis of—

(1) the number of reported allegations and estimated number of unreported allegations of campus sexual assaults, and to whom the allegations are reported (including authorities of the educational institution, sexual assault victim service entities, and local criminal authorities);

(2) the number of campus sexual assault allegations reported to authorities of educational institutions which are reported to criminal authorities;

(3) the number of campus sexual assault allegations that result in criminal prosecution in comparison with the number of non-campus sexual assault allegations that result in criminal prosecution;

(4) Federal and State laws or regulations pertaining specifically to campus sexual assaults;

(5) the adequacy of policies and practices of educational institutions in addressing campus sexual assaults and protecting victims, including consideration of—

(A) the security measures in effect at educational institutions, such as utilization of campus police and security guards, control over access to grounds and buildings, supervision of student activities and student living arrangements, control over the consumption of alcohol by students, lighting, and the availability of escort services;

(B) the articulation and communication to students of the institution's policies concerning sexual assaults;

(C) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local criminal authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

(D) the nature and availability of victim services for victims of campus sexual assaults;

(E) the ability of educational institutions' disciplinary processes to address allegations of sexual assault adequately and fairly;

(F) measures that are taken to ensure that victims are free of unwanted contact with al-

leged assailants, and disciplinary sanctions that are imposed when a sexual assault is determined to have occurred; and

(G) the grounds on which educational institutions are subject to lawsuits based on campus sexual assaults, the resolution of these cases, and measures that can be taken to avoid the likelihood of lawsuits and civil liability;

(6) an assessment of the policies and practices of educational institutions that are of greatest effectiveness in addressing campus sexual assaults and protecting victims, including policies and practices relating to the particular issues described in paragraph (5); and

(7) any recommendations the Attorney General may have for reforms to address campus sexual assaults and protect victims more effectively, and any other matters that the Attorney General deems relevant to the subject of the study and report required by this section.

(c) SUBMISSION OF REPORT.—The report required by subsection (b) shall be submitted to the Congress no later than September 1, 1995.

(d) DEFINITION.—For purposes of this section, "campus sexual assaults" includes sexual assaults occurring at institutions of postsecondary education and sexual assaults committed against or by students or employees of such institutions.

(e) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated $200,000 to carry out the study required by this section.

Subchapter D—Assistance to States and Localities

SEC. 841. SEXUAL VIOLENCE GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish sexual violence, and to assist and protect the victims of sexual violence.

(b) AUTHORIZATION OF GRANTS.—The Attorney General, through the Bureau of Justice Assistance, the Office for Victims of Crime, and the Bureau of Justice Statistics, may make grants to support projects and programs relating to sexual violence, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of sexual violence;

(2) law enforcement and prosecutorial units and teams that target sexual violence;

(3) victim services programs for victims of sexual violence;

(4) educational and informational programs relating to sexual violence;

(5) improved systems for collecting, keeping, and disseminating records and data concerning sexual violence and offenders who engage in sexual violence;

(6) background check systems that enable employers to determine whether employees and applicants for employment have criminal histories involving sexual violence, in relation to employment positions for which a person may be unsuitable on the basis of such a history, such as child care positions and positions involving access to people's homes;

(7) registration systems which require persons convicted of sexual violence to keep law enforcement authorities informed of their addresses or locations;

(8) security measures in parks, public transportation systems, public buildings and facilities, and other public places which reduce the risk that acts of sexual violence will occur in such places;

(9) programs addressing campus sexual assaults (as defined in section 831);

(10) programs assisting runaway and homeless children who have been subjected to or at risk of sexual violence or sexual exploitation;

(11) training programs for judges and court personnel in relation to cases involving sexual violence; and

(12) treatment programs in a correctional setting for offenders who engage in sexual violence, which may include aftercare components, and which shall include an evaluation component to determine the effectiveness of the treatment in reducing recidivism.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 1 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Attorney General a plan for addressing sexual violence in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application shall include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project of program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of 4 years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(4) PAYMENT OF COST OF FORENSIC MEDICAL EXAMINATIONS.—It is a condition of eligibility for grants under subsection (c) that a State pay the cost of forensic medical examinations for victims of sexual violence.

(5) POLICIES AGAINST CAMPUS SEXUAL ASSAULTS.—For an institution of postsecondary education seeking a grant under subsection (d), it is a condition of eligibility that the institution articulate and communicate to its students a clear policy that sexual violence will not be tolerated by the institution.

(g) EVALUATION.—The National Institute of Justice shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the National Institute of Justice.

(h) COORDINATION.—The Attorney General may utilize the Office of Justice Programs to coordinate the administration of grants under this section. The coordination of grants under this section shall include prescribing consistent program requirements for grantees, allocating functions and the administration of particular grants among the components that participate in the administration of the program under this section, coordinating the program under this section with the Domestic Violence and Family Support Grant Program established by section 857, and coordinating the program under this section with other grant programs administered by components of the Department of Justice.

(i) DEFINITION.—In this section, "sexual violence" includes nonconsensual sex offenses and sex offenses involving victims who are not able to give legally effective consent because of age or incompetency.

(j) REPORT.—The Attorney General shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

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

(1) $250,000,000 for each of fiscal years 1994, 1995, and 1996; and

(2) such sums as are necessary for each fiscal year thereafter.

SEC. 842. SUPPLEMENTARY GRANTS FOR STATES ADOPTING EFFECTIVE LAWS RELATING TO SEXUAL VIOLENCE.

(a) SUPPLEMENTARY GRANTS.—The Attorney General may, in each fiscal year, authorize the award to a State of an aggregate amount of up to $1,000,000 under the Sexual Violence Grant Program established by section 141, in addition to any funds that are otherwise authorized under that program. The authority to award additional funding under this section is conditional on certification by the Attorney General that the State has laws relating to sexual violence that exceed or are reasonably comparable to the provisions of Federal law (including changes in Federal law made by this Act) in the following areas:

(1) Authorization of pre-trial detention of defendants in sexual assault cases where prevention of flight or the safety of others cannot be reasonably assured by other means, and denial of release pending appeal for persons convicted of sexual assault offenses who have been sentenced to imprisonment.

(2) Authorization of severe penalties for sexual assault offenses.

(3) Pre-trial testing for the human immunodeficiency virus of persons charged with sexual assault offenses, with disclosure of test results to the victim.

(4) Payment of the cost of medical examinations and the cost of testing for the human immunodeficiency virus for victims of sexual assaults.

(5) According the victim of a sexual assault the right to be present at judicial proceedings in the case.

(6) Protection of victims from inquiry into unrelated sexual behavior in sexual assault cases.

(7) Rules of professional conduct for lawyers that protect victims from unwarranted cross-examination and impeachment, dila-

tory tactics, and other abuses in sexual assault cases.

(8) Authorization of admission and consideration in sexual assault cases of evidence that the defendant has committed sexual assaults on other occasions.

(9) Authorization of the victim in sexual assault cases to address the court concerning the sentence to be imposed.

(10) Authorization of the award of restitution to victims of sexual assaults as part of a criminal sentence.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out this section.

CHAPTER 2—DOMESTIC VIOLENCE AND OFFENSES AGAINST THE FAMILY

SEC. 851. NONCOMPLIANCE WITH CHILD SUPPORT OBLIGATIONS IN INTERSTATE CASES.

(a) OFFENSE.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—NONCOMPLIANCE WITH CHILD SUPPORT OBLIGATIONS

"Sec.
"2261. Noncompliance with child support obligations.

"§ 2261. Noncompliance with child support obligations.

"(a) DEFINITIONS.—In this section—

"'child support obligation' means an amount determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support of a child or of a child and the parent with whom the child is living.

"'major child support obligation' means a child support obligation that has remained unpaid for a period exceeding one year, or that is greater than $5,000.

"'past due support obligation' means a child support obligation that is unpaid at the time of sentencing for an offense under this section.

"'State' has the meaning stated in section 513(c)(5).

"(b) OFFENSE.—A person who—

"(1) leaves or remains outside a State with intent to avoid payment of a child support obligation; or

"(2) fails to pay a major child support obligation with respect to a child who resides in another State, despite having the financial resources to pay the obligation or the ability to acquire such resources through reasonable diligence,

shall be punished as provided in subsection (d).

"(c) PRESUMPTION.—In relation to an offense charged under subsection (b)(1), the absence of the defendant from the State for an aggregate period of 6 months without payment of the child support obligation shall create a rebuttable presumption that the intent existed to avoid payment of the obligation.

"(d) PENALTY.—A person convicted of an offense under this section shall be punished by imprisonment for up to 6 months, and on a second or subsequent conviction, by imprisonment for up to 2 years.

"(e) RESTITUTION.—In addition to any restitution that may be ordered pursuant to section 3663, a sentence for an offense under this section shall include an order of restitution in an amount equal to the past due support obligation as it exists at the time of sentencing. Subsections (e) through (i) of section 3663 apply to an order of restitution pursuant to this subsection.".

(b) TECHNICAL AMENDMENT.—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"2261. Noncompliance with child support obligations.".

(c) CONDITION OF PROBATION AND SUPERVISED RELEASE.—Section 3563(b)(1) of title 18, United States Code, is amended by inserting before the semicolon ", including compliance with any court order or administrative order under the law of a State (as defined in section 513(c)(5)) requiring payments for the support of a child or of a child and the parent with whom the child is living".

SEC. 852. FULL FAITH AND CREDIT FOR PROTECTIVE ORDERS.

(a) REQUIREMENT OF FULL FAITH AND CREDIT.—Chapter 110A of title 18, United States Code, as added by section 851, is amended by adding at the end the following new section:

"§ 2262. Full faith and credit for protective orders

"(a) DEFINITIONS.—In this section—

"'protective order' means an order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

"'State' has the meaning stated in section 513(c)(5).

"(b) FULL FAITH AND CREDIT.—A protective order issued by a court of a State shall have the same full faith and credit in a court in another State that it would have in a court of the State in which issued, and shall be enforced by the courts of any State as if it were issued in that State.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 110A of title 18, United States Code, as added by section 201, is amended by adding at the end the following new item:

"2262. Full faith and credit for protective orders.".

SEC. 853. PRESUMPTION AGAINST CHILD CUSTODY FOR SPOUSE ABUSERS.

(a) FINDINGS.—The Congress finds that—

(1) courts fail to recognize the detrimental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as they do not hear or weigh evidence of domestic violence in child custody litigation;

(2) joint custody forced upon hostile parents can create a damaging psychological environment for a child;

(3) physical abuse of a spouse is relevant to the likelihood of child abuse in child custody disputes;

(4) the effects on children of physical abuse of a spouse include—

(A) traumatization and psychological damage to children resulting from observation of the abuse and the climate of violence and fear existing in a home where abuse takes place;

(B) the risk that children may become targets of physical abuse when they attempt to intervene on behalf of an abused parent; and

(C) the negative effects on children of exposure to an inappropriate role model, in that witnessing an aggressive parent may communicate to children that violence is an acceptable means of dealing with others; and

(5) the harm to children from spouse abuse may be compounded by award of exclusive or joint custody to an abuser because further abuse may occur when the abused spouse is forced to have contact with the abuser as a result of the custody arrangement, and because the child or children may be exposed to abuse committed by the abuser against a subsequent spouse or partner.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that, for purposes of determining child custody, evidence establishing that a parent engages in physical abuse of a spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.

SEC. 854. REPORT ON BATTERED WOMEN'S SYNDROME.

(a) REPORT.—The Attorney General shall prepare and transmit to the Congress a report on the status of battered women's syndrome as a medical and psychological condition and on its effect in criminal trials. The Attorney General may utilize the National Institute of Justice to obtain information required for the preparation of the report.

(b) COMPONENTS OF REPORT.—The report described in subsection (a) shall include—

(1) a review of medical and psychological views concerning the existence, nature, and effects of battered women's syndrome as a psychological condition;

(2) a compilation of judicial decisions that have admitted or excluded evidence of battered women's syndrome as evidence of guilt or as a defense in criminal trials; and

(3) information on the views of judges, prosecutors, and defense attorneys concerning the effects that evidence of battered women's syndrome may have in criminal trials.

SEC. 855. REPORT ON CONFIDENTIALITY OF ADDRESSES FOR VICTIMS OF DOMESTIC VIOLENCE.

(a) REPORT.—The Attorney General shall conduct a study of the means by which abusive spouses may obtain information concerning the addresses or locations of estranged or former spouses, notwithstanding the desire of the victims to have such information withheld to avoid further exposure to abuse. Based on the study, the Attorney General shall transmit a report to Congress including—

(1) the findings of the study concerning the means by which information concerning the addresses or locations of abused spouses may be obtained by abusers; and

(2) analysis of the feasibility of creating effective means of protecting the confidentiality of information concerning the addresses and locations of abused spouses to protect such persons from exposure to further abuse while preserving access to such information for legitimate purposes.

(b) USE OF COMPONENTS.—The Attorney General may use the National Institute of Justice and the Office for Victims of Crime in carrying out this section.

SEC. 856. REPORT ON RECORDKEEPING RELATING TO DOMESTIC VIOLENCE.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 857. DOMESTIC VIOLENCE AND FAMILY SUPPORT GRANT PROGRAM.

(a) PURPOSE.—The purpose of this section is to strengthen and improve State and local efforts to prevent and punish domestic violence and other criminal and unlawful acts that particularly affect women, and to assist and protect the victims of such crimes and acts.

(b) AUTHORIZATION OF GRANTS.—The Attorney General, through the Bureau of Justice Assistance, the Office for Victims of Crime, and the Bureau of Justice Statistics, may make grants to support projects and programs relating to domestic violence and other criminal and unlawful acts that particularly affect women, including support of—

(1) training and policy development programs for law enforcement officers and prosecutors concerning the investigation and prosecution of domestic violence;

(2) law enforcement and prosecutorial units and teams that target domestic violence;

(3) model, innovative, and demonstration law enforcement programs relating to domestic violence that involve pro-arrest and aggressive prosecution policies;

(4) model, innovative, and demonstration programs for the effective utilization and enforcement of protective orders;

(5) programs addressing stalking and persistent menacing;

(6) victim services programs for victims of domestic violence;

(7) shelters that provide services for victims of domestic violence and related programs;

(8) educational and informational programs relating to domestic violence;

(9) resource centers providing information, technical assistance, and training to domestic violence service providers, agencies, and programs;

(10) coalitions of domestic violence service providers, agencies, and programs;

(11) training programs for judges and court personnel in relation to cases involving domestic violence; and

(12) enforcement of child support obligations, including cooperative efforts and arrangements of States to improve enforcement in cases involving interstate elements.

(c) FORMULA GRANTS.—Of the amount appropriated in each fiscal year for grants under this section, other than the amount set aside to carry out subsection (d)—

(1) 1 percent shall be set aside for each participating State; and

(2) the remainder shall be allocated to the participating States in proportion to their populations;

for the use of State and local governments in the States.

(d) DISCRETIONARY GRANTS.—Of the amount appropriated in each fiscal year, 20 percent shall be set aside in a discretionary fund to provide grants to public and private agencies to further the purposes and objectives set forth in subsections (a) and (b).

(e) APPLICATION FOR FORMULA GRANTS.—To request a grant under subsection (c), the chief executive officer of a State must, in each fiscal year, submit to the Attorney General a plan for addressing domestic violence and other criminal and unlawful acts that particularly affect women in the State, including a specification of the uses to which funds provided under subsection (c) will be put in carrying out the plan. The application must include—

(1) certification that the Federal funding provided will be used to supplement and not supplant State and local funds;

(2) certification that any requirement of State law for review by the State legislature or a designated body, and any requirement of State law for public notice and comment concerning the proposed plan, have been satisfied; and

(3) provisions for fiscal control, management, recordkeeping, and submission of reports in relation to funds provided under this section that are consistent with requirements prescribed for the program.

(f) CONDITIONS ON GRANTS.—

(1) MATCHING FUNDS.—Grants under subsection (c) may be for up to 50 percent of the overall cost of a project or program funded. Discretionary grants under subsection (d) may be for up to 100 percent of the overall cost of a project or program funded.

(2) DURATION OF GRANTS.—Grants under subsection (c) may be provided in relation to a particular project or program for up to an aggregate maximum period of four years.

(3) LIMIT ON ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant under subsection (c) may be used for costs incurred to administer the grant.

(g) EVALUATION.—The National Institute of Justice shall have the authority to carry out evaluations of programs funded under this section. The recipient of any grant under this section may be required to include an evaluation component to determine the effectiveness of the project or program funded that is consistent with guidelines issued by the National Institute of Justice.

(h) COORDINATION.—The Attorney General may utilize the Office of Justice Programs to coordinate the administration of grants under this section. The coordination of grants under this section shall include prescribing consistent program requirements for grantees, allocating functions and the administration of particular grants among the components that participate in the administration of the program under this section, coordinating the program under this section with the Sexual Violence Grant Program established by section 841, and coordinating the program under this section with other grant programs administered by components of the Department of Justice.

(i) DEFINITION.—In this section, "domestic violence" includes any act of criminal violence in which the offender and the victim are members of the same household or relatives, or in which the offender and the victim are present or former spouses or cohabitors or have a child in common.

(j) REPORT.—The Attorney General shall submit an annual report to Congress concerning the operation and effectiveness of the program under this section.

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

(1) $250,000,000 for each of fiscal years 1994, 1995, and 1996; and

(2) such sums as are necessary for each fiscal year thereafter.

CHAPTER 3—NATIONAL TASK FORCE ON VIOLENCE AGAINST WOMEN

SEC. 861. ESTABLISHMENT.

Not later than 30 days after the date of enactment of this Act, the Attorney General shall establish a task force to be known as the National Task Force on Violence Against Women (referred to in this title as the "task force").

SEC. 862. DUTIES OF TASK FORCE.

(a) GENERAL PURPOSE OF TASK FORCE.—The task force shall recommend Federal, State, and local strategies aimed at protecting women against violent crime, punishing persons who commit such crimes, and enhancing the rights of victims of such crimes.

(b) DUTIES OF TASK FORCE.—The task force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the task force, including—

(1) considering the reports and recommendations of past Federal and State studies of violent crime, family violence, and the treatment of crime victims, including the Report of the Attorney General to the President on Combating Violent Crime (1992), the Report of the Attorney General's Task Force on Family Violence (1984), the Report of the President's Task Force on Victims of Crime (1982), and the reports and recommendations of the task forces and commissions established by the States of Alabama, Alaska, Arkansas, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, Rhode Island, Virginia, Texas, and Wyoming;

(2) developing strategies for Federal, State, and local law enforcement designed to protect women against violent crime, and to prosecute and punish those responsible for such crime;

(3) evaluating the adequacy of rules of evidence, practice, and procedure to ensure the effective prosecution and conviction of violent offenders against women and to protect victims from abuse in legal proceedings, and making recommendations for the improvement of the rules;

(4) evaluating the adequacy of pre-trial release, sentencing, incarceration, and post-conviction release in relation to violent offenders against women, and making recommendations designed to ensure that such offenders are restrained from causing further harm to the victim and others and receive appropriate punishment, including means of ensuring that the efficacy of criminal sanctions will not be undermined by parole or other early release mechanisms;

(5) assessing the issuance, formulation, and enforcement of protective orders, whether or not related to a criminal proceeding, and making recommendations for the effective use of such orders to protect women from violence;

(6) assessing the problem of stalking and persistent menacing of women, and recommending effective means of response to the problem; and

(7) generally evaluating the treatment of women as victims of violent crime in the criminal justice system, and making recommendations designed to improve such treatment.

SEC. 863. MEMBERSHIP.

(a) IN GENERAL.—The task force shall consist of up to 10 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this Act. The Attorney General shall ensure that the task force includes representatives of State and local law enforcement, the State and local judiciary, and groups dedicated to protecting the rights of victims.

(b) CHAIRMAN.—The Attorney General or the Attorney General's designee shall serve as chairman of the task force.

SEC. 864. PAY.

(a) NO ADDITIONAL COMPENSATION.—Members of the task force who are officers or employees of a governmental agency shall receive no additional compensation by reason of their service on the task force.

(b) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the task force, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

SEC. 865. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The task force shall have an Executive Director who shall be appointed by the Attorney General not later

than 30 days after the task force is fully constituted under section 303.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS–15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the task force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the task force.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the task force appointed under subsection (b) may be appointed without regard to title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the task force, the Executive Director may procure temporary intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 866. POWERS OF TASK FORCE.

(a) HEARINGS.—For the purpose of carrying out this title, the task force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the task force considers appropriate. A member of the task force may administer oaths to persons appearing before the task force.

(b) DELEGATION.—Any member or employee of the task force may, if authorized by the task force, take any action that the task force is authorized to take under this title.

(c) ACCESS TO INFORMATION.—The task force may secure directly from any executive department or agency such information as may be necessary to enable the task force to carry out this title, to the extent access to such information is permitted by law. On request of the Attorney General, the head of such a department or agency shall furnish such permitted information to the task force.

(d) MAIL.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 867. REPORT.

Not later than 1 year after the date on which the task force is fully constituted under section 303, the Attorney General shall submit a detailed report to the Congress on the findings and recommendations of the task force.

SEC. 868. AUTHORIZATION OF APPROPRIATION.

There is authorized to be appropriated to carry out this title $500,000 for fiscal year 1994.

SEC. 869. TERMINATION.

The task force shall cease to exist 30 days after the date on which the Attorney General's report is submitted under section 307. The Attorney General may extend the life of the task force for a period of not to exceed one year.

Subtitle B—Victims' Rights

SEC. 871. RESTITUTION AMENDMENTS.

Section 3663(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (4) the following new paragraph:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Section 3663 of title 18, United States Code, is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

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

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments or any requirement of immediate payment imposed under this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) In this subsection—

"(A) 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

"(B) 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 872. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

SEC. 873. MANDATORY RESTITUTION AND OTHER PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "may order" and inserting "shall order"; and

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

"(4) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (h), and (i), as redesignated by section 871(b)(1);

(6) by redesignating subsection (g), as added by section 871(b)(2), as subsection (d); and

(7) by adding at the end the following new subsections:

"(e)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(f) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(g) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(h)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(i) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to an entity designated by the Director of the Administrative Office of the

United States Courts for accounting and payment by the entity in accordance with this subsection;

"(2) the entity designated by the Director of the Administrative Office of the United States Courts shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the entity designated by the Director of the Administrative Office of the United States Courts of any change in the offender's address during the term of the restitution order.

"(j) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(k) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(l) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive restitution, in the same manner as a judgment in a civil action.

"(m) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

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

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

Subtitle C—National Child Protection Act

SEC. 881. SHORT TITLE.

This subtitle may be cited as the "National Child Protection Act of 1993".

SEC. 882. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) more than 2,500,000 reports of suspected child abuse and neglect are made each year, and increases have occurred in recent years in the abuse of children by persons who have previously committed crimes of child abuse or other serious crimes;

(2) although the great majority of child care providers are caring and dedicated professionals, child abusers and others who harm or prey on children frequently seek employment in or volunteer for positions that give them access to children;

(3) nearly 6,000,000 children received day care in 1990, and this total is growing rapidly to an estimated 8,000,000 children by 1995;

(4) exposure to child abusers and others who harm or prey on children is harmful to the physical and emotional well-being of children;

(5) there is no reliable, centralized national source through which child care organizations may obtain the benefit of a nationwide criminal background check on persons who provide or seek to provide child care;

(6) some States maintain automated criminal background files and provide criminal history information to child care organizations on persons who provide or seek to provide child care; and

(7) because State and national criminal justice databases are inadequate to permit effective national background checks, persons convicted of crimes of child abuse or other serious crimes may gain employment at a child care organization.

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

(1) to establish a national system through which child care organizations may obtain the benefit of a nationwide criminal background check to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(2) to establish minimum criteria for State laws and procedures that permit child care organizations to obtain the benefit of nationwide criminal background checks to determine if persons who are current or prospective child care providers have committed child abuse crimes or other serious crimes;

(3) to provide procedural rights for persons who are subject to nationwide criminal background checks, including procedures to challenge and correct inaccurate background check information;

(4) to establish a national system for the reporting by the States of child abuse crime information; and

(5) to document and study the problem of child abuse by providing statistical and informational data on child abuse and related crimes to the Department of Justice and other interested parties.

SEC. 883. DEFINITIONS.

In this subtitle—

"authorized agency" means a division or office of a State designated by a State to report, receive, or disseminate information under this subtitle.

"background check crime" means a child abuse crime, murder, manslaughter, aggravated assault, kidnapping, arson, sexual assault, domestic violence, incest, indecent exposure, prostitution, promotion of prostitution, and a felony offense involving the use or distribution of a controlled substance.

"child" means a person who is a child for purposes of the criminal child abuse law of a State.

"child abuse" means the physical or mental injury, sexual abuse or exploitation, neglectful treatment, negligent treatment, or maltreatment of a child by any person in violation of the criminal child abuse laws of a State, but does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

"child abuse crime" means a crime committed under any law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person.

"child abuse crime information" means the following facts concerning a person who is under indictment for, or has been convicted of, a child abuse crime: full name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, legal residence address, a brief description of the child abuse crime or offenses for which the person is under indictment or has been convicted, and any other information that the Attorney General determines may be useful in identifying persons under indictment for, or convicted of, a child abuse crime.

"child care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children.

"domestic violence" means a felony or misdemeanor involving the use or threatened use of force by—

(A) a present or former spouse of the victim;

(B) a person with whom the victim shares a child in common;

(C) a person who is cohabiting with or has cohabited with the victim as a spouse; or

(D) any person defined as a spouse of the victim under the domestic or family violence laws of a State.

"exploitation" means child pornography and child prostitution.

"mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors or by a change in behavior, emotional response, or cognition.

"national criminal background check system" means the system of information and identification relating to convicted and accused child abuse offenders that is maintained by the Attorney General under this subtitle.

"negligent treatment" means the failure to provide, for a reason other than poverty, adequate food, clothing, shelter, or medical

care so as to seriously endanger the physical health of a child.

"physical injury" includes lacerations, fractured bones, burns, internal injuries, severe bruising, and serious bodily harm.

"provider" means

(A) a person who—

(i) is employed by or volunteers with a qualified entity;

(ii) who owns or operates a qualified entity; or

(iii) who has or may have unsupervised access to a child to whom the qualified entity provides child care; and

(B) a person who—

(i) seeks to be employed by or volunteer with a qualified entity;

(ii) seeks to own or operate a qualified entity; or

(iii) seeks to have or may have unsupervised access to a child to whom the qualified entity provides child care.

"qualified entity" means a business or organization, whether public, private, for-profit, not-for-profit, or voluntary, that provides child care or child care placement services, including a business or organization that licenses or certifies others to provide child care or child care placement services.

"sex crime" means an act of sexual abuse that is a criminal act.

"sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children or incest with children.

"State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific.

SEC. 884. REPORTING BY THE STATES.

(a) IN GENERAL.—An authorized agency of a State shall report child abuse crime information to the national criminal background check system.

(b) PROVISION OF STATE CHILD ABUSE CRIME RECORDS TO THE NATIONAL CRIMINAL BACKGROUND CHECK SYSTEM.—(1) Not later than 180 days after the date of enactment of this Act, the Attorney General shall—

(A) investigate the criminal records of each State and determine for each State a timetable by which the State should be able to provide child abuse crime records on an on-line capacity basis to the national criminal background check system;

(B) establish guidelines for the reporting of child abuse crime information, including guidelines relating to the format, content, and accuracy of child abuse crime information and other procedures for carrying out this subtitle; and

(C) notify each State of the determinations made pursuant to subparagraphs (A) and (B).

(2) The Attorney General shall require as a part of the State timetable that the State—

(A) achieve, by not later than the date that is 3 years after the date of enactment of this Act, at least 80 percent currency of child abuse crime case dispositions in computerized criminal history files for all child abuse crime cases in which there has been an entry of activity within the last 5 years; and

(B) continue to maintain such a system.

(c) EXCHANGE OF INFORMATION.—An authorized agency of a State shall maintain close liaison with the National Center on Child Abuse and Neglect, the National Center for Missing and Exploited Children, and the National Center for the Prosecution of Child Abuse for the exchange of information and technical assistance in cases of child abuse.

(d) ANNUAL SUMMARY.—(1) The Attorney General shall publish an annual statistical summary of the child abuse crime information reported under this subtitle.

(2) The annual statistical summary described in paragraph (1) shall not contain any information that may reveal the identity of any particular victim of a crime.

(e) ANNUAL REPORT.—The Attorney General shall publish an annual summary of each State's progress in reporting child abuse crime information to the national criminal background check system.

(f) STUDY OF CHILD ABUSE OFFENDERS.—(1) Not later than 180 days after the date of enactment of this Act, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall begin a study based on a statistically significant sample of convicted child abuse offenders and other relevant information to determine—

(A) the percentage of convicted child abuse offenders who have more than 1 conviction for an offense involving child abuse;

(B) the percentage of convicted child abuse offenders who have been convicted of an offense involving child abuse in more than 1 State;

(C) whether there are crimes or classes of crimes, in addition to those defined as background check crimes in section 883, that are indicative of a potential to abuse children; and

(D) the extent to which and the manner in which instances of child abuse form a basis for convictions for crimes other than child abuse crimes.

(2) Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to the Chairman of the Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives containing a description of and a summary of the results of the study conducted pursuant to paragraph (1).

SEC. 885. BACKGROUND CHECKS.

(a) IN GENERAL.—(1) A State may have in effect procedures (established by or under State statute or regulation) to permit a qualified entity to contact an authorized agency of the State to request a nationwide background check for the purpose of determining whether there is a report that a provider is under indictment for, or has been convicted of, a background check crime.

(2) The authorized agency shall access and review State and Federal records of background check crimes through the national criminal background check system and other criminal justice recordkeeping systems and shall respond promptly to the inquiry.

(b) GUIDELINES.—(1) The Attorney General shall establish guidelines for State background check procedures established under subsection (a), including procedures for carrying out the purposes of this subtitle.

(2) The guidelines established under paragraph (1) shall require—

(A) that no qualified entity may request a background check of a provider under subsection (a) unless the provider first completes and signs a statement that—

(i) contains the name, address, and date of birth appearing on a valid identification document (as defined by section 1028(d)(1) of title 18, United States Code) of the provider;

(ii) the provider is not under indictment for, and has not been convicted of, a background check crime and, if the provider is under indictment for or has been convicted of a background check crime, contains a description of the crime and the particulars of the indictment or conviction;

(iii) notifies the provider that the entity may request a background check under subsection (a);

(iv) notifies the provider of the provider's rights under subparagraph (B); and

(v) notifies the provider that prior to the receipt of the background check the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care;

(B) that each State establish procedures under which a provider who is the subject of a background check under subsection (a) is entitled—

(i) to obtain a copy of any background check report and any record that forms the basis for any such report; and

(ii) to challenge the accuracy and completeness of any information contained in any such report or record and obtain a prompt determination from an authorized agency as to the validity of such challenge;

(C) that an authorized agency to which a qualified entity has provided notice pursuant to subsection (a) make reasonable efforts to complete research in whatever State and local recordkeeping systems are available and in the national criminal background check system and respond to the qualified entity within 15 business days;

(D) that the response of an authorized agency to an inquiry pursuant to subsection (a) inform the qualified entity that the background check pursuant to this section—

(i) may not reflect all indictments or convictions for a background check crime;

(ii) is not certain to include arrest information; and

(iii) should not be the sole basis for determining the fitness of a provider;

(E) that the response of an authorized agency to an inquiry pursuant to subsection (a)—

(i) at a minimum, state whether the background check information set forth in the identification document required under subparagraph (A) is complete and accurate; and

(ii) be limited to the information reasonably required to accomplish the purposes of this subtitle;

(F) that no qualified entity may take action adverse to a provider, except that the qualified entity may choose to deny the provider unsupervised access to a child to whom the qualified entity provides child care, on the basis of a background check under subsection (a) until the provider has obtained a determination as to the validity of any challenge under subparagraph (B) or waived the right to make such challenge;

(G) that each State establish procedures to ensure that any background check under subsection (a) and the results thereof shall be requested by and provided only to—

(i) qualified entities identified by States;

(ii) authorized representatives of a qualified entity who have a need to know such information;

(iii) the providers;

(iv) law enforcement authorities; or

(v) pursuant to the direction of a court of law;

(H) that background check information conveyed to a qualified entity pursuant to subsection (a) shall not be conveyed to any person except as provided under subparagraph (G);

(I) that an authorized agency shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check; and

(J) that a State employee or a political subdivision of a State or employee thereof

responsible for providing information to the national criminal background check system shall not be liable in an action at law for damages for failure to prevent a qualified entity from taking action adverse to a provider on the basis of a background check.

(c) EQUIVALENT PROCEDURES.—(1) Notwithstanding anything to the contrary in this section, the Attorney General may certify that a State licensing or certification procedure that differs from the procedures described in subsections (a) and (b) shall be deemed to be the equivalent of such procedures for purposes of this subtitle, but the procedures described in subsections (a) and (b) shall continue to apply to those qualified entities, providers, and background check crimes that are not governed by or included within the State licensing or certification procedure.

(2) The Attorney General shall by regulation establish criteria for certifications under this subsection. Such criteria shall include a finding by the Attorney General that the State licensing or certification procedure accomplishes the purposes of this subtitle and incorporates a nationwide review of State and Federal records of background check offenses through the national criminal background check system.

(d) RECORDS EXCHANGE.—The Attorney General may exchange Federal Bureau of Investigation identification records with authorized agencies for purposes of background checks under subsection (a) and may by regulation authorize further dissemination of such records by authorized agencies for such purposes.

(e) REGULATIONS.—(1) The Attorney General shall by regulation prescribe such other measures as may be required to carry out the purposes of this subtitle, including measures relating to the security, confidentiality, accuracy, use, misuse, and dissemination of information, and audits and recordkeeping.

(2) The Attorney General shall, to the maximum extent possible, encourage the use of the best technology available in conducting background checks.

SEC. 886. FUNDING FOR IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.

(a) USE OF FORMULA GRANTS FOR IMPROVEMENTS IN STATE RECORDS AND SYSTEMS.—Section 509(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3759(b)) is amended—

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

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

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

"(4) the improvement of State record systems and the sharing of all of the records described in paragraphs (1), (2), and (3) and the records required by the Attorney General under section 884 of the National Child Protection Act of 1993 with the Attorney General for the purpose of implementing the National Child Protection Act of 1993.".

(b) ADDITIONAL FUNDING GRANTS FOR THE IMPROVEMENT OF CHILD ABUSE CRIME INFORMATION.—(1) The Attorney General shall, subject to appropriations and with preference to States that as of the date of enactment of this Act have the lowest percent currency of case dispositions in computerized criminal history files, make a grant to each State to be used—

(A) for the computerization of criminal history files for the purposes of this subtitle;

(B) for the improvement of existing computerized criminal history files for the purposes of this subtitle;

(C) to improve accessibility to the national criminal background check system for the purposes of this subtitle; and

(D) to assist the State in the transmittal of criminal records to, or the indexing of criminal history records in, the national criminal background check system for the purposes of this subtitle.

(2) There are authorized to be appropriated for grants under paragraph (1) a total of $20,000,000 for fiscal years 1994, 1995, and 1996.

(c) WITHHOLDING STATE FUNDS.—Effective 1 year after the date of enactment of this Act, the Attorney General may reduce by up to 10 percent the allocation to a State for a fiscal year under title I of the Omnibus Crime Control and Safe Streets Act of 1968 of a State that is not in compliance with the timetable established for that State under section 884.

Subtitle D—Jacob Wetterling Crimes Against Children Registration Act

SEC. 891. SHORT TITLE.

This subtitle may be cited as the "Jacob Wetterling Crimes Against Children Registration Act".

SEC. 892. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—

(1) STATE GUIDELINES.—The Attorney General shall establish guidelines for State programs requiring any person who is convicted of a criminal offense against a victim who is a minor to register a current address with a designated State law enforcement agency for 10 years after release from prison, being placed on parole, or being placed on supervised release.

(2) DEFINITION.—For purposes of this subsection, "criminal offense against a victim who is a minor" includes—

(A) kidnapping of a minor, except by a noncustodial parent;

(B) false imprisonment of a minor, except by a noncustodial parent;

(C) criminal sexual conduct toward a minor;

(D) solicitation of minors to engage in sexual conduct;

(E) use of minors in a sexual performance; or

(F) solicitation of minors to practice prostitution.

(b) REGISTRATION REQUIREMENT UPON RELEASE, PAROLE, OR SUPERVISED RELEASE.—An approved State registration program established by this section shall contain the following requirements:

(1) NOTIFICATION.—If a person who is required to register under this section is released from prison, paroled, or placed on supervised release, a State prison officer shall—

(A) inform the person of the duty to register;

(B) inform the person that if the person changes residence address, the person shall give the new address to a designated State law enforcement agency in writing within 10 days;

(C) obtain fingerprints and a photograph of the person if these have not already been obtained in connection with the offense that triggers registration; and

(D) require the person to read and sign a form stating that the duty of the person to register under this section has been explained.

(2) TRANSFER OF INFORMATION TO STATE AND THE FBI.—The officer shall, within 3 days after receipt of information described in paragraph (1), forward it to a designated State law enforcement agency. The State law enforcement agency shall immediately enter the information into the appropriate State law enforcement record system and notify the appropriate law enforcement agency having jurisdiction where the person expects to reside. The State law enforcement agency shall also immediately transmit the conviction data and fingerprints to the Identification Division of the Federal Bureau of Investigation.

(3) ANNUAL VERIFICATION.—On each anniversary of a person's initial registration date during the period in which the person is required to register under this section, the designated State law enforcement agency shall mail a nonforwardable verification form to the last reported address of the person. The person shall mail the verification form to the officer within 10 days after receipt of the form. The verification form shall be signed by the person, and state that the person still resides at the address last reported to the designated State law enforcement agency. If the person fails to mail the verification form to the designated State law enforcement agency within 10 days after receipt of the form, the person shall be in violation of this section unless the person proves that the person has not changed his or her residence address.

(4) NOTIFICATION OF LOCAL LAW ENFORCEMENT AGENCIES OF CHANGES IN ADDRESS.—Any change of address by a person required to register under this section reported to the designated State law enforcement agency shall immediately be reported to the appropriate law enforcement agency having jurisdiction where the person is residing.

(c) REGISTRATION FOR 10 YEARS.—A person required to register under this section shall continue to comply with this section until 10 years have elapsed since the person was released from imprisonment, or placed on parole or supervised release.

(d) PENALTY.—A person required to register under a State program established pursuant to this section who knowingly fails to so register and keep such registration current shall be subject to criminal penalties in such State. It is the sense of Congress that such penalties should include at least 6 months' imprisonment.

(e) PRIVATE DATA.—The information provided under this section is private data on individuals and may be used for law enforcement purposes and confidential background checks conducted with fingerprints for child care services providers.

SEC. 893. STATE COMPLIANCE.

(a) COMPLIANCE DATE.—Each State shall have 3 years from the date of the enactment of this Act in which to implement this subtitle.

(b) INELIGIBILITY FOR FUNDS.—The allocation of funds under section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) received by a State not complying with this subtitle 3 years after the date of enactment of this Act shall be reduced by 25 percent and the unallocated funds shall be reallocated to the States in compliance with this section.

TITLE IX—EQUAL JUSTICE ACT

SEC. 901. SHORT TITLE.

This title may be cited as the "Equal Justice Act".

SEC. 902. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) GENERAL RULE.—The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition

or execution of the death penalty or any other penalty.

(b) DEFINITIONS.—For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) the term "State" has the meaning stated in section 513 of title 18, United States Code; and

(3) the term "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 903. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 904. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

SEC. 905. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) SECTION 241.—Section 241 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in".

(b) SECTION 242.—Section 242 of title 18, United States Code, is amended by striking "inhabitant of" and inserting "person in", and by striking "such inhabitant" and inserting "such person".

TITLE X—FUNDING, GRANT PROGRAMS, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "Law Enforcement Enhancement Act of 1993".

SEC. 1002. GRANTS TO STATE AND LOCAL AGENCIES FOR THE HIRING OF LAW ENFORCEMENT PERSONNEL.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(5) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)) is amended to read as follows:

"(5) There are authorized to be appropriated $1,000,000,000 for fiscal year 1994 and such sums as are necessary in fiscal years 1995 and 1996 to carry out the programs under parts D and E. Sums appropriated for fiscal years 1994, 1995, and 1996 that are in excess of sums appropriated for fiscal year 1993 shall be used primarily for the purposes of section 501(b)(22).".

(b) HIRING OF ADDITIONAL CAREER LAW ENFORCEMENT OFFICERS.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) by striking "and" at the end of paragraph (20);

(2) by striking the period at the end of paragraph (21) and inserting "; and"; and

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

"(22) hiring additional career law enforcement officers.".

SEC. 1003. CONTINUATION OF FEDERAL-STATE FUNDING FORMULA.

Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3754(a)(1)) is amended by striking "1991" and inserting "1994".

SEC. 1004. EQUITY IN FUNDING.

Section 506(a)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756(a)(6)) is amended by striking "0.25" and inserting "0.5".

Subtitle B—Retired Public Safety Officer Death Benefit

SEC. 1011. RETIRED PUBLIC SAFETY OFFICER DEATH BENEFIT.

(a) PAYMENTS.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsection (a) by inserting "or a retired public safety officer has died as the direct and proximate result of a personal injury sustained while responding to a fire, rescue, or police emergency" after "line of duty";

(2) in subsection (b) by inserting "or a retired public safety officer has become permanently and totally disabled as the direct result of a catastrophic injury sustained while responding to a fire, rescue, or police emergency" after "line of duty"; and

(3) in subsections (c), (i), and (j) by inserting "or a retired public safety officer" after "public safety officer" each place it appears.

(b) LIMITATIONS.—Section 1202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) is amended—

(1) in paragraph (1) by striking "the public safety officer or by such officer's intention" and inserting "the public safety officer or the retired public safety officer who had the intention";

(2) in paragraph (2) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer"; and

(3) in paragraph (3) by striking "the public safety officer" and inserting "the public safety officer or the retired public safety officer".

(c) NATIONAL PROGRAM.—Section 1203 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a–1) is amended by inserting before the period "or retired public safety officers who have died while responding to a fire, rescue, or police emergency".

(d) DEFINITIONS.—Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by striking "and" after paragraph (6);

(2) by inserting "; and" at the end of paragraph (7); and

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

"(8) 'retired public safety officer' means a former public safety officer who has served a sufficient period of time in such capacity to become vested in the retirement system of a public agency with which the officer was employed and who retired from such agency in good standing.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to death or injuries occurring after the date of enactment of this Act.

(f) IRWIN RUTMAN PROGRAM.—Part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796 et seq.) is amended by inserting before section 1201 the following new section:

"NAME OF PROGRAM

"SEC. 1200. The program established under this part shall be known as the 'Irwin Rutman Retired Safety Officer's Benefit Program'.".

Subtitle C—Study on Police Officers' Rights

SEC. 1021. STUDY ON POLICE OFFICERS' RIGHTS.

The Attorney General, through the National Institute of Justice, shall conduct a study of the procedures followed in internal, noncriminal investigations of State and local law enforcement officers to determine if such investigations are conducted fairly and effectively. The study shall examine the adequacy of the rights available to law enforcement officers and members of the public in cases involving the performance of a law enforcement officer, including—

(1) notice;
(2) conduct of questioning;
(3) counsel;
(4) hearings;
(5) appeal; and
(6) sanctions.

Not later than 1 year after the date of enactment of this Act, the Attorney General shall submit to the Congress a report on the results of the study, along with findings and recommendations on strategies to guarantee fair and effective internal affairs investigations.

Subtitle D—COP-ON-THE-BEAT GRANTS

SEC. 1031. SHORT TITLE.

This subtitle may be cited as "The Cop-on-the-Beat Act of 1993".

SEC. 1032. COP-ON-THE-BEAT GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 633(a), is amended—

(1) by redesignating part Q as part R;

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

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

"PART R—COP-ON-THE-BEAT GRANTS

"SEC. 1701. GRANT AUTHORIZATION.

"(a) GRANT PROJECTS.—The Director of the Bureau of Justice Assistance may make grants to units of local government and to community groups to establish or expand cooperative efforts between police and a community for the purposes of increasing police presence in the community, including—

"(1) developing innovative neighborhood-oriented policing programs;

"(2) providing new technologies to reduce the amount of time officers spend processing cases instead of patrolling the community;

"(3) purchasing equipment to improve communications between officers and the community and to improve the collection, analysis, and use of information about crime-related community problems;

"(4) developing policies that reorient police emphasis from reacting to crime to preventing crime;

"(5) creating decentralized police substations throughout the community to encourage interaction and cooperation between the public and law enforcement personnel on a local level;

"(6) providing training and problem solving for community crime problems;

"(7) providing training in cultural differences for law enforcement officials;

"(8) developing community-based crime prevention programs, such as safety programs for senior citizens, community anticrime groups, and other anticrime awareness programs;

"(9) developing crime prevention programs in communities that have experienced a recent increase in gang-related violence; and

"(10) developing projects following the model under subsection (b).

"(b) MODEL PROJECT.—The Director shall develop a written model that informs community members regarding—

"(1) how to identify the existence of a drug or gang house;

"(2) what civil remedies, such as public nuisance violations and civil suits in small claims court, are available; and

"(3) what mediation techniques are available between community members and individuals who have established a drug or gang house in the community.

"SEC. 1702. APPLICATION.

"(a) IN GENERAL.—(1) To be eligible to receive a grant under this part, a chief executive of a unit of local government, a duly authorized representative of a combination of local governments within a geographic region, or a community group shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) In an application under paragraph (1), a single office, or agency (public, private, or nonprofit) shall be designated as responsible for the coordination, implementation, administration, accounting, and evaluation of services described in the application.

"(b) GENERAL CONTENTS.—Each application under subsection (a) shall include—

"(1) a request for funds available under this part for the purposes described in section 1701;

"(2) a description of the areas and populations to be served by the grant; and

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(c) COMPREHENSIVE PLAN.—Each application shall include a comprehensive plan that contains—

"(1) a description of the crime problems within the areas targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant shall be used to fill those gaps;

"(5) a description of the system the applicant shall establish to prevent and reduce crime problems; and

"(6) an evaluation component, including performance standards and quantifiable goals the applicant shall use to determine project progress, and the data the applicant shall collect to measure progress toward meeting project goals.

"SEC. 1703. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ALLOCATION.—The Director shall allocate not less than 75 percent of the funds available under this part to units of local government or combinations of such units and not more than 20 percent of the funds available under this part to community groups.

"(b) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration, technical assistance, and evaluation.

"(c) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant, subject to the availability of funds, if the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application and if the recipient can demonstrate significant progress toward achieving the goals of the plan required under section 1702(c).

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702 for the fiscal year for which the projects receive assistance under this part.

"SEC. 1704. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director shall consider the following factors in awarding grants to units of local government or combinations of such units under this part:

"(1) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1702(c).

"(2) COMMUNITY-WIDE RESPONSE.—Evidence of the ability to coordinate community-wide response to crime.

"(3) MAINTAIN PROGRAM.—The ability to maintain a program to control and prevent crime after funding under this part is no longer available.

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall attempt to achieve, to the extent practicable, an equitable geographic distribution of grant awards.

"SEC. 1705. REPORTS.

"(a) REPORT TO DIRECTOR.—Recipients who receive funds under this part shall submit to the Director not later than March 1 of each year a report that describes progress achieved in carrying out the plan required under section 1702(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year containing—

"(1) a detailed statement regarding grant awards and activities of grant recipients; and

"(2) an evaluation of projects established under this part.

"SEC. 1706. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'community group' means a community-based nonprofit organization that has a primary purpose of crime prevention.

"(2) The term 'Director' means the Director of the Bureau of Justice Assistance.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 633(b), is amended by striking the matter relating to part Q and inserting the following:

"PART Q—COP-ON-THE-BEAT GRANTS

"Sec. 1701. Grant authorization.
"Sec. 1702. Application.
"Sec. 1703. Allocation of funds; limitation on grants.
"Sec. 1704. Award of grants.
"Sec. 1705. Reports.
"Sec. 1706. Definitions.

"PART R—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 633(b), is amended—

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

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

"(11) There are authorized to be appropriated $150,000,000 for each of fiscal years 1994, 1995, and 1996 to carry out projects under part Q.".

Subtitle E—National Commission to Support Law Enforcement

SEC. 1041. SHORT TITLE.

This subtitle may be cited as the "National Commission to Support Law Enforcement Act.".

SEC. 1042. FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 1043. ESTABLISHMENT OF COMMISSION.

There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this subtitle as the "Commission").

SEC. 1044. DUTIES.

(a) IN GENERAL.—The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 1045. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 23 members as follows:

(1) Seven individuals from among national law enforcement officers, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(2) Seven individuals from national law enforcement organizations representing law enforcement management, of whom—

(A) Two shall be appointed by the Speaker of the House of Representatives;

(B) Two shall be appointed by the Majority Leader of the Senate;

(C) One shall be appointed by the Minority Leader of the House;

(D) One shall be appointed by the Minority Leader of the Senate; and

(E) One shall be appointed by the President.

(3) Two individuals with academic expertise regarding law enforcement issues, of whom—

(A) One shall be appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

(B) One shall be appointed by the Minority Leader of the Senate and the Minority Leader of the House of Representatives.

(4) Two Members of the House of Representatives, appointed by the Speaker and the Minority Leader of the House of Representatives.

(5) Two Members of the Senate, appointed by the Majority Leader and the Minority Leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) APPOINTMENT DATES.—Members of the Commission shall be appointed no later than 90 days after the enactment of this title.

SEC. 1046. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this subtitle.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 1047. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this subtitle, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this subtitle. Upon request of the chairperson of the Commission, the head of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 1048. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the appointment of the members of the Commission, a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate shall be submitted to Congress.

SEC. 1049. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 1048.

SEC. 1050. REPEALS.

Title XXXIV of the Crime Control Act of 1990 (42 U.S.C. 3721 note) and section 211(B) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991 (42 U.S.C. 3721 note; 104 Stat. 2122) are repealed.

Subtitle F—Other Provisions

SEC. 1062. LAW ENFORCEMENT FAMILY SUPPORT.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1032(a), is amended—

(1) by redesignating part R as part S;

(2) by redesignating section 1801 as 1901; and

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

"PART R—FAMILY SUPPORT

"SEC. 1801. DUTIES OF DIRECTOR.

"The Director shall—

"(1) establish guidelines and oversee the implementation of family-friendly policies within law enforcement-related offices and divisions in the Department of Justice;

"(2) study the effects of stress on law enforcement personnel and family well-being and disseminate the findings of such studies to Federal, State, and local law enforcement agencies, related organizations, and other interested parties;

"(3) identify and evaluate model programs that provide support services to law enforcement personnel and families;

"(4) provide technical assistance and training programs to develop stress reduction and family support to State and local law enforcement agencies;

"(5) collect and disseminate information regarding family support, stress reduction, and psychological services to Federal, State, and local law enforcement agencies, law enforcement-related organizations, and other interested entities; and

"(6) determine issues to be researched by the Bureau and by grant recipients.

"SEC. 1802. GENERAL AUTHORIZATION.

"The Director is authorized to make grants to States and local law enforcement agencies to provide family support services to law enforcement personnel.

"SEC. 1803. USES OF FUNDS.

"(a) IN GENERAL.—A State or local law enforcement agency that receives a grant under this part shall use amounts provided under the grant to establish or improve training and support programs for law enforcement personnel.

"(b) REQUIRED ACTIVITIES.—A law enforcement agency that receives funds under this part shall provide at least one of the following services:

"(1) Counseling for law enforcement family members.

"(2) Child care on a 24-hour basis.

"(3) Marital and adolescent support groups.

"(4) Stress reduction programs.

"(5) Stress education for law enforcement recruits and families.

"(c) OPTIONAL ACTIVITIES.—A law enforcement agency that receives funds under this part may provide the following services:

"(1) Post-shooting debriefing for officers and their spouses.

"(2) Group therapy.

"(3) Hypertension clinics.

"(4) Critical incident response on a 24-hour basis.

"(5) Law enforcement family crisis telephone services on a 24-hour basis.

"(6) Counseling for law enforcement personnel exposed to the human immuno-deficiency virus.

"(7) Counseling for peers.

"(8) Counseling for families of personnel killed in the line of duty.

"(9) Seminars regarding alcohol, drug use, gambling, and overeating.

"SEC. 1804. APPLICATIONS.

"A law enforcement agency desiring to receive a grant under this part shall submit to the Director an application at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Such application shall—

"(1) certify that the law enforcement agency shall match all Federal funds with an equal amount of cash or in-kind goods or services from other non-Federal sources;

"(2) include a statement from the highest ranking law enforcement official from the State or locality applying for the grant that attests to the need and intended use of services to be provided with grant funds; and

"(3) assure that the Director or the Comptroller General of the United States shall have access to all records related to the receipt and use of grant funds received under this part.

"SEC. 1805. AWARD OF GRANTS; LIMITATION.

"(a) GRANT DISTRIBUTION.—In approving grants under this part, the Director shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State.

"(b) DURATION.—The Director may award a grant each fiscal year, not to exceed $100,000 to a State or local law enforcement agency for a period not to exceed 5 years. In any application from a State or local law enforcement agency for a grant to continue a program for the second, third, fourth, or fifth fiscal year following the first fiscal year in which a grant was awarded to such agency, the Director shall review the progress made toward meeting the objectives of the program. The Director may refuse to award a grant if the Director finds sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for reconsideration.

"(c) LIMITATION.—Not more than 10 percent of grant funds received by a State or a local law enforcement agency may be used for administrative purposes.

"SEC. 1806. DISCRETIONARY RESEARCH GRANTS.

"The Director may reserve 10 percent of funds to award research grants to a State or local law enforcement agency to study issues of importance in the law enforcement field as determined by the Director.

"SEC. 1807. REPORTS.

"(a) REPORT FROM GRANT RECIPIENTS.—A State or local law enforcement agency that receives a grant under this part shall submit to the Director an annual report that includes—

"(1) program descriptions;

"(2) the number of staff employed to administer programs;

"(3) the number of individuals who participated in programs; and

"(4) an evaluation of the effectiveness of grant programs.

"(b) REPORT FROM DIRECTOR.—(1) The Director shall submit to the Congress a report not later than March 31 of each fiscal year.

"(2) A report under paragraph (1) shall contain—

"(A) a description of the types of projects developed or improved through funds received under this part;

"(B) a description of exemplary projects and activities developed;

"(C) a designation of the family relationship to the law enforcement personnel of individuals served; and

"(D) a statement of the number of individuals served in each location and throughout the country.

"SEC. 1808. DEFINITIONS.

"For purposes of this part—

"(1) the term 'family-friendly policy' means a policy to promote or improve the morale and well being of law enforcement personnel and their families; and

"(2) the term 'law enforcement personnel' means individuals employed by Federal, State, and local law enforcement agencies.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1032(b), is amended by striking the matter relating to part S and inserting the following:

"PART R—FAMILY SUPPORT

"Sec. 1801. Duties of director.
"Sec. 1802. General authorization.
"Sec. 1803. Uses of funds.
"Sec. 1804. Applications.
"Sec. 1805. Award of grants; limitation.
"Sec. 1806. Discretionary research grants.
"Sec. 1807. Reports.
"Sec. 1808. Definitions.

"PART S—TRANSITION; EFFECTIVE DATE; REPEALS

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

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1032(c), is amended—

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

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

"(12) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, and 1998 to carry out part R, of which not more than 20 percent may be used to accomplish the duties of the Director under section 1801, including administrative costs, research, and training programs.".

SEC. 1063. NOTICE OF RELEASE OF PRISONERS.

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

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

(2) by striking "This section" and inserting "(c) Application of Section.—This section";

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

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

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

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

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

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

"(b) NOTICE OF RELEASE OF PRISONERS.—(1) Except in the case of a prisoner being protected under chapter 224, the Bureau of Prisons shall, at least 5 days prior to the date on which a prisoner described in paragraph (3) is to be released on supervised release, or, in the case of a prisoner on supervised release, at least 5 days prior to the date on which the prisoner changes residence to a new jurisdiction, cause written notice of the release or change of residence to be made to the chief law enforcement officer of the State and of the local jurisdiction in which the prisoner will reside.

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

"(A) the prisoner's name;

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

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

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

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

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

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

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

TITLE XI—ILLEGAL DRUGS

Subtitle A—Drug Testing

SEC. 1101. DRUG TESTING OF FEDERAL OFFENDERS ON POST-CONVICTION RELEASE.

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end the following new section:

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

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

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

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

(b) DRUG TESTING CONDITION FOR PROBATION.—

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

(A) in paragraph (2) by striking "and";

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

(C) by inserting after paragraph (3) the following new paragraph:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as

defined in section 16 of this title, that the defendant refrain from any unlawful use of the controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. In addition, the Court may decline to impose this condition for any individual defendant, if the defendant's presentence report or other reliable sentencing information indicates a low risk of future substance abuse by the defendant. A defendant who tests positive may be detained pending verification of a drug test result.".

(2) DRUG TESTING FOR SUPERVISED RELEASE.—Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4), the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court), for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(3) DRUG TESTING IN CONNECTION WITH PAROLE.—Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4), the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4).".

(c) REVOCATION OF PAROLE.—Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

Subtitle B—Precursor Chemicals

SEC. 1121. SHORT TITLE.

This subtitle may be cited as "The Chemical Control and Environmental Responsibility Act of 1993".

SEC. 1122. DEFINITION AMENDMENTS.

(a) REFERENCES TO LISTED CHEMICALS IN SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34) by striking "listed precursor chemical" and inserting "list I chemical" and by striking "critical to the creation" and inserting "important to the manufacture";

(3) in paragraph (35) by striking "listed essential chemical" and inserting "list II chemical" and by striking "that is used as a solvent, reagent or catalyst" and inserting ", which is not a list I chemical, that is used"; and

(4) in paragraph (40) by striking the phrase "listed precursor chemical or a listed essential chemical" and inserting "list I chemical or a list II chemical" both places it appears.

(b) REFERENCES TO LISTED CHEMICALS IN SECTION 310.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)(A) by striking "precursor chemical" and inserting "list I chemical";

(2) in subsection (a)(1)(B) by striking "an essential chemical" and inserting "a list II chemical"; and

(3) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

(c) OTHER AMENDMENTS TO SECTION 102.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (34) by inserting ", its esters," before "and" in subparagraphs (A), (F), and (H);

(2) in paragraph (38) by striking the period and inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine";

(3) in paragraph (39)(A) by striking "or exportation" and inserting ", exportation or any international transaction which does not involve the importation or exportation of a listed chemical into or out of the United States if a broker or trader located in the United States participates in the transaction,";

(4) in paragraph (39)(A)(iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(5) in paragraph (39)(A)(iv) by striking the semicolon and inserting "unless the listed chemical is ephedrine as defined in paragraph (34)(C) of this section or any other listed chemical which the Attorney General may by regulation designate as not subject to this exemption after finding that such action would serve the regulatory purposes of this chapter in order to prevent diversion and the total quantity of the ephedrine or other listed chemical designated pursuant to this paragraph included in the transaction equals or exceeds the threshold established for that chemical by the Attorney General;";

(6) in paragraph (39)(A)(v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this chapter based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;"; and

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

"(42) The terms 'broker' and 'trader' mean a person who assists in arranging an international transaction in a listed chemical by negotiating contracts, serving as an agent or intermediary, or bringing together a buyer and a seller, or a buyer or seller and a transporter.".

SEC. 1123. REGISTRATION REQUIREMENT.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b) by inserting "or list I chemicals" after "controlled substances" and by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemicals" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES ACT.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that the registration would be inconsistent with the public interest. In determining the public interest, the following factors shall be considered:

"(1) Maintenance of effective controls against diversion of listed chemicals into other than legitimate channels.

"(2) Compliance with applicable Federal, State and local law.

"(3) Prior conviction record of applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law.

"(4) Past experience in the manufacture and distribution of chemicals.

"(5) Such other factors as may be relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a) by inserting "or a list I chemical" after "controlled substance" each place it appears and by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g) by inserting "or list I chemicals" after "controlled substances" each place it appears and by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) REGISTRATION REQUIREMENTS IN CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by striking "(c) The" and inserting "(c)(1) The"; and

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

"(2) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that the issuance of such registration is inconsistent with the public interest. In determining the public interest, the factors enumerated in section 303(h) shall be considered.";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting ", 827, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(f) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

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

"(9) in the case of a person who is a regulated person, to distribute, import, or export a list I chemical without the registration required by this title.".

SEC. 1124. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by striking "(b) Each regulated person" and inserting "(b)(1) Each regulated person";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

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

"(2) Each regulated person who manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person.".

SEC. 1125. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, REPORTING, RECORDKEEPING, AND OTHER REQUIREMENTS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) Any person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and by title II.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) PENALTY FOR IMPORTATION OR EXPORTATION.—Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title;

"(2) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 10 years, or both.".

SEC. 1126. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) ADVANCE NOTICE.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 1125(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day advance notice requirement of subsection (a) apply to all exports of specific listed chemicals to specified nations, regardless of the status of certain customers in such country as regular customers if the Attorney General finds that the action is necessary to support effective diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day advance notice requirement for exports of specific listed chemicals to specified countries if the Attorney General determines that the advance notice is not required for effective chemical control. If the advance notice requirement is waived, exporters of such listed chemicals shall be required to either submit reports of individual exportations or to submit periodic reports of the exportation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day advance notice requirement for the importation of specific listed chemicals if the Attorney General determines that the requirement is not necessary for effective chemical control. If the advance notice requirement is waived, importers of such listed chemicals shall be required to submit either reports of individual importations or periodic reports of the importation of such listed chemicals to the Attorney General at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PENALTIES.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 1015(b), is amended by—

(1) striking "or" at the end of paragraph (3);

(2) striking the comma at the end of paragraph (4) and inserting "; or"; and

(3) by adding after paragraph (4) the following new paragraph:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the advance notice requirement granted pursuant to section 1128(d) (1) or (2) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported,".

SEC. 1127. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended:

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P), (Q), (R), (S), (T), (V), (X), and (Y) as subparagraphs (O), (P), (Q), (R), (S), (T), (U), and (X), respectively;

(3) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane."; and

(4) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)".

SEC. 1128. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a specific listed chemical, a person who has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)(1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer";

(2) in subsection (b)(2)—

(A) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(B) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(3) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 1129. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510(a)(2) of the Controlled Substances Act (21 U.S.C. 880(a)(2)) is amended to read as follows:

"(2) places, including factories, warehouses, or other establishments, and conveyances, where a person registered under section 303 (or exempt from such registration under section 302(d) or by regulation of the Attorney General) or a regulated person may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to such an activity are maintained.".

SEC. 1130. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 1112, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount of multiple transactions".

SEC. 1131. MANAGEMENT OF LISTED CHEMICALS.

(a) AMENDMENT OF CONTROLLED SUBSTANCES ACT.—Part C of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1), a defendant shall be assessed the following costs to the United States, a State, or other authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a Class D felony, or in the case of a willful violation, as a Class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for the violation of subsection (a) should not be less than 5 years, or less than 10 years in the case of a willful violation.

"(4) The court may order that all or a portion of the earnings from work performed by a convicted offender in prison be withheld for payment of costs assessed under paragraph (2).

"(c) SHARING OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) AMENDMENT OF TITLE 11, UNITED STATES CODE.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

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

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 1132. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 1133. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the enactment of this Act, issue regulations necessary to carry out this subtitle.

(b) EFFECTIVE DATE.—The amendments made by this subtitle shall become effective on the date that is 120 days after the date of enactment of this Act.

Subtitle C—Other Provisions

SEC. 1141. ADVERTISEMENTS OF CONTROLLED SUBSTANCES.

Section 403 of the Controlled Substances Act (21 U.S.C. 843) is amended—

(1) by redesignating subsections (c) and (d) as (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) It shall be unlawful for any person to print, publish, place, or otherwise cause to appear in any newspaper, magazine, handbill, or other publication, any written advertisement knowing that it has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance. As used in this section the term 'advertisement' includes, in addition to its ordinary meaning, such advertisements as those for a catalog of Schedule I controlled substances and any similar written advertisement that has the purpose of seeking or offering illegally to receive, buy, or distribute a Schedule I controlled substance, but does not include material that—

"(1) merely advocates the use of a similar material or advocates a position or practice; and

"(2) does not attempt to propose or facilitate an actual transaction in a Schedule I controlled substance.".

SEC. 1142. CLOSING OF LOOPHOLE FOR ILLEGAL IMPORTATION OF SMALL DRUG QUANTITIES.

Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497(a)(2)(A)) is amended by adding "or $500, whichever is greater" after "value of the article".

SEC. 1143. DRUG PARAPHERNALIA AMENDMENT.

Section 422 of the Controlled Substances Act (21 U.S.C. 863) is amended by adding at the end the following new subsection:

"(g) CIVIL ENFORCEMENT.—The Attorney General may bring a civil action against any person who violates 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 or has taken place. The court in which such action is brought shall determine the existence of any 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, as may be appropriate. Such remedies shall be in addition to any other remedy available under statutory or common law.".

SEC. 1144. CONFORMING AMENDMENT ADDING CERTAIN DRUG OFFENSES AS REQUIRING FINGERPRINTING AND RECORDS FOR RECIDIVIST JUVENILES.

Subsections (d) and (f) of section 5038 of title 18, United States Code, are amended by striking "or an offense described in section 841, 952(a), 955, or 959, of title 21," and inserting "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), and (3)).".

SEC. 1145. CLARIFICATION OF NARCOTIC OR OTHER DANGEROUS DRUGS UNDER RICO.

Section 1961(1) of title 18, United States Code, is amended by striking "narcotic or other dangerous drugs" each place it appears and inserting "a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

SEC. 1146. 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.—Subparagraphs (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B), (C), and (D)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(b) SECTION 1010(b)(1), (2), AND (3) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1), (2), and (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1), (2), and (3)) are amended in the second sentence by striking "one or more prior convictions" and all that follows through "have become final" and inserting "a prior conviction for a felony drug offense has become final".

(c) SECTION 1012(b) OF THE CONTROLLED IMPORT AND EXPORT ACT.—Section 1012(b) of the Controlled Substances Import and Export Act (21 U.S.C. 962(b)) is amended by striking "one or more prior convictions of him for a felony under any provision of this 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".

(d) SECTION 401(b)(1)(A) OF THE CONTROLLED SUBSTANCES ACT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended by striking the sentence beginning "For the purposes of this subparagraph, the term 'felony drug offense' means".

(e) SECTION 102 OF THE CONTROLLED SUBSTANCES ACT.—Section 102 of the Controlled Substances Act (21 U.S.C. 802), as amended by section 1012(c)(7), is amended by adding at the end the following new paragraph:

"(43) The term 'felony drug offense' means an offense that is punishable by imprisonment for more than 1 year under any law of the United States or of a State or foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

SEC. 1147. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) SECTION 401(b)(1) OF THE CONTROLLED SUBSTANCES ACT.—Subparagraphs (A) and (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking "No person sentenced under this subparagraph shall be eligible for parole during the term of imprisonment imposed therein.".

(b) SECTION 1010(b) OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Paragraphs (1) and (2) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) are amended by striking "No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed therein.".

(c) SECTION 419(d) OF THE CONTROLLED SUBSTANCES ACT.—Section 419(d) of the Controlled Substances Act (21 U.S.C. 860(c)), as redesignated by section 501(1), is amended by striking "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

(d) SECTION 420(e) OF THE CONTROLLED SUBSTANCES ACT.—Section 420(e) of the Controlled Substances Act (21 U.S.C. 861(a)) is amended by striking "An individual convicted under this section of an offense for which a mandatory minimum term of imprisonment is applicable shall not be eligible for parole under section 4202 of title 18 until the individual has served the mandatory term of imprisonment as enhanced by this section.".

SEC. 1148. DRUGGED OR DRUNK DRIVING CHILD PROTECTION.

(a) APPLICATION OF STATE LAW IN AREAS WITHIN FEDERAL JURISDICTION.—Section 13(b) of title 18, United States Code, is amended—

(1) by striking "For purposes" and inserting "(1) Subject to paragraph (2) and for purposes"; and

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

"(2)(A) In addition to any term of imprisonment provided for operating a motor vehicle under the influence of a drug or alcohol imposed under the law of a State, territory, possession, or district, the punishment for such an offense under this section shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if—

"(i) a minor (other than the offender) was present in the motor vehicle when the offense was committed; and

"(ii) the law of the State, commonwealth, territory, possession, or district in which the offense occurred does not provide an additional term of imprisonment under the circumstances described in clause (i).

"(B) For the purposes of subparagraph (A), the term 'minor' means a person less than 18 years of age.".

(b) COMMON CARRIERS.—Section 342 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

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

"(b)(1) In addition to any term of imprisonment imposed for an offense under subsection (a), the punishment for such an offense shall include an additional term of imprisonment of not more than 1 year, or if serious bodily injury of a minor is caused, 5 years, or if death of a minor is caused, 10 years, and an additional fine of not more than $1,000, or both, if a minor (other than the offender) was present in the common carrier when the offense was committed.

"(2) For the purposes of paragraph (1), the term 'minor' means a person less than 18 years of age.".

SEC. 1149. EVICTION FROM PLACES MAINTAINED FOR MANUFACTURING, DISTRIBUTING, OR USING CONTROLLED SUBSTANCES.

Section 416 of the Controlled Substances Act (21 U.S.C. 856) is amended by adding at the end the following new subsection:

"(c) The Attorney General may bring a civil action against any person who violates 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. 1150. ANABOLIC STEROIDS PENALTIES.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting after subsection (a) the following new subsection:

"(b)(1) Whoever, being a physical trainer or adviser to a person, attempts to persuade or induce the person to possess or use anabolic steroids in violation of subsection (a), shall be fined under title 18, United States Code, imprisoned not more than 2 years (or if the person attempted to be persuaded or induced was less than 18 years of age at the time of the offense, 5 years), or both.

"(2) As used in this subsection, the term 'physical trainer or adviser' means a professional or amateur coach, manager, trainer, instructor, or other such person who provides athletic or physical instruction, training, advice, assistance, or any other such service to any person.".

SEC. 1151. PROGRAM TO PROVIDE PUBLIC AWARENESS OF THE PROVISIONS OF LAW THAT CONDITION PORTIONS OF A STATE'S FEDERAL HIGHWAY FUNDING ON THE STATE'S ENACTMENT OF LEGISLATION REQUIRING THE REVOCATION OF THE DRIVER'S LICENSES OF CONVICTED DRUG ABUSERS.

The Attorney General, in consultation with the Secretary of Transportation, shall implement a program of national awareness of section 333 of Public Law 101-516 (104 Stat. 2184) and section 104(a)(3) of title 23, United States Code, which shall notify the Governors and State Representatives of the requirements of those sections.

SEC. 1152. DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.

Section 5122(c) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(c)) is amended by inserting "or local governments with the concurrence of local educational agencies" after "for grants to local educational agencies".

SEC. 1153. MISUSE OF THE WORDS "DRUG ENFORCEMENT ADMINISTRATION" OR THE INITIALS "DEA".

Section 709 of title 18, United States Code, is amended by inserting the following new paragraph before the paragraph beginning "Shall be punished":

"Whoever, except with the written permission of the Administrator of the Drug Enforcement Administration, knowingly uses the words 'Drug Enforcement Administration' or the initials 'DEA' or any colorable imitation of such words or initials, in connection with any advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, software or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by the Drug Enforcement Administration,".

TITLE XII—PUBLIC CORRUPTION

SEC. 1201. SHORT TITLE.

This title may be cited as the "Anti-Corruption Act of 1993".

SEC. 1202. PUBLIC CORRUPTION.

(a) OFFENSES.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 226. Public corruption

"(a) STATE AND LOCAL GOVERNMENT.—

"(1) HONEST SERVICES.—Whoever, in a circumstance described in paragraph (3), 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 the State or political subdivision shall be fined under this title, imprisoned not more than 10 years, or both.

"(2) FAIR AND IMPARTIAL ELECTIONS.—Whoever, in a circumstance described in paragraph (3), 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—

"(A) 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;

"(B) through paying or offering to pay any person for voting;

"(C) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(D) 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, imprisoned not more than 10 years, or both.

"(3) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in paragraphs (1) and (2) are that—

"(A) for the purpose of executing or concealing a scheme or artifice described in paragraph (1) or (2) or attempting to do so, a person—

"(i) places in any post office or authorized depository for mail matter, any matter or thing 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;

"(ii) 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;

"(iii) 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

"(iv) uses or causes the use of any facility of interstate or foreign commerce;

"(B) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed affect, interstate or foreign commerce; or

"(C) in the case of an offense described in paragraph (2), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have any authority over the administration of funds derived from an Act of Congress totaling $10,000 or more during the 12-month period immediately preceding or following the election or date of the offense.

"(b) FEDERAL GOVERNMENT.—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 a person who has been selected to be a public official shall be fined under this title, imprisoned not more than 10 years, or both.

"(c) OFFENSE BY AN OFFICIAL AGAINST AN EMPLOYEE OR OFFICIAL.—

"(1) CRIMINAL OFFENSE.—Whoever, being an official, 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 an employee or official of the United States or of a State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal a scheme or artifice described in subsection (a) or (b), shall be fined under this title, imprisoned not more than 5 years, or both.

"(2) CIVIL ACTION.—(A) Any employee or official of the United States or of a State or political subdivision of a State who is discharged, demoted, suspended, threatened, harassed, or in any manner discriminated against because of lawful acts done by the employee or official as a result of a violation of this section or because of actions by the employee on behalf of himself or herself or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such a prosecution) may bring a civil action and obtain all relief necessary to make the employee or official whole, including—

"(i) reinstatement with the same seniority status that the employee or official would have had but for the violation;

"(ii) 3 times the amount of backpay;

"(iii) interest on the backpay; and

"(iv) compensation for any special damages sustained as a result of the violation, including reasonable litigation costs and reasonable attorney's fees.

"(B) An employee or official shall not be afforded relief under subparagraph (A) if the employee or official participated in the violation of this section with respect to which relief is sought.

"(C)(i) A civil action or proceeding authorized by this paragraph shall be stayed by a court upon certification of an attorney for the Government that prosecution of the action or proceeding may adversely affect the interests of the Government in a pending criminal investigation or proceeding.

"(ii) The attorney for the Government shall promptly notify the court when a stay may be lifted without such adverse effects.

"(d) DEFINITIONS.—In this section—

"'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in 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) 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.

"'person acting or pretending to act under color of official authority' includes a person who represents that 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.

"'public official' and 'person who has been selected to be a public official' have the meanings stated in section 201 and also include any person acting or pretending to act under color of official authority.

"'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.

"'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.".

(b) TECHNICAL AMENDMENTS.—(1) The chapter analysis for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"226. Public corruption.".

(2) Section 1961(1) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (relating to sports bribery),".

(3) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 226 (relating to public corruption)," after "section 224 (bribery in sporting contests),".

SEC. 1203. INTERSTATE COMMERCE.

(a) IN GENERAL.—Section 1343 of title 18, United States Code, is amended—

(1) by 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) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

(b) TECHNICAL AMENDMENTS.—(1) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce".

(2) The chapter analysis for chapter 63 of title 18, United States Code, is amended by amending the item relating to section 1343 to read as follows:

"1343. Fraud by use of facility of interstate commerce.".

SEC. 1204. NARCOTICS-RELATED PUBLIC CORRUPTION.

(a) OFFENSES.—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) OFFENSE BY PUBLIC OFFICIAL.—A public official who, in a circumstance described in subsection (c), 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) OFFENSE BY PERSON OTHER THAN A PUBLIC OFFICIAL.—A person who, in a circumstance described in subsection (c), 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 the 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 the public official to do or to omit to do any act in violation of the official's lawful duty,

shall be guilty of a class B felony.

"(c) CIRCUMSTANCES IN WHICH OFFENSE OCCURS.—The circumstances referred to in subsections (a) and (b) are that the 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) DEFINITIONS.—As used in this section—

"(1) the terms 'controlled substance' and 'controlled substance analogue' have the meanings stated in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(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 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; and

"(D) any person who has been nominated or appointed to a position described in subparagraph (A), (B), or (C), or has been officially informed that he or she will be so nominated or appointed.".

(b) TECHNICAL 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),".

(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),".

(3) The chapter analysis for chapter 11 of title 18, United States Code, is amended by inserting after the item for section 219 the following new item:

"220. Narcotics and public corruption.".

TITLE XIII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

SEC. 1301. ADDITION OF ATTEMPTED ROBBERY, KIDNAPPING, SMUGGLING, AND PROPERTY DAMAGE OFFENSES TO ELIMINATE INCONSISTENCIES AND GAPS IN COVERAGE.

(a) ROBBERY AND BURGLARY.—(1) Section 2111 of title 18, United States Code, is amended by inserting "or attempts to take" after "takes".

(2) Section 2112 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(3) Section 2114 of title 18, United States Code, is amended by inserting "or attempts to rob" after "robs".

(b) KIDNAPPING.—Section 1201(d) of title 18, United States Code, is amended by striking "Whoever attempts to violate subsection (a)(4) or (a)(5)" and inserting "Whoever attempts to violate subsection (a)".

(c) SMUGGLING.—Section 545 of title 18, United States Code, is amended by inserting "or attempts to smuggle or clandestinely introduce" after "smuggles, or clandestinely introduces".

(d) MALICIOUS MISCHIEF.—(1) Section 1361 of title 18, United States Code, is amended—

(A) by inserting "or attempts to commit any of the foregoing offenses" before "shall be punished", and

(B) by inserting "or attempted damage" after "damage" each place it appears.

(2) Section 1362 of title 18, United States Code, is amended by inserting "or attempts willfully or maliciously to injure or destroy" after "willfully or maliciously injures or destroys".

(3) Section 1366 of title 18, United States Code, is amended—

(A) by inserting "or attempts to damage" after "damages" each place it appears;

(B) by inserting "or attempts to cause" after "causes"; and

(C) by inserting "or would if the attempted offense had been completed have exceeded" after "exceeds" each place it appears.

SEC. 1302. INCREASE IN MAXIMUM PENALTY FOR ASSAULT.

(a) CERTAIN OFFICERS AND EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting ", where the acts in violation of this section constitute only simple assault, be fined under this title, imprisoned not more than 1 year, or both, and in all other cases," after "shall"; and

(2) in subsection (b) by inserting "or inflicts bodily injury" after "weapon".

(b) FOREIGN OFFICIALS, OFFICIAL GUESTS, AND INTERNATIONALLY PROTECTED PERSONS.—Section 112(a) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000" and inserting "under this title";

(2) by inserting ", or inflicts bodily injury," after "weapon"; and

(3) by striking "not more than $10,000" and inserting "under this title".

(c) MARITIME AND TERRITORIAL JURISDICTION.—Section 113 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking "of not more than $1,000" and inserting "under this title"; and

(B) by striking "five" and inserting "10"; and

(2) in subsection (e)—

(A) by striking "of not more than $300" and inserting "under this title"; and

(B) by striking "three" and inserting "6".

(d) CONGRESS, CABINET, OR SUPREME COURT.—Section 351(e) of title 18, United States Code, is amended—

(1) by striking "not more than $5,000," and inserting "under this title,";

(2) by inserting "the assault involved the use of a dangerous weapon, or" after "if";

(3) by striking "not more than $10,000" and inserting "under this title"; and

(4) by striking "for".

(e) PRESIDENT AND PRESIDENT'S STAFF.—Section 1751(e) of title 18, United States Code, is amended—

(1) by striking "not more than $10,000," each place it appears and inserting "under this title,";

(2) by striking "not more than $5,000," and inserting "under this title,"; and

(3) by inserting "the assault involved the use of a dangerous weapon, or" after "if".

SEC. 1303. INCREASED MAXIMUM PENALTY FOR MANSLAUGHTER.

Section 1112 of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "fined under this title or" after "shall be" in the second undesignated paragraph; and

(B) by inserting ", or both" after "years";

(2) by striking "not more than $1,000" and inserting "under this title"; and

(3) by striking "three" and inserting "6".

SEC. 1304. INCREASED PENALTY FOR TRAVEL ACT VIOLATIONS.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting "and thereafter performs or attempts to perform—

"(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

"(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.".

SEC. 1305. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

Subtitle B—Civil Rights Offenses

SEC. 1311. INCREASED MAXIMUM PENALTIES FOR CIVIL RIGHTS VIOLATIONS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended—

(1) by striking "not more than $10,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "results"; and

(3) by inserting "and may be fined under this title, or both" before the period.

(b) DEPRIVATION OF RIGHTS.—Section 242 of title 18, United States Code, is amended—

(1) by striking "not more more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire," after "bodily injury results";

(3) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(4) by inserting "and may be fined under this title, or both" before the period.

(c) FEDERALLY PROTECTED ACTIVITIES.—The first sentence of section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5)—

(1) by striking "not more than $1,000" and inserting "under this title";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results;

(3) by striking "not more than $10,000" and inserting "under this title";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill," after "death results"; and

(5) by inserting "and may be fined under this title, or both" before the period.

(d) DAMAGE TO RELIGIOUS PROPERTY.—Section 247 of title 18, United States Code, is amended—

(1) in subsection (c)(1) by inserting "from acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(2) in subsection (c)(2)—

(A) by striking "serious"; and

(B) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results"; and

(3) by amending subsection (e) to read as follows:

"(e) As used in this section, the term 'religious property' means any church, synagogue, mosque, religious cemetery, or other religious property.".

(e) FAIR HOUSING ACT.—Section 901 of the Fair Housing Act (42 U.S.C. 3631) is amended—

(1) by striking "not more than $1,000," and inserting "under title 18, United States Code,";

(2) by inserting "from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire" after "bodily injury results";

(3) by striking "not more than $10,000," and inserting "under title 18, United States Code,";

(4) by inserting "from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill" after "death results";

(5) by striking "subject to imprisonment" and inserting "fined under title 18, United States Code, or imprisoned"; and

(6) by inserting ", or both" after "life".

Subtitle C—White Collar and Property Crimes

SEC. 1321. RECEIPT OF PROCEEDS OF A POSTAL ROBBERY.

Section 2114 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) ROBBERY.—Whoever"; and

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

"(b) RECEIPT OF PROCEEDS.—Whoever receives, possesses, conceals, or disposes of any money or other property that has been obtained in violation of this section, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.".

SEC. 1322. RECEIPT OF PROCEEDS OF EXTORTION OR KIDNAPPING.

(a) EXTORTION.—Chapter 41 of title 18, United States Code, is amended—

(1) by adding at the end the following new section:

"§ 880. Receipt of proceeds of extortion

"Whoever receives, possesses, conceals, or disposes of any money or other property that was obtained from the commission of any offense under this chapter that is punishable by imprisonment for more than 1 year, knowing the same to have been unlawfully obtained, shall be imprisoned not more than 3 years, fined under this title, or both."; and

(2) in the chapter analysis, by adding at the end the following new item:

"880. Receipt of proceeds of extortion.".

(b) KIDNAPPING.—Section 1202 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(a) VIOLATION OF SECTION 1201.—Whoever"; and

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

"(b) VIOLATION OF STATE LAW.—Whoever transports, transmits, or transfers in interstate or foreign commerce any proceeds of a kidnapping punishable under State law by imprisonment for more than 1 year, or receives, possesses, conceals, or disposes of any such proceeds after they have crossed a State or United States boundary, knowing the proceeds to have been unlawfully obtained, shall be imprisoned not more than 10 years, fined under this title, or both.

"(c) DEFINITION.—For purposes of this section, the term 'State' has the meaning stated in section 245(d).".

SEC. 1323. CONFORMING ADDITION TO OBSTRUCTION OF CIVIL INVESTIGATIVE DEMAND STATUTE.

Section 1505 of title 18, United States Code, is amended by inserting "section 1968 of this title, section 3733 of title 31, United States Code, or" before "the Antitrust Civil Process Act".

SEC. 1324. CONFORMING ADDITION OF PREDICATE OFFENSES TO FINANCIAL INSTITUTIONS REWARDS STATUTE.

Section 3059A of title 18, United States Code, is amended—

(1) by inserting "225," after "215";

(2) by striking "or" before "1344"; and

(3) by inserting ", or 1517" after "1344".

SEC. 1325. DEFINITION OF SAVINGS AND LOAN ASSOCIATION IN BANK ROBBERY STATUTE.

Section 2113 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(h) As used in this section, the term 'savings and loan association' means—

"(1) any Federal saving association or State savings association (as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)) having accounts insured by the Federal Deposit Insurance Corporation; and

"(2) any corporation described in section 3(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)(C)) that is operating under the laws of the United States.".

SEC. 1326. CONFORMING DEFINITION OF "1 YEAR PERIOD" IN 18 U.S.C. 1516.

Section 1516(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" before "the term"; and

(2) by inserting before the period the following: ", and (ii) the term 'in any 1 year period' has the meaning given to the term 'in any one-year period' in section 666.".

SEC. 1327. FINANCIAL INSTITUTIONS FRAUD.

(a) FEDERAL DEPOSIT INSURANCE ACT.—Section 19(a)(2)(A)(i)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(2)(A)(i)(I)) is amended by striking "or 1956" and inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

(c) CRIME CONTROL ACT OF 1990.—Section 2546 of the Crime Control Act of 1990 (28 U.S.C. 522 note; 104 Stat. 4885) is amended by adding at the end the following new subsection:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

SEC. 1328. WIRETAPS.

Section 2511(1) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (c);

(2) by adding "or" at the end of paragraph (d); and

(3) by inserting after paragraph (d) the following new paragraph:

"(e) intentionally uses, discloses, or endeavors to disclose, to any other person the contents of any wire, oral, or electronic communication, intercepted by means authorized by sections 2511(2)(A)(ii), 2511 (b) and (c), 2511(e), 2516, and 2518, knowing or having reason to know that the information was obtained through the interception of such a communication in connection with a criminal investigation, having obtained or received the information in connection with a criminal investigation, with intent to improperly obstruct, impede, or interfere with a duly authorized criminal investigation,".

SEC. 1329. KNOWLEDGE REQUIREMENT FOR STOLEN OR COUNTERFEIT PROPERTY.

(a) OFFENSE.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 21. Stolen or counterfeit nature of property for certain crimes defined

"(a) ESTABLISHMENT OF ELEMENT OF OFFENSE.—Wherever in this title it is an element of an offense that any property was embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated and that the defendant knew that the property was of such character, the element may be established by proof that the defendant, after or as a result of an official representation as to the nature of the property, believed the property to be embezzled, robbed, stolen, converted, taken, altered, counterfeited, falsely made, forged, or obliterated.

"(b) DEFINITION.—For purposes of this section, the term 'official representation' means a representation made by a Federal law enforcement officer (as defined in section 115) or by another person at the direction or with the approval of such an officer.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"21. Stolen or counterfeit nature of property for certain crimes defined.".

SEC. 1330. MAIL FRAUD.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

SEC. 1331. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (3); and

(B) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly, and with intent to defraud, effects transactions, with 1 or more access devices issued to another person, to receive anything of value aggregating $1,000 or more during any 1-year period;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access device; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;";

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e)—

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

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

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

"(7) the term 'credit card system member' means a financial institution or other entity

that is a member of a credit card system, including an entity, whether affiliated with or identical to the credit card issuer, that is the sole member of a credit card system.".

SEC. 1332. INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000, imprisoned not more than 10 years"; and

(B) by striking "not more than $1,000,000" and inserting "not more than $5,000,000"; and

(2) in the second sentence—

(A) by striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000, imprisoned not more than 20 years"; and

(B) by striking "not more than $5,000,000" and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services).".

SEC. 1333. COMPUTER ABUSE AMENDMENTS ACT OF 1993.

(a) SHORT TITLE.—This section may be cited as the "Computer Abuse Amendments Act of 1993".

(b) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to 1 or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or".

(c) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

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

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(B) by striking the period at the end and inserting "; and"; and

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

"(4) a fine under this title, imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(d) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) A person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless the action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(e) REPORTING REQUIREMENTS.—Section 1030 of title 18 United States Code, as amended by subsection (d), is amended by adding at the end the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under subsection (a)(5).".

(f) DEFINITION.—Section 1030(e)(1) of title 18 United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(g) PROHIBITION.—Section 1030(a)(3) of title 18 United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

SEC. 1334. NOTIFICATION OF LAW ENFORCEMENT OFFICERS OF DISCOVERIES OF CONTROLLED SUBSTANCES OR LARGE AMOUNTS OF CASH IN WEAPONS SCREENING.

Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) DISCOVERIES OF CONTROLLED SUBSTANCES OR CASH IN EXCESS OF $10,000.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring employees and agents described in subsection (a) to report to appropriate Federal and State law enforcement officers any incident in which the employee or agent, in the course of conducting screening procedures pursuant to subsection (a), discovers—

"(1) a controlled substance the possession of which may be a violation of Federal or State law; or

"(2) an amount of cash in excess of $10,000 the possession of which may be a violation of Federal or State law.".

Subtitle D—Other Provisions

SEC. 1361. OPTIONAL VENUE FOR ESPIONAGE AND RELATED OFFENSES.

(a) IN GENERAL.—Chapter 211 of title 18, United States Code, is amended by inserting after section 3238 the following new section:

"§ 3239. Optional venue for espionage and related offenses

"The trial for any offense involving a violation, begun or committed upon the high seas or elsewhere out of the jurisdiction of any particular State or district, of—

"(1) section 793, 794, 798, or section 1030(a)(1) of this title;

"(2) section 601 of the National Security Act of 1947 (50 U.S.C. 421); or

"(3) section 4 (b) or (c) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783 (b) and (c)),

may be in the District of Columbia or in any other district authorized by law.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 211 of title 18, United States Code, is amended by inserting after the item relating to section 3238 the following new item:

"3239. Optional venue for espionage and related offense.".

SEC. 1362. REQUIRED REPORTING BY CRIMINAL COURT CLERKS.

(a) IN GENERAL.—Each clerk of a Federal or State criminal court shall report to the Internal Revenue Service, in a form and manner as prescribed by the Secretary of the Treasury, the name and taxpayer identification number of—

(1) any individual charged with any criminal offense who posts cash bail, or on whose behalf cash bail is posted, in an amount exceeding $10,000; and

(2) any individual or entity (other than a licensed bail bonding individual or entity) posting such cash bail for or on behalf of such individual.

(b) CRIMINAL OFFENSES.—For purposes of this section—

(1) the term "criminal offense" means—

(A) any Federal criminal offense involving a controlled substance;

(B) racketeering;

(C) money laundering; and

(D) any violation of State criminal law involving offenses substantially similar to the offenses described in the preceding paragraphs;

(2) the term "money laundering" means an offense under section 1956 or 1957 of title 18, United States Code; and

(3) the term "racketeering" means an offense under section 1951, 1952, or 1955 of title 18, United States Code.

(c) COPY TO PROSECUTORS.—Each clerk shall submit a copy of each report of cash bail described in subsection (a) to—

(1) the office of the United States Attorney; and

(2) the office of the local prosecuting attorney,

for the jurisdiction in which the defendant resides (and the jurisdiction in which the criminal offense occurred, if different).

(d) REGULATIONS.—The Secretary of the Treasury shall promulgate such regulations

as are necessary to implement this section within 90 days after the date of enactment of this Act.

(e) EFFECTIVE DATE.—This section shall become effective on the date that is 60 days after the date of the promulgation of regulations under subsection (d).

SEC. 1363. AUDIT REQUIREMENT FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES RECEIVING FEDERAL ASSET FORFEITURE FUNDS AND REPORT TO CONGRESS ON ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Section 524(c)(7) of title 28, United States Code, is amended to read as follows:

"(7)(A) The Fund shall be subject to annual audit by the Comptroller General.

"(B) The Attorney General shall require that any State or local law enforcement agency receiving funds conduct an annual audit detailing the uses and expenses to which the funds were dedicated and the amount used for each use or expense and report the results of the audit to the Attorney General.".

(b) REPORT TO CONGRESS.—Section 524(c)(6) of title 28, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ", which report should also contain all annual audit reports from State and local law enforcement agencies required to be reported to the Attorney General under paragraph (7)(B)."; and

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

"(D) a report for the fiscal year containing a description of the administrative and contracting expenses paid from the Fund under paragraph (1)(A).".

SEC. 1364. DNA IDENTIFICATION.

(a) FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.—

(1) DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM.—Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)), as amended by section 531, is amended—

(A) by striking "and" at the end of paragraph (20);

(B) by striking the period at the end of paragraph (21) and inserting "; and"; and

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

"(22) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (referred to in this title as 'DNA') for identification purposes.".

(2) STATE APPLICATIONS.—Section 503(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

"(12) If any part of a grant made under this part is to be used to develop or improve a DNA analysis capability in a forensic laboratory, a certification that—

"(A) DNA analyses performed at the laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis issued by the Director of the Federal Bureau of Investigation under section 1388(b) of the Crime Control Act of 1993;

"(B) DNA samples obtained by and DNA analyses performed at the laboratory will be made available only—

"(i) to criminal justice agencies, for law enforcement identification purposes;

"(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; and

"(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes; and

"(C) the laboratory and each analyst performing DNA analyses at the laboratory will undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1388(b) of the Crime Control Act of 1993.".

(3) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 1994, 1995, and 1996 there are authorized to be appropriated such sums as are necessary for grants to the States for DNA analysis.

(b) QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—

(1) PUBLICATION OF QUALITY ASSURANCE AND PROFICIENCY TESTING STANDARDS.—(A) Not later than 180 days after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall appoint an advisory board on DNA quality assurance methods. The Director shall appoint members of the board from among nominations proposed by the head of the National Academy of Sciences and professional societies of crime laboratory directors. The advisory board shall include as members scientists from State and local forensic laboratories, molecular geneticists and population geneticists not affiliated with a forensic laboratory, and a representative from the National Institute of Standards and Technology. The advisory board shall develop, and if appropriate, periodically revise, recommended standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(B) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for quality assurance, including standards for testing the proficiency of forensic laboratories, and forensic analysts, in conducting analyses of DNA.

(C) The standards described in subparagraphs (A) and (B) shall specify criteria for quality assurance and proficiency tests to be applied to the various types of DNA analyses used by forensic laboratories. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(D) Until such time as the advisory board has made recommendations to the Director of the Federal Bureau of Investigation and the Director has acted upon those recommendations, the quality assurance guidelines adopted by the technical working group on DNA analysis methods shall be deemed the Director's standards for purposes of this section.

(2) ADMINISTRATION OF THE ADVISORY BOARD.—For administrative purposes, the advisory board appointed under paragraph (1) shall be considered to be an advisory board to the Director of the Federal Bureau of Investigation. Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a). The board shall cease to exist on the date that is 5 years after the date on which initial appointments are made to the board, unless the existence of the board is extended by the Director of the Federal Bureau of Investigation.

(c) INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.—

(1) IN GENERAL.—The Director of the Federal Bureau of Investigation may establish an index of—

(A) DNA identification records of persons convicted of crimes;

(B) analyses of DNA samples recovered from crime scenes; and

(C) analyses of DNA samples recovered from unidentified human remains.

(2) CONTENTS.—The index established under paragraph (1) shall include only information on DNA identification records and DNA analyses that are—

(A) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under section 1364(b) of the Crime Control Act of 1993;

(B) prepared by laboratories and DNA analysts that undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under section 1364(b) of the Crime Control Act of 1993; and

(C) maintained by Federal, State, and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

(i) to criminal justice agencies, for law enforcement identification purposes;

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged; or

(iii) to others, if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) FAILURE TO MEET REQUIREMENTS.—The exchange of records authorized by this subsection is subject to cancellation if the quality control and privacy requirements described in paragraph (2) are not met.

(d) FEDERAL BUREAU OF INVESTIGATION.—

(1) PROFICIENCY TESTING REQUIREMENTS.—(A) Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals not exceeding 180 days, external proficiency testing by a DNA proficiency testing program meeting the standards issued under subsection (b). Not later than 1 year after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall arrange for periodic blind external tests to determine the proficiency of DNA analysis performed at the Federal Bureau of Investigation laboratory. As used in this subparagraph, the term "blind external test" means a test that is presented to the laboratory through a second agency and appears to the analysts to involve routine evidence.

(B) For each of the 5 years following the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate an annual report on the results of each of the tests described in subparagraph (A).

(2) PRIVACY PROTECTION STANDARDS.—(A) Except as provided in subparagraph (B), the results of DNA tests performed for a Federal law enforcement agency for law enforcement purposes may be disclosed only—

(i) to criminal justice agencies for law enforcement identification purposes; or

(ii) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which the defendant is charged.

(B) If personally identifiable information is removed, test results may be disclosed for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.

(3) CRIMINAL PENALTIES.—(A) Whoever—

(i) by virtue of employment or official position, has possession of, or access to, individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency; and

(ii) willfully discloses such information in any manner to any person or agency not entitled to receive it,

shall be fined not more than $100,000.

(B) Whoever, without authorization, willfully obtains DNA samples or individually identifiable DNA information indexed in a database created or maintained by any Federal law enforcement agency shall be fined not more than $100,000.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $2,000,000 for each of fiscal years 1994, 1995, and 1996 to carry out subsections (b), (c), and (d).

SEC. 1365. SAFE SCHOOLS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1062(a), is amended—

(1) by redesignating part S as part T;

(2) by redesignating section 1901 as section 2001; and

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

"PART S—SAFE SCHOOLS ASSISTANCE

"SEC. 1901. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance, in consultation with the Secretary of Education, may make grants to local educational agencies in urban, suburban, and rural areas for the purpose of providing assistance to such agencies most directly affected by crime and violence.

"(b) MODEL PROJECT.—The Director, in consultation with the Secretary of Education, shall develop a written safe schools model in a timely fashion and make such model available to any local educational agency that requests such information.

"SEC. 1902. USE OF FUNDS.

"Grants made by the Director under this part shall be used—

"(1) to fund anticrime and safety measures and to develop education and training programs for the prevention of crime, violence, and illegal drugs and alcohol;

"(2) for counseling programs for victims of crime within schools;

"(3) for crime prevention equipment, including metal detectors and video-surveillance devices; and

"(4) for the prevention and reduction of the participation of young individuals in organized crime and drug and gang-related activities in schools.

"SEC. 1903. APPLICATIONS.

"(a) IN GENERAL.—In order to be eligible to receive a grant under this part for any fiscal year, a local educational agency shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(b) REQUIREMENTS.—An application under subsection (a) shall include—

"(1) a request for funds for the purposes described in section 1902;

"(2) a description of the schools and communities to be served by the grant, including the nature of the crime and violence problems within such schools;

"(3) assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part; and

"(4) statistical information in such form and containing such information that the Director may require regarding crime within the schools served by such local educational agency.

"(c) COMPREHENSIVE PLAN.—An application under subsection (a) shall include a comprehensive plan that shall contain—

"(1) a description of the crime problems within the schools targeted for assistance;

"(2) a description of the projects to be developed;

"(3) a description of the resources available in the community to implement the plan together with a description of the gaps in the plan that cannot be filled with existing resources;

"(4) an explanation of how the requested grant will be used to fill gaps; and

"(5) a description of the system the applicant will establish to prevent and reduce crime problems.

"SEC. 1904. ALLOCATION OF FUNDS; LIMITATIONS ON GRANTS.

"(a) ADMINISTRATIVE COST LIMITATION.—The Director shall use not more than 5 percent of the funds available under this part for the purposes of administration and technical assistance.

"(b) RENEWAL OF GRANTS.—A grant under this part may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives its initial grant under this part, subject to the availability of funds, if—

"(1) the Director determines that the funds made available to the recipient during the previous year were used in a manner required under the approved application; and

"(2) the Director determines that an additional grant is necessary to implement the crime prevention program described in the comprehensive plan as required by section 1903(c).

"(c) RURAL AREAS.—The Director shall use not less than 15 percent of the funds available under this part for grants to local educational agencies in rural areas.

"SEC. 1905. AWARD OF GRANTS.

"(a) SELECTION OF RECIPIENTS.—The Director, in consultation with the Secretary of Education, shall consider the following factors in awarding grants to local educational agencies:

"(1) CRIME PROBLEM.—The nature and scope of the crime problem in the targeted schools.

"(2) NEED AND ABILITY.—Demonstrated need and evidence of the ability to provide the services described in the plan required under section 1903(c).

"(3) POPULATION.—The number of students to be served by the plan required under section 1903(c).

"(b) GEOGRAPHIC DISTRIBUTION.—The Director shall achieve an equitable geographic distribution of grant awards.

"SEC. 1906. REPORTS.

"(a) REPORT TO DIRECTOR.—Local educational agencies that receive funds under this part shall submit to the Director a report not later than March 1 of each year that describes progress achieved in carrying out the plan required under section 1803(c).

"(b) REPORT TO CONGRESS.—The Director shall submit to the Congress a report by October 1 of each year in which grants are made available under this part, which report shall contain—

"(1) a detailed statement regarding grant awards and activities of grant recipients;

"(2) a compilation of statistical information submitted by applicants under section 1903(b)(4); and

"(3) an evaluation of programs established under this part.

"SEC. 1907. DEFINITIONS.

"For the purpose of this part:

"(1) The term 'Director' means the Director of the Bureau of Justice Assistance.

"(2) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary and secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts of counties as are recognized in a State as an administrative agency for its public elementary and secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended by section 1062(b), is amended by striking the matter relating to part V and inserting the following:

"PART S—SAFE SCHOOLS ASSISTANCE

"Sec. 1901. Grant authorization.
"Sec. 1902. Use of funds.
"Sec. 1903. Applications.
"Sec. 1904. Allocation of funds; limitations on grants.
"Sec. 1905. Award of grants.
"Sec. 1906. Reports.
"Sec. 1907. Definitions.

"PART T—TRANSITION; EFFECTIVE DATE; REPEALER

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

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), as amended by section 1062(c), is amended—

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

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

"(13) There are authorized to be appropriated $100,000,000 for fiscal year 1994 to carry out projects under part S.".

TITLE XIV—TECHNICAL CORRECTIONS

SEC. 1401. AMENDMENTS RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR LAW ENFORCEMENT.

(a) TESTING OF CERTAIN SEX OFFENDERS FOR HUMAN IMMUNE DEFICIENCY VIRUS.—Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a) by striking "Of" and inserting "Subject to subsection (f), of";

(2) in subsection (c) by striking "subsections (b) and (c)" and inserting "subsection (b)";

(3) in subsection (e) by striking "or (e)" and inserting "or (f)"; and

(4) in subsection (f)(1)—

(A) in subparagraph (A)—

(i) by striking ", taking into consideration subsection (e) but"; and

(ii) by striking "this subsection," and inserting "this subsection"; and

(B) in subparagraph (B) by striking "amount" and inserting "funds".

(b) CORRECTIONAL OPTIONS GRANTS.—(1) Section 515(b) of title I of the Omnibus Crime

Control and Safe Streets Act of 1968 (42 U.S.C. 3762a(b)) is amended—

(A) by striking "subsection (a)(1) and (2)" and inserting "subsection (a) (1) and (2)"; and

(B) in paragraph (2) by striking "States" and inserting "public agencies".

(2) Section 516 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3762b) is amended—

(A) in subsection (a) by striking "for section" each place it appears and inserting "shall be used to make grants under section"; and

(B) in subsection (b) by striking "section 515(a)(1) or (a)(3)" and inserting "section 515(a) (1) or (3)".

(3) Section 1001(a)(5) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(5)), as amended by section 1002, is amended by inserting "(other than chapter B of subpart 2)" after "and E".

(c) DENIAL OR TERMINATION OF GRANT.—Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "M,," and inserting "M,".

(d) DEFINITIONS.—Section 901(a)(21) of title I of the Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(21)) is amended by adding a semicolon at the end.

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

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

(2) by redesignating paragraph (6), relating to part N of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as paragraph (8) and removing it to follow paragraph (7), relating to part M of that title I; and

(3) by redesignating paragraph (7), relating to part O of that title, as paragraph (9).

(f) PUBLIC SAFETY OFFICERS DISABILITY BENEFITS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1201 (42 U.S.C. 3796)—

(A) in subsection (a) by striking "subsection (g)" and inserting "subsection (h),"; and

(B) in subsection (b)—

(i) by striking "subsection (g)" and inserting "subsection (h)";

(ii) by striking "personal"; and

(iii) in the first proviso by striking "section" and inserting "subsection"; and

(2) in section 1204(3) (42 U.S.C. 3796b(3)) by striking "who was responding to a fire, rescue or police emergency".

(g) HEADINGS.—(1) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797) is amended to read as follows:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS".

(2) The heading for part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796bb) is amended to read as follows:

"PART O—RURAL DRUG ENFORCEMENT".

(h) TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in the item relating to section 501 by striking "Drug Control and System Improvement Grant" and inserting "drug control and system improvement grant";

(2) in the item relating to section 1403 by striking "Application" and inserting "Applications"; and

(3) in the items relating to part O by redesignating sections 1401 and 1402 as sections 1501 and 1502, respectively.

(i) OTHER TECHNICAL AMENDMENTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 202(c)(2)(E) (42 U.S.C. 3722(c)(2)(E)) by striking "crime,," and inserting "crime,";

(2) in section 302(c)(19) (42 U.S.C. 3732(c)) by striking the period at the end and inserting a semicolon;

(3) in section 602(a)(1) (42 U.S.C. 3769a(a)(1)) by striking "chapter 315" and inserting "chapter 319";

(4) in section 603(a)(6) (42 U.S.C. 3769b(a)(6)) by striking "605" and inserting "606";

(5) in section 605 (42 U.S.C. 3769c) by striking "this section" and inserting "this part";

(6) in section 606(b) (42 U.S.C. 3769d(b)) by striking "and Statistics" and inserting "Statistics";

(7) in section 801(b) (42 U.S.C. 3782(b))—

(A) by striking "parts D," and inserting "parts";

(B) by striking "part D" each place it appears and inserting "subpart 1 of part E";

(C) by striking "403(a)" and inserting "501"; and

(D) by striking "403" and inserting "503";

(8) in the first sentence of section 802(b) (42 U.S.C. 3783(b)) by striking "part D," and inserting "subpart 1 of part E or under part";

(9) in the second sentence of section 804(b) (42 U.S.C. 3785(b)) by striking "Prevention or" and inserting "Prevention, or";

(10) in section 808 (42 U.S.C. 3789) by striking "408, 1308," and inserting "507";

(11) in section 809(c)(2)(H) (42 U.S.C. 3789d(c)(2)(H)) by striking "805" and inserting "804";

(12) in section 811(e) (42 U.S.C. 3789f(e)) by striking "Law Enforcement Assistance Administration" and inserting "Bureau of Justice Assistance";

(13) in section 901(a)(3) (42 U.S.C. 3791(a)(3)) by striking "and," and inserting ", and"; and

(14) in section 1001(c) (42 U.S.C. 3793(c)) by striking "parts" and inserting "part".

(j) CONFORMING AMENDMENT TO OTHER LAW.—Section 4351(b) of title 18, United States Code, is amended by striking "Administrator of the Law Enforcement Assistance Administration" and inserting "Director of the Bureau of Justice Assistance".

SEC. 1402. GENERAL TITLE 18 CORRECTIONS.

(a) SECTION 1031.—Section 1031 of title 18, United States Code, is amended—

(1) by redesignating subsection (g), as added by Public Law 101–123, as subsection (h) and removing it to the end of the section; and

(2) in subsection (h), as redesignated by paragraph (1), by striking "a government" and inserting "a Government".

(b) SECTION 208.—Section 208(c)(1) of title 18, United States Code, is amended by striking "Banks" and inserting "banks".

(c) SECTION 1007.—The heading for section 1007 of title 18, United States Code, is amended by striking "Transactions" and inserting "transactions".

(d) SECTION 1014.—Section 1014 of title 18, United States Code, is amended by striking the comma that follows a comma.

(e) ELIMINATION OF OBSOLETE CROSS REFERENCE.—Section 3293(1) of title 18, United States Code, is amended by striking "1008,".

(f) PART I PART ANALYSIS.—The item relating to chapter 33 in the part analysis for part I of title 18, United States Code, is amended by striking "701" and inserting "700".

SEC. 1403. CORRECTIONS OF ERRONEOUS CROSS REFERENCES AND MISDESIGNATIONS.

(a) CONTRABAND IN PRISON.—Section 1791(b) of title 18, United States Code, is amended by striking "(c)" each place it appears and inserting "(d)".

(b) MONEY LAUNDERING.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act (21 U.S.C. 863)".

(c) REQUIREMENTS FOR GOVERNMENTAL ACCESS.—Section 2703(d) of title 18, United States Code, is amended by striking "section 3126(2)(A)" and inserting "section 3127(2)(A)".

(d) PROGRAMS RECEIVING FEDERAL FUNDS.—Section 666(d) of title 18, United States Code, is amended—

(1) by redesignating the second paragraph (4) as paragraph (5);

(2) by striking "and" at the end of paragraph (3); and

(3) by striking the period at the end of paragraph (4) and inserting "; and".

(e) OFFENDERS WITH MENTAL DISEASE OR DEFECT.—Section 4247(h) of title 18, United States Code, is amended by striking "subsection (e) of section 4241, 4243, 4244, 4245, or 4246," and inserting "section 4241(e), 4243(f), 4244(e), 4245(e), or 4246(e),".

(f) CONTINUING CRIMINAL ENTERPRISES.—Section 408(b)(2)(A) of the Controlled Substances Act (21 U.S.C. 848(b)(2)(A)) is amended by striking "subsection (d)(1)" and inserting "subsection (c)(1)".

(g) SENTENCING COMMISSION.—Section 994(h) of title 28, United States Code, is amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" each place it appears and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(h) FIREARMS.—Section 924(e)(2)(A)(i) of title 18, United States Code, is amended by striking "the first section or section 3 of Public Law 96–350 (21 U.S.C. 955a et seq.)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

(i) ERRONEOUS CITATION IN CRIME CONTROL ACT OF 1990.—Section 2596(d) of the Crime Control Act of 1990 (104 Stat. 4908) is amended, effective as of the date of enactment of that Act, by striking "951(c)(1)" and inserting "951(c)(2)".

SEC. 1404. OBSOLETE PROVISIONS IN TITLE 18.

Title 18, United States Code, is amended—

(1) in section 212 by striking "or of any National Agricultural Credit Corporation," and by striking "or National Agricultural Credit Corporations,";

(2) in section 213 by striking "or examiner of National Agricultural Credit Corporations";

(3) in section 709 by striking the seventh and thirteenth paragraphs;

(4) in section 711 by striking the second paragraph;

(5) by striking section 754 and amending the chapter analysis for chapter 35 by striking the item relating to section 754;

(6) in sections 657 and 1006 by striking "Reconstruction Finance Corporation," and by striking "Farmers' Home Corporation,";

(7) in section 658 by striking "Farmers' Home Corporation,";

(8) in section 1013 by striking ", or by any National Agricultural Credit Corporation";

(9) in section 1160 by striking "white person" and inserting "non-Indian";

(10) in section 1698 by striking the second paragraph;

(11) by striking sections 1904 and 1908 and amending the chapter analysis for chapter 93 by striking the items relating to those sections;

(12) in section 1909 by inserting "or" before "farm credit examiner" and by striking "or an examiner of National Agricultural Credit Corporations,";

(13) by striking sections 2157 and 2391 and amending the chapter analyses for chapters 105 and 115, respectively, by striking the items relating to those sections;

(14) in section 2257 by striking subsections (f) and (g) that were enacted by Public Law 100-690 (102 Stat. 4488);

(15) in section 3113 by striking the third paragraph; and

(16) in section 3281 by striking "except for offenses barred by the provisions of law existing on August 4, 1939".

SEC. 1405. CORRECTION OF DRAFTING ERROR IN THE FOREIGN CORRUPT PRACTICES ACT.

Section 104(a)(3) of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2(a)(3)) is amended by striking "issuer" and inserting "domestic concern".

SEC. 1406. ELIMINATION OF REDUNDANT PENALTY.

Section 1864(c) of title 18, United States Code, is amended by striking "(b) (3), (4), or (5)" and inserting "(b)(5)".

SEC. 1407. CORRECTIONS OF MISSPELLINGS AND GRAMMATICAL ERRORS.

Title 18, United States Code, is amended—

(1) in section 513(c)(4) by striking "association or persons" and inserting "association of persons";

(2) in section 1956(e) by striking "Evironmental" and inserting "Environmental";

(3) in section 3125—

(A) in subsection (a)(2) by striking the quotation marks; and

(B) in subsection (d) by striking "provider for" and inserting "provider of"; and

(4) in section 3731, in the second undesignated paragraph, by striking "order of a district courts" and inserting "order of a district court".

TITLE XV—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 1501. SHORT TITLE.

This title may be cited as the "Federal Law Enforcement Act of 1993".

SEC. 1502. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated $333,500,000 for fiscal year 1994 (which shall be in addition to any other appropriations) to be allocated as follows:

(1) For the Drug Enforcement Administration, $100,500,000, which shall include—

(A) not to exceed $45,000,000 to hire, equip, and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas; and

(B) not to exceed $25,000,000 to expand DEA State and Local Task Forces, including payment of State and local overtime, equipment, and personnel costs.

(2) For the Federal Bureau of Investigation, $98,000,000, for the hiring of additional agents and support personnel, which shall include not more than $35,000,000 for the purpose of hiring, equipping, and training not less than 250 agents and necessary support personnel to expand investigations and operations by the Federal Bureau of Investigation in rural areas.

(3) For the Immigration and Naturalization Service, $45,000,000, to be further allocated as follows:

(A) $25,000,000 to hire, train, and equip no fewer than 500 full-time equivalent Border Patrol officer positions.

(B) $20,000,000 to hire, train, and equip no fewer than 400 full-time equivalent INS criminal investigators dedicated to drug trafficking by illegal aliens and to deportations of criminal aliens.

(4) For the United States attorneys, $45,000,000 to hire and train not less than 350 additional prosecutors and support personnel dedicated to the prosecution of drug trafficking and related offenses.

(5) For the United States Marshals Service, $10,000,000.

(6) For the Bureau of Alcohol, Tobacco, and Firearms, $15,000,000 to hire, equip, and train not less than 100 special agents and support personnel to investigate firearms violations committed by drug trafficking organizations, particularly violent gangs.

(7) For the United States courts, $20,000,000 for additional magistrates, probation officers, other personnel, and equipment to address the case-load generated by the additional investigative and prosecutorial resources provided in this title.

TITLE XVI—FEDERAL PRISONS

SEC. 1601. AUTHORIZATION OF APPROPRIATIONS FOR NEW PRISON CONSTRUCTION.

There is authorized to be appropriated for fiscal year 1993 to the buildings and facilities account, Federal Prison System, Department of Justice, $500,000,000 for the planning of, acquisition of sites for, and the construction of new penal and correctional facilities, such appropriations to be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for that fiscal year.

TITLE XVII—PRE-TRIAL INTERROGATION

SEC. 1701.

It is the sense of the Congress that the Attorney General shall instruct all U.S. Attorneys, and implement policies consistent therewith, that confessions obtained in conformity with 18 U.S.C. Section 3501 will be offered into evidence.

SECTION-BY-SECTION ANALYSIS

TITLE I—FEDERAL DEATH PENALTY

This title provides necessary procedural provisions and conforming amendments to enable law enforcement authorities to seek the death penalty for the most heinous federal crimes (47 separate federal offenses) and it authorizes the death penalty for the District of Columbia. It is identical in most respects to the federal death penalty proposal which passed the House in 1991 and in 1990.

In all, the bill provides the death penalty for the following 47 federal offenses:

Existing Capital Crimes

1. espionage[1]
2. treason[1]
3. aircraft destruction where death results
4. motor vehicle destruction where death results
5. retaliatory murder against official's family
6. murder of members of Congress or Cabinet
7., 8., 9. three explosives offenses where death results
10. murder in special territorial jurisdiction
11. murder of federal judges and court officers
12. witness tampering where death results
13. mailing dangerous articles where death results
14. Assassination of President, V.P. or staff
15. wrecking trains where death results
16. bank robbery where death results
17. certain drug related killings
18. air piracy where death results

New Death Penalty Authorizations

19. violence at international airports where death results
20. federal child abuse resulting in death
21. conspiracy against civil rights where death results
22. deprivation of civil rights where death results
23. violence against exercising of federal rights w/ death
24. firearms murders during federal crimes of violence
25. fatal firearms attacks at federal facilities
26. drive by shootings where death results
27. murder in furtherance of genocide
28. murder of local law enforcement assisting feds.
29. murder of certain foreign officials
30. murder by prisoner serving life term
31. murder by escaped federal prisoner
32. kidnapping where death results
33. hostage taking where death results
34. murder of jurors and court officers
35. retaliatory murder of witnesses
36. attempted assassination of the President[1]
37. murder for hire
38. murder in aid of racketeering
39. sexual exploitation resulting in death
40. violence against maritime navigation w/ death
41. violence against maritime platforms w/ death
42. terrorist murders of Americans abroad
43. use of weapons of mass destruction w/ death
44. torture where death results
45. drug kingpins currently subject to mandatory life[1]
46. d.k. who attempt to kill to obstruct justice[1]
47. murder in the course of drug felonies

The bill also amends title 18 of the U.S. Code to authorize capital punishment for murders in the District of Columbia. It proposes a separate set of procedures applicable to cases brought in the District in order to address D.C.'s particular problems as well as the unique federal-district relationship.

TITLE II—HABEAS CORPUS REFORM

This title curbs the abuse of habeas corpus by state and federal prisoners and is identical to the habeas corpus amendment to the crime bill which passed by the Senate by a vote of 58 to 40 in 1991. Subtitle A proposes general habeas corpus reform.

Subtitle B contains reforms aimed at addressing the unique problems of abuse and delay in capital cases. It is modeled after the "Powell Committee" proposal for death penalty litigation (the States may opt in, if a State opts in it must provide counsel in state collateral review, and it limits the petitioner to a single habeas petition). It improves upon Powell by including the "full and fair" rule of deference for state court adjudications and placing time limits upon the federal courts.

Subtitle C insures that, each year, State Attorneys General shall receive habeas corpus litigation support grants equal in amount to the grants given to capital resource centers.

TITLE III—EXCLUSIONARY RULE REFORM

This title is identical to the exclusionary rule reform proposal which passed the House

[1] No resulting death is required for the death penalty to be considered.

of Representatives as an amendment to H.R. 3371 IN 1991. This legislation would add a new section 3509 to the federal criminal code.

Sec. 301. Creates new section 3509 to title 18. Subsection 3509(a) would provide that evidence shall not be excluded in any federal proceeding on the ground that the search or seizure was in violation of the Fourth Amendment if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the Fourth Amendment. A police officer's mere subjective belief in the legality of his or her own search is insufficient to support admissibility. This would extend the underlying principle of *United States* v. *Leon*, 468 U.S. 897 (1984), so as to bar the exclusion of evidence obtained in cases involving warrantless searches, as well as in cases involving searches made pursuant to a warrant.

The subsection also provides specifically that the fact that evidence was obtained pursuant to a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search was in conformity with the Fourth Amendment.

Subsection 3509(b) would bar the exclusion of evidence in federal proceedings on the basis of non-constitutional violations except as expressly authorized by statute or rule promulgated by the Supreme Court. Subsection 3509(c) makes it clear that the section is not to be construed as reflecting legislative approval of the exclusion of evidence as a sanction for official misconduct in any circumstances.

TITLE IV—RURAL CRIME AND DRUG CONTROL

This legislation improves the fight against drug traffickers and violent criminals in rural America.

Subtitle A—Drug Trafficking in Rural Areas

Sec. 401. Amends current state and local law enforcement grants program to authorize an additional $50 million in grants for rural States.

Sec. 402. Directs the Attorney General to establish Rural Crime and Drug Enforcement Task Forces in every federal judicial district that includes significant rural areas. Headed by the local U.S. Attorneys, the Task Forces would include personnel from DEA, FBI, Customs, U.S. Park Police, U.S. Marshals, and state and local law enforcement. These Task Forces would be required to coordinate activities to ensure that resources are used as effectively as possible.

Sec. 403. Permits the A.G. to cross-designate up to 100 law enforcement officers from the U.S. Park Police, U.S. Forest Service, BLM, and other law enforcement agencies to enforce federal drug and criminal law in rural areas. As well, the section requires the A.G. to ensure that the Task Forces are adequately staffed with investigators.

Sec. 404. Establishes a specialized training program at the Federal Law Enforcement Training Center in Glynco, Georgia to teach police officers and sheriffs from rural agencies the most effective methods of conducting drug trafficking investigations.

Subtitle B—Rural Drug Prevention and Treatment

Sec. 411. Proposes a $25 million HHS drug prevention and treatment program for rural areas. Grants will go to hospitals, community health centers, and State agencies responsible for treatment. Requires that, to the extent practicable, one grant shall go to each state.

Subtitle C—Rural Areas Enhancement

Sec. 421. Requires that the assets forfeited by Rural Task Forces be used to enhance the operations of the Task Force and participating state and local law enforcement agencies.

Sec. 422. Requires federal prosecutors bringing charges against "ice" manufacturers to seek environmental related indictments as well as civil suits where environmental damage has occurred or hazardous waste has been illegally dumped.

TITLE V—FIREARMS AND RELATED AMENDMENTS

Sec. 501. Enhances penalties for smuggling firearms in furtherance of drug trafficking.

Sec. 502. Ten year maximum penalty for theft of firearms.

Sec. 503. Increase maximum penalty for making a knowingly false, material statement in connection with the purchase of a firearm.

Sec. 504. Summary destruction of explosives subject to forfeiture.

Sec. 505. Elimination of outmoded parole language.

Sec. 506. Illegal to transfer firearms to a non-resident unless for lawful sporting purpose.

Sec. 507. Prohibition against theft of firearms or explosives from a licensee.

Sec. 508. Ten year maximum penalty for interstate gun trafficking.

Sec. 509. Prohibition against transactions involving stolen firearms.

Sec. 510. Technical amendment making possession of explosives by felons equivalent to receipt of explosives.

Sec. 511. Facilitates the disposition of firearms forfeited to the federal government. Government may use forfeited weapons or sell firearms which are historic or antiques.

Sec. 512. Defines burglary under the armed career criminal statute.

TITLE VI—JUVENILES AND GANGS

Sec. 611. Enhancement of maximum penalties for using minors in drug trafficking in drug free zones.

Sec. 621. Establishes $100 million grant program for efforts at the State and local level, and by private not-for profit anti-crime organizations, to assist in prevention and enforcement programs aimed at fighting juvenile gangs.

Sec. 622. Creates a new federal offense which adds an additional period of incarceration of up to 10 years for violent crimes or drug offense committed by criminal street gangs.

Sec. 623. Creates a presumption in favor of adult prosecution of leaders of juvenile gangs or juveniles with history of violent crime or drug activity.

Sec. 631. Treats certain serious drug crimes by juveniles as armed career criminal predicate offenses.

Sec. 632. Creates a new $200 million dollar grant program to the State and local government for the purpose of developing alternative methods of punishment for young offenders.

Sec. 641. Adds another objective to State and local law enforcement block grants to support programs addressing the need for effective bindover systems for adult prosecution of juveniles who commit serious violent crimes.

Sec. 642. Requires that the Attorney General develop a national strategy aimed at coordinating federal gang-related investigations.

Sec. 643. Clarification that juveniles records be produced before the commencement of any proceedings against him or her.

TITLE VII—TERRORISM AND INTERNATIONAL MATTERS

Sec. 701. Terrorism Civil Remedy—Provides U.S. victims of terrorism with a federal civil cause of action.

Sec. 702. Criminalizes the providing of material support to terrorists.

Sec. 703. Authorizes criminal forfeiture of property used in or derived from terrorist crimes.

Sec. 704. Alien Witness Cooperation Act—authorizes admission into the U.S. of up to 200 aliens annually who cooperate in terrorism or other investigations.

Sec. 705–706. Extends territorial sea included in the special maritime and territorial jurisdiction of the U.S. to 12 miles. Assimilates crimes which occur in this extended area.

Sec. 707. Ensures jurisdiction over crimes by or against U.S. nationals on foreign ships having a scheduled departure from or arrival in the U.S.

Sec. 708. Increases the maximum penalty for crimes of manslaughter and aggravated assault committed abroad by terrorists against U.S. nationals.

Sec. 709. Authorizes additional $67.5 million in appropriations for federal (and state) anti-terrorism efforts.

Sec. 710. Enhanced maximum penalties for certain offense likely to be terrorist offenses.

Sec. 711. Instructs the Sentencing Commission to review guidelines for terrorist offense, and if warranted, increase the guidelines.

Sec. 712. Extends the statute of limitations for certain terrorism offenses.

Sec. 713. Criminalizes international parental child kidnapping where the intent is to obstruct the lawful enforcement of parental rights.

Sec. 714. Criminalizes the foreign murder of U.S. nationals.

Sec. 715. Facilitation of the extradition of murderers of U.S. citizens abroad.

Sec. 716. Improves FBI access to telephone subscriber information in connection with counterintelligence and anti-terrorism investigations.

TITLE VIII—SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS' RIGHTS.

TITLE IX—EQUAL JUSTICE ACT

The Equal Justice Act establishes additional safeguards against racial bias in the administration of capital punishment and other penalties. It codifies certain Supreme Court decisions addressing racial discriminatory practices in the imposition of the death penalty. It permits a motion by the defense attorney to examine jurors on the risk of racial prejudice during voir dire (*Turner* v. *Murray* (1986)); permits a change of venue where an impartial jury cannot be obtained (*Irvin* v. *Dowd* (1967)), and prohibits all appeals to racial prejudice or bias by defense counsel or the prosecutor before the jury.

TITLE X—FUNDING, GRANT PROGRAM, AND STUDIES

Subtitle A—Safer Streets and Neighborhoods

Sec. 1001–1004. These provisions incorporate the Republican alternative to Police Corps. It increases the current DOJ formula law enforcement grant program from $900 million to $1 billion. It requires that all additional appropriations under this program (current funding is at approximately $500 million) be used to hire additional law enforcement officers. The bill also adjusts the DOJ formula to treat rural states more fairly.

Subtitle B—Retired Public Safety Officer Death Benefits

Sec. 1011. Extends existing death benefits to cover retired officers killed or injured while responding to an emergency.

Subtitle C—Study of Police Officer's Bill of Rights

Sec. 1021. The Attorney General, through the NIJ shall study the fairness and effec-

tiveness of police disciplinary investigations and adjudications.

Subtitle D—Cop-on-the-Beat Grants

Sec. 1031–1032. Creates a new $150 million DOJ grant program for the State and local governments to establish community policing.

Subtitle E—National Commission to Support Law Enforcement

Sec. 1041–1050. Create a National Commission to Support Law Enforcement (18 month period) which will study and recommend changes regarding law enforcement agencies and issues at the federal, state, and local level.

Subtitle F—Other Provisions

Sec. 1062. $5 million grant program to provide family support services to law enforcement personnel.

Sec. 1063. Requires the Bureau of Prisons to notify local police of the release from custody of any prisoner convicted of a crime of violence or drug trafficking offense.

TITLE XI—ILLEGAL DRUGS

Sec. 1101. General requirement that federal offenders be tested for drugs on post-conviction release.

Sec. 1121–1133. Precursor chemicals provision which the DEA has worked out with chemical manufacturers. It has passed the Senate on three separate occasions.

Sec. 1141. Prohibits the advertising of illegal transactions involving controlled substances.

Sec. 1142. Closes loophole for the illegal importation of small amounts of marijuana.

Sec. 1143. Authorizes civil penalties and injunctions against drug paraphernalia violations.

Sec. 1144–47. Various conforming amendments: adding certain drug offenses as requiring fingerprinting and records for recidivist juveniles; definition of a narcotic or other dangerous drugs under RICO; elimination of outmode language relating to parole.

Sec. 1148. Enhanced penalties for federal drugged or drunk driving that endangers or kills minors.

Sec. 1149. Authorizes the Attorney General to bring civil actions seeking injunctions, evictions, and civil penalties in relation to premises used in drug activities.

Sec. 1150. Criminal offenses for coaches, trainers, etc, who promote the use of steroids by persons in their charge.

Sec. 1151. Public awareness program of existing federal law relating to loss of highway funding for States which fail to revoke driver's licenses of convicted drug abusers.

Sec. 1152. Allows local governments to participate in DARE with the approval of local educational agency.

Sec. 1153. Prohibits the unauthorized use of the words Drug Enforcement Administration or DEA in a manner calculated to convey the impression that DEA endorses the labeled item.

TITLE XII—PUBLIC CORRUPTION

Sec. 1201–1204. Strengthen federal laws against public corruption, including increased penalties, more adequate basis of federal jurisdiction to prosecute corruption offenses, prohibition of retaliation against whistleblowers who expose public corruption, and specific provisions relating to election fraud and drug-related corruption.

TITLE XIII—GENERAL PROVISIONS

Subtitle A—Violent Crimes

Sec. 1301–1305. Addition of the attempt liability for robbery, kidnapping, smuggling, and property damage offenses. Increase the maximum penalty for assault, manslaughter, travel act violations, and conspiracy to commit murder for hire.

Subtitle B—Civil Rights

Sec. 1311. Increase the maximum penalties for serious violent acts in violation of criminal civil rights statutes.

Subtitle White Collar and Property Crime

Sec. 1321–1326. Technical and conforming amendments to cover receipt of proceeds of robbery, extortion and kidnapping; and other changes. Defines savings and loan for purposes of bank robbery statute.

Sec. 1327. Federal Deposit Insurance Act prohibitions relating to convicted criminals involvement with financial institutions is extended to cover federal credit unions.

Sec. 1328. Prohibits the disclosure of wiretap information with the intent to obstruct, impede, or interfere with criminal investigations.

Sec. 1329. The state of mind requirement for offenses concerning stolen or counterfeit property is satisfied if the defendant believed, on the basis of representations by law enforcement, that property was stolen or counterfeit. The measure clears, facilitates undercover investigations of fencing operations.

Sec. 1330. Extension of mail fraud statute to cover mail delivered by private interstate carriers.

Sec. 1331. Makes minor amendments to existing "access device" fraud statute to cover illegal use of a credit card number.

Sec. 1332. Increase in the fines and maximum penalties for trafficking in counterfeit goods and services.

Sec. 1333. Criminalizes the knowing or reckless distribution of a computer virus.

Sec. 1334. Requires the notification of law enforcement officers concerning drugs and large amounts of cash discovered in airport weapons screenings.

Subtitle D—Other Provisions

Sec. 1361–63. Misc. enhancements to venue, and administrative aspects of criminal justice system.

Sec. 1364. Establishes a system of funding, quality control, and information relating to DNA identification process. Legislation was the product of negotiations with FBI and Congress.

Sec. 1365. Safe schools $100 million grant program for the purpose of anti-crime and safety measures in urban, suburban, and rural schools. Formula insures that money is distributed fairly amongst the states.

TITLE XIV—TECHNICAL CORRECTIONS

Sec. 1401–7. Minor and technical corrections.

TITLE XV—FEDERAL LAW ENFORCEMENT

Authorizes an additional $333.5 million for federal law enforcement personnel to be divided as such: $100.5 DEA (of which $45 goes to rural areas), $98 FBI (of which $35 goes to rural areas), $45 INS, $45 U.S. Attys., $10 U.S. Marshals, $15 BATF, and $20 the Courts.

TITLE XVI—FEDERAL PRISONS

Authorizes an additional $500 million for the construction of new federal prisons for the increased number of inmates entering the federal system.

TITLE XVII—PRE-TRIAL INTERROGATION

Establishes that the Attorney General shall implement 18 U.S.C. §3501 relating to the admissibility of confessions. Section 3501 directs the courts to admit confessions under the pre-Miranda voluntariness standard but has not been implemented by the Department of Justice.

• Mr. SPECTER. Mr. President, I am pleased to join many of my colleagues, including the distinguished minority leader and the new ranking member of the Judiciary Committee, Senator HATCH, and our former ranking member, Senator THURMOND, to cosponsor the Crime Control Act of 1993. Passage of a strong, effective, and comprehensive crime control bill must be a priority for Congress this year.

Everyone recognizes that crime is one of the most serious problems confronting our Nation. Criminals hold many neighborhoods in our inner cities in their grasp. The law-abiding majority in these communities have become prisoners of these vicious criminals. People fear to leave their homes after dark. Some corners are off-limits to anyone not a member of some gang at all hours of the day. Weapons have become commonplace, and the handgun has become the preferred method for settling disputes. Fear reigns in many of our inner-city neighborhoods. At the same time, violent crime, formerly a stranger to many of our mid-size cities and smaller communities and rural areas, has spread into these locales. Local police in small towns can be overwhelmed as national gangs move into the community to use as a drug distribution center or to set up a methamphetamine laboratory.

We are unanimous in Congress in saying every year that the plague of violent crime must stop. But we appear unwilling to confront the real issues and pass tough legislation that will assist police officers and benefit our people who are held in terror at the seeming power of criminals to control their communities. In the 102d Congress, the Senate passed a tough anticrime bill, only to see its toughest provisions eviscerated in conference. With the start of the 103d Congress, the time comes to try again to develop and enact tough anticrime legislation.

The Crime Control Act of 1993 is such a tough, comprehensive bill. It addresses many of the most important issues confronting our Nation. It provides for a constitutional Federal death penalty for a wide range of murders. Adoption of such a law, strongly supported by a large majority of the American people, is long overdue.

The bill also provides tough, increased penalties for those who use firearms in the commission of crimes. Since the adoption of my Armed Career Criminal Act in 1984 and its expansion in 1986 to cover additional crimes, the Federal Government has turned its resources against violent criminals. The Armed Career Criminal Act has proved to be extremely successful in ridding our streets of thousands of our most violent criminals by putting them in jail for lengthy mandatory sentences. Increasing penalties for using firearms in the commission of crimes will have a similar salutary effect. We will not

curb the plague of gun violence until we get serious about punishing those who use firearms illegally.

This bill also adopts many of the provisions included in the antigang legislation I introduced in the 102d Congress, S.1337. Gangs have become a serious national problem, and we must fight them at the Federal level. Small communities throughout our Nation which never had serious crime problems have recently been turned into local headquarters for national gangs like the Crips and the Bloods, both founded in Los Angeles but now involved in a crime-spree across the Nation. The antigang proposals in this bill will put effective tools into the hands of Federal law enforcement agencies to fight gang crime and violence.

I am also pleased to see the increased authorization for block grants to State and local police to assist them to hire additional officers. Law enforcement remains primarily a local responsibility. Local police know their communities best and are closest to their neighbors and friends. The Federal Government does have responsibilities in law enforcement, and I have worked for years to expand these responsibilities. But in the end, we must rely on our local police to keep our neighborhoods safe. That is why the Federal Government must assist in making some of its resources available to State and local governments to hire more police. This bill will increase the authorization levels to do just that. Once enacted, we can work to secure increases in appropriations to make the promise of this bill a reality.

In this connection, I want to note briefly the absence from this legislation of my Police Corps proposal. The fact that the Police Corps is not included in this bill, despite its inclusion in the Republican alternative anticrime bill of last year, does not indicate any lack of support for the program. Indeed, it indicates just the opposite. The Police Corps won approval in both the Senate and the House in the 102d Congress, and it was endorsed by both President Bush and President Clinton during the campaign. It is not included in this package only because we want to work closely with the incoming administration in drafting a Police Corps bill that will be enacted speedily on its own.

I want to point out that I do not support all the elements of this package. Habeas corpus reform has been a top priority of mine for several years now. I am troubled by the provisions of this bill that might be read to restrict Federal habeas corpus review to cases that have been fully and fairly adjudicated in State courts. I believe that finality in these cases is necessary, but Federal courts must be free to determine Federal rights. I will work closely with my colleagues to fashion comprehensive habeas corpus reform that will result in finality without sacrificing the traditional role of the Federal courts.

I am also very troubled by the provision of the bill cutting back on the exclusionary rule. This court-fashioned rule excludes illegally seized evidence from use at trial. As far as I can tell, police and courts manage quite well under the strictures of the rule, and very few cases are thrown out because of the effects of the exclusionary rule. The Supreme Court has created a good faith exception to the rule, under which evidence seized illegally by police officers otherwise acting in good faith under a defective warrant can tbe relied on in a prosecution. Some courts, like the U.S. Court of Appeals for the Fifth Circuit, have extended the good faith exception further and the law continues to develop in the courts to meet the particulars of each specific case. I believe that continued judicial development of the exclusionary rule is the wisest course. Thus, I opposed the provision of this bill on the exclusionary rule in the 102d Congress, as I opposed the attempted codification contained in the conference report on the anticrime bill last year. This is an issue that should be left to the courts.

Despite my reservations over two of this bill's key provisions, I view this legislation on the whole as a positive development. I will support this bill, even as I work to ameliorate some of its provisions. I am pleased to join in cosponsoring this measure, and I look forward to working with my colleagues to fashion necessary anticrime legislation this year.●

By Mr. COATS (for Mr. MCCAIN (for himself, Mr. COATS, Mr. THURMOND, Mr. BROWN, Mr. GRAMM, Mr. SIMPSON, Mr. MCCONNELL, Mr. WALLOP, Mr. NICKLES, Mr. BOND, Mr. MACK, Mr. SMITH, Mrs. KASSEBAUM, Mr. HELMS, Mr. BURNS, Mr. KEMPTHORNE, Mr. LOTT, Mr. CHAFEE, Mr. LUGAR, Mr. WARNER, Mr. DANFORTH, Mr. COVERDELL, Mr. PRESSLER, and Mr. BOREN)):

S. 9. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have 30 days to report or be charged.

BUDGET REDUCTION AUTHORITY

Mr. MCCAIN. Mr. President, yesterday President Clinton gave our Nation a call to arms. He called for an American renewal. I pledge to work with our newly elected President to renew our country and refurbish our Nation's vitality.

Now, Mr. President, is the time to move quickly and decisively. Now is the time to give the President what he has asked for. Now is the time to pass the line-item veto.

Today I am joining Senators COATS, THURMOND, BROWN, GRAMM, SIMPSON, MCCONNELL, WALLOP, NICKLES, BOND, MACK, SMITH, KASSEBAUM, HELMS, BURNS, KEMPTHORNE, LOTT, CHAFEE, LUGAR, WARNER, and DANFORTH in reintroducing as one of the Republican priority bills the legislative line-item veto.

This bill is very simple. It enables the President, 20 days after the enactment of an appropriations bill, to identify items of spending within that bill which the President believes are wasteful, and to notify the Congress that the President is eliminating or reducing the funds for those items.

The President may veto part or all of the funds for programs deemed wasteful. It also allows the President to submit such enhanced rescissions with the budget submission at the beginning of the year. This second opportunity to propose rescissions ensures that the President has the opportunity to strike at wasteful pork barrel spending that may not be obvious during the first rescission period.

The Congress is required to overturn these line-item vetoes with majority votes in the House and Senate within 20 days or they become effective. The President may veto the rescission disapproval bill. In that case, the veto may be overridden by a two-thirds vote of the House and Senate. Last, this bill would not allow the President to rescind appropriations for entitlements such as Social Security, Medicaid, or food stamps.

More specifically, the Line-Item Veto Act of 1993 amends part B of title X of the Impoundment Control Act of 1974. It does not amend part A of title X of the Impoundment Control Act of 1974.

Mr. President, to those who charge that the line-item veto is a partisan game or a unneeded shift in power, I resoundingly state, you are wrong. The line-item veto is a necessity. Our Nation's fiscal house is in disarray. We are mortgaging our children's future. We must pay heed to President Clinton and listen to the trumpets that are heralding change throughout our country.

We must give the President the line-item veto.

On page 17 of then-Governor Clinton's "Putting People First, A National Economic Strategy for America," the President specifically states the following:

> Line-Item Veto. To eliminate pork-barrel projects and cut government waste, I will ask Congress to give me the line-item veto.

During the President's stirring Inauguration Address, he boldly and most correctly declared:

> Americans deserve better . . . so that power and privilege no longer shout down the voice of the people. Let us put aside personal ad-

vantage so that we can feel the pain and see the promise of America. . . . Let us give this capital back to the people to whom it belongs.

It is time to give the President the power that 43 governors possess. It is time to give the President the line-item veto. It is time to do the people's bidding. The people who send us here want the line-item veto. We must now put aside partisan and institutional pride and do what the people demand: we must give the President the line-item veto.

While as some will wax eloquently on the floor, giving us history lessons, explaining theoretical concepts that baffle the working men and women on America's streets, the public is demanding more. They want change. They want a renewed America.

The public has grown full of "pork books" and "pork kings." As the Washington Times stated on January 20, 1993:

The economy is down. Unemployment is up. The deficit is rising. Respect for government officialdom is failing. Yet the Congress of the United States can still spend billions on projects of absolutely no use to the taxpayers. Appropriately, our elected leaders have also allocated $140,000 for swine research.

A line-item veto will allow President Clinton an opportunity to do what we have shown ourselves incapable of doing—exercising fiscal restraint and eliminating funding for things like swine research.

Mr. President, I state again, we must give the President the line-item veto. I hope the Congress will act quickly on this issue.

I ask unanimous consent that the full text of the Legislative Line-Item Veto Act of 1993 appear in the RECORD following my remarks.

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

S. 9

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legislative Line Item Veto Act of 1993."

SEC. 2. ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.

The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title X and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority, or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RECISSION EFFECTIVE UNLESS DISAPPROVED.— (1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extend practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extend practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 1112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) it shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifth of the members duly chosen and sworn.".

• Mr. CHAFEE. Mr. President, I am happy to join Senators MCCAIN and COATS in introducing the legislative Line-Item Veto Act. This legislation gives the President the authority to strike specific provisions from spending bills without having to veto the entire bill.

It is clear to most of us here in the Senate that we must begin to take the necessary steps to reduce the deficit. The national debt—now exceeding $4 trillion—is choking the Federal Government, and threatens our ability, as elected representatives, from effectively addressing the problems facing this country. Most economists agree that the Federal Government's huge Federal deficits were a factor in the recent recession, and hinder the recovery that is underway.

Last year the Federal Government paid almost as much in interest as it spent on all domestic discretionary programs combined. Interest expense is the third largest single expenditure in the Federal budget, behind Social Security and defense. If we continue our present course, interest will soon surpass defense as the second largest spending item in our budget.

We must remember that paying interest on the debt does nothing to address this country's most pressing needs. Interest does not assist in providing pregnant women and newborns with the medical and nutritional help they need. It does nothing in support of enhancing research and development to make our country more competitive. Interest provides no funds for expanding the Head Start Program so that all eligible children can receive the educational assistance they need. In short, the interest we now pay to support our past excesses robs us of the ability to meet today's pressing needs.

The line-item veto authority is one tool that we can give to the President to combat the deficit. It alone cannot balance the budget. Entitlement programs comprise almost half of all Federal outlays, yet they are not subject to the annual appropriations process. We must also find a way to control these programs. And, finally, it may be necessary to look at additional revenue sources to help balance the budget, but it is my hope that we will look long and hard at the spending side of the budget before we take that step.

Mr. President, I commend the Senator from Arizona, Mr. MCCAIN and the Senator from Indiana, Mr. COATS for reintroducing this legislation. I urge my colleagues to support this effort so that the new President has the tools he needs to fulfill his campaign pledge to reduce the deficit.•

Mr. COVERDELL. Mr. President, during this past year the citizens of my State and the country have demonstrated grave concerns with regard to the fiscal crisis and dilemma being experienced by our country.

In the Presidential campaign, all candidates spoke eloquently and often to issues of debt and deficit. In his inaugural speech, President Clinton addressed the issue of debt in our Nation.

In record numbers, Georgians and Americans turned out to express their frustration and concern in this past election. It is clear to me that much of this concern is rooted in the issue of the financial crisis faced by our country as shown by this debt and deficit.

Mr. President, 49 Governors of the United States, including the former Governor of Arkansas and now the President of the United States, had as a fiscal tool to utilize in financial discipline, the line-item veto.

Mr. President, as a member of the Georgia Senate for many years, I had the opportunity to witness first hand the value of the chief executive of our State having as a financial discipline the tool of the line-item veto.

I believe it is exceedingly important that the 103d Congress be responsive to the call of our new President. I believe it is responsible for us to react to the electorate of this country when it calls for enormous proportions the institution of new disciplines and rules that relate to the manner in which we manage our financial affairs.

Therefore, I join with the President of the United States, Senator MCCAIN, and others, and the people of this country, in their call for the institution of a line-item veto.

Mr. President, thank you.

I yield the floor.

By Mr. CRAIG (for himself, Mr. DOLE, Mr. HATCH, Mr. GRASSLEY, Mr. BURNS, Mr. SIMPSON, Mr. KEMPTHORNE, and Mr. HATFIELD):

S. 10. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the adoption of flexible family leave policies by employers; to the Committee on Finance.

FLEXIBLE FAMILY LEAVE TAX CREDIT ACT

Mr. CRAIG. Mr. President, I rise to urge my colleagues to support and cosponsor legislation I am introducing today with our distinguished Republican, the Senator from Kansas [Mr. DOLE], and several other colleagues. This bill, numbered S. 10, is the Flexible Family Leave Tax Credit Act of 1993.

I want to remind my colleagues of a little of the history behind this bill. Back in the middle of the last decade, some concerns began to arise because demographic shifts and changes in the economy and the work force were forcing some working parents to make difficult decisions between work and family, when critical family events occur.

The not-surprising response of some, those who see Government control as the answer to every challenge, was to propose that the Federal Government impose a one-size-fits-all, inflexible mandate that employers provide the Government's idea of an appropriate personnel policy change.

And there were those of us who care deeply about families and who also realize that business owners are laborers too, who have families of their own, and who value every dimension of their employees' well-being. Small businesses, especially, often operate at the margin, and generally provide what they can—based also on what their employees want—in the way of compensation and benefits.

Congresses and Presidents and Federal public policy has long recognized the constraints that a dynamic economy places on both employers and employees, and—until very recently—understood that incentives are the best Government tool for introducing changes in the employment relationship.

In that spirit, some 4 years ago, as a Member of the other body, I cosponsored legislation to create a tax incentive for employers to provide family and medical leave. Because of the restrictive rules of that body, we were never given a fair hearing and we were never allowed to offer a floor amendment along those lines.

Two years ago, as a Member of this body, I introduced similar legislation. I discussed my bill back then with colleagues, the business community, family advocates, and the administration. I did not offer my bills as an amendment when the Senate took up S. 5 in the 102d Congress, because it was obvious then that no alternative was going to be given serious consideration until after a veto was sustained.

The proof of that fact came in the treatment accorded the one major substitute that was offered during the 1991 floor debate. Those of us who had a variety of ideas on alternatives to mandated benefits decided to support one of them and deferred to the distinguished ranking minority member of the Labor and Human Resources Committee at the time, Senator HATCH. The gentleman from Utah had put much thought and effort into his bill, the preferred rehire alternative. I know he and his staff were working on it well before the beginning of the 102d Congress and that it was a very serious undertaking. But, when it came to the floor, arms were twisted, the special interest groups howled, and Senator HATCH'S very good proposal was not given the consideration it deserved. It was obvious that the same fate would befall any other serious alternative, as well.

Before S. 5 was vetoed, several of us in this body and the last administration worked on a new family leave tax credit that improved on our previous proposals. We were ready then to go to the table to work out a bill—a nonmandate bill, an incentive bill—that could have become law last year. But again, we were not really given that chance.

Now, once again, we have the opportunity to really consider all sides of this issue fully and seriously. We, who support family leave but oppose writing private sector employers' personnel policies for them, offer a positive alternative. We want to see a family leave bill become law, if it provides an incentive, if it applies broadly, and if it increases the family-friendly benefits employers offer voluntarily because they are now able to do so.

I understand that the family leave mandate bill that will be introduced today will be the same as last year's vetoed version. I would like to add to the RECORD a brief side-by-side analysis comparing these two approaches. I ask unanimous consent to print that in the RECORD.

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

S. 10

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flexible Family Leave Tax Credit Act of 1993".

TITLE I—FAMILY LEAVE CREDIT

SEC. 101. CREDIT CREATED.

Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45A. FAMILY LEAVE CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the family leave credit for any employer for any taxable year is 20 percent of the qualified compensation with respect to an employee who is on family leave.

"(2) LIMITATIONS ON AVAILABILITY AND AMOUNT OF CREDIT.—

"(A) FEWER THAN 500 EMPLOYEES.—An employer is not entitled to a family leave credit for any taxable year unless—

"(i) in the case of an employer that is in its first taxable year, the employer had fewer than 500 employees at the close of that year, and

"(ii) in the case of other employers, the employer averaged fewer than 500 employees for its preceding taxable year.

An employer is considered to average fewer than 500 employees for a taxable year if the sum of its employees on the last day of each quarter in that year divided by the number of quarters is fewer than 500.

"(B) DOLLAR CAP ON QUALIFIED COMPENSATION.—The amount of qualified compensation that may be taken into account with respect to an employee may not exceed $100 per business day.

"(C) MAXIMUM PERIOD OF FAMILY LEAVE.—No family leave credit will be available to the extent that the period of family leave for an employee exceeds 12 weeks, defined as 60 business days, in any 12-month period.

"(D) ADDITIONAL LIMITATION ON LEAVE FOR PERSONAL SERIOUS HEALTH CONDITIONS.—Leave from an employer in connection with a qualified purpose described in subsection (b)(2)(D) will qualify as family leave only if the employee on leave has no unused sick, disability, or similar leave.

"(b) FAMILY LEAVE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, an employee is considered to be on 'family leave' if the employee is on leave from the employer in connection with any qualified purpose.

"(2) QUALIFIED PURPOSES.—The term 'qualified purposes' means—

"(A) the birth of a child,

"(B) the placement of a child with the employee for adoption or foster care,

"(C) the care of a child, parent or spouse with a serious health condition, or

"(D) the treatment of a serious health condition which makes the employee unable to perform the functions of his or her position.

"(3) DEFINITIONS OF CHILD, PARENT AND SERIOUS HEALTH CONDITION.—

"(A) CHILD.—The term 'child' means an individual who is a son, stepson, daughter, stepdaughter, eligible foster child as described in sections 32(c)(3)(B)(iii) (I) and (II), or legal ward of the employee or employee's spouse, or a child of a person standing in loco parentis and who either has not reached the age of 19 by the commencement of the period of family leave or is physically or mentally incapable of caring for himself or herself.

"(B) PARENT.—The term 'parent' means an individual with respect to whom the employee would be considered a 'child' within the meaning of subsection (b)(2)(A) without regard to the age limitation.

"(C) SERIOUS HEALTH CONDITION.—The term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves the inpatient care in a hospital, hospice or residential health care facility, or substantial and continuing treatment by a health care provider.

"(c) CREDIT REFUNDABLE.—In the case of so much of the section 38 credit as is attributable to the family leave credit—

"(1) section 38(c) will not apply, and

"(2) for purposes of this section, such credit will be treated as if it were allowed under section 103 of the Flexible Family Leave Tax Credit Act of 1993.

"(d) NONDISCRIMINATION REQUIREMENT.—The family leave credit is available to an employer for a taxable year only if the employer provides family leave to its employees for that year on a nondiscriminatory basis.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) IN GENERAL.—For purposes of this section—

"(A) EMPLOYER.—Except as otherwise provided in this subpart, the term 'employer' has the meaning provided by section 3306(a)(1) and (3).

"(B) EMPLOYEE.—The term 'employee' includes only permanent employees who have been employed by the employer for at least 12 months and have provided over 1000 hours of service to the employer during the 12 months preceding commencement of the family leave.

"(C) QUALIFIED COMPENSATION.—The term 'qualified compensation' means the greater of—

"(i) cash wages paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave, and

"(ii) cash wages that would have been paid or incurred by the employer to or on behalf of the employee as remuneration for services during the period of family leave had the employee not taken the leave.

"(D) COMPUTATION.—For purposes of subsection (e)(1)(C)(ii), the amount of cash wages that would have been paid to the employee for any business day the employee is on family leave is the average daily cash wages of that employee for the four calendar quarters preceding the commencement of the family leave.

"(E) AVERAGE DAILY CASH WAGES.—For purposes of the computation described in subsection (e)(1)(D), an employee's average daily cash wages is his or her total cash wages for the period described in such subsection divided by the number of business days in that period.

"(F) BUSINESS DAY.—The term 'business day' includes any day other than a Saturday, Sunday or legal holiday.

"(2) EMPLOYMENT AND BENEFITS PROTECTION.—

"(A) IN GENERAL.—Leave taken under this section shall qualify an employer for a family leave credit only if—

"(i) upon return from such leave, the employee is entitled to be restored by the employer to the position of employment held by the employee when the leave commenced, or to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment;

"(ii) the taking of such leave does not result in the loss of any employment benefit accrued prior to the date on which the leave commenced; and

"(iii) the employer maintains coverage under any 'group health plan' (as defined in section 5000(b)(1)) for the duration of such leave, at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously during the leave period.

"(B) LIMITATION.—Nothing in this paragraph shall be construed to require an employer, as a condition of qualifying for a family leave credit, to entitle any employee taking leave to—

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

"(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(3) EXPECTATION THAT EMPLOYEE WILL RETURN TO WORK.—No family leave credit will be available for any portion of a period of family leave during which the employer does not reasonably believe that the employee will return from leave to work for the employer.

"(4) SPECIAL RULES.—Rules similar to the rules of section 52 shall apply for purposes of this section.

"(5) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including guidance relating to ensuring adequate employment and benefits protection and guidance to prevent abuse of this section.".

SEC. 102. COORDINATION WITH REFUND PROVISION.

For purposes of section 1324(b)(2) of title 31 of the United States Code, section 45A of the Internal Revenue Code of 1986 (as added by this Act) will be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

SEC. 103. CONFORMING AMENDMENTS.

(a) Section 38 is amended by deleting the "plus" after subsection (b)(7) and "." after subsection (b)(8), by inserting ", plus" after subsection (b)(8), and by adding a new subsection (b)(9) to read as follows:

"(9) the family leave credit under section 45A."

(b) The table of sections for subpart D of part IV of subchapter A of chapter 1 is

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amended by adding at the end the following new item:

"Sec. 45A. Family leave credit."

SEC. 104. EFFECTIVE DATE.

The amendments made by this title shall apply to family leave that commences 90 days after the date of the enactment of this Act.

TITLE II—DEFICIT NEUTRAL REVENUE OFFSET

SEC. 201. CORPORATE ESTIMATED TAX PROVISIONS.

(a) INCREASE IN ESTIMATED TAX.—

(1) IN GENERAL.—Subsection (d) of section 6655 of the Internal Revenue Code of 1986 (relating to amount of required installments) is amended—

(A) by striking "91 percent" each place it appears in paragraph (1)(B)(i) and inserting "100 percent",

(B) by striking "91 PERCENT" in the heading of paragraph (2) and inserting "100 PERCENT", and

(C) by striking paragraph (3).

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 6655(e)(2)(B) of such Code is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	25
2nd	50
3rd	75
4th	100."

(B) Clause (i) of section 6655(e)(3)(A) of such Code is amended by striking "91 percent" and inserting "100 percent".

(b) MODIFICATION OF PERIODS FOR APPLYING ANNUALIZATION.—

(1) Clause (i) of section 6655(e)(2)(A) of such Code is amended—

(A) by striking "or for the first 5 months" in subclause (II),

(B) by striking "or for the first 8 months" in subclause (III), and

(C) by striking "or for the first 11 months" in subclause (IV).

(2) Paragraph (2) of section 6655(e) of such Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION FOR DIFFERENT ANNUALIZATION PERIODS.—

"(i) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '4 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '7 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '10 months' for '9 months'.

"(ii) If the taxpayer makes an election under this clause—

"(I) subclause (II) of subparagraph (A)(i) shall be applied by substituting '5 months' for '3 months',

"(II) subclause (III) of subparagraph (A)(i) shall be applied by substituting '8 months' for '6 months', and

"(III) subclause (IV) of subparagraph (A)(i) shall be applied by substituting '11 months' for '9 months'.

"(iii) An election under clause (i) or (ii) shall apply to the taxable year for which made and such an election shall be effective only if made on or before the date required for the payment of the second required installment for such taxable year."

(3) The last sentence of section 6655(g)(3) of such Code is amended by striking "and subsection (e)(2)(A)" and inserting "and, except in the case of an election under subsection (e)(2)(C), subsection (e)(2)(A)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any installment due date occurring more than 90 days after the date of enactment of this act.

COMPARISON OF DIFFERENT FAMILY LEAVE APPROACHES

	Federally mandated Family Leave Act—S./H.R. 1 (Dodd-Ford)	Flexible Family Leave Tax Credit Act—S. 10/H.R. (Craig-Goodling)
Business workplaces covered	Those with 50 or more employees (about 5 percent).[1]	Those with 500 or fewer employees (99.8 percent).[2]
Employees in covered workplaces	40–50 percent[1]	80.5 percent.[2]
Type of legislation	Federally mandated fringe benefit	20 percent refundable tax credit incentive.
Budget revenue impact	NA[3]	Cost: $4.8 billion/5 yr. Offset: $5.7 billion/5 yr.—deficit-neutral.
Cost imposed on employers	$2.4 billion minimum[5]	NA—leave is based on employee-employer negotiation and encouraged by tax incentive.
Type of leave	Unpaid	Unpaid or paid.
	Birth, adoption, serious health condition of child, parent, or employee.	Same.
Health coverage continued	Yes	Yes.
Job and benefits protected/reinstated:	Yes	Yes.
Enforcement	Secretary of Labor issues regulations; aggrieved employee obtains complaint and enforcement from Secretary or files civil action.	Secretary of Treasury issues regulations; credit is conditional on leave granted.

[1] Source: Committee reports on S. 5/H.R. 2.
[2] Source: Office of Management and Budget.
[3] In the committee reports on S. 5/H.R. 2, the Congressional Budget Office estimated no revenue impact. Since the additional costs mandated will likely cause the loss of thousands of jobs and much taxable income, this conclusion in arguable.
[4] Based on Joint Tax Committee estimates of S. 3265 and H.R. 11, 102d Congress.
[5] Based on a combination of General Accounting Office and Small Business Administration methodologies. In 1991, SBA estimated that 12 weeks of mandated maternity leave alone would cost employers $1.2 to $7.9 billion a year. GAO's earlier report estimated this type leave would account for about half of the leave taken under the mandate bill.

Mr. CRAIG. Mr. President, our bill, S. 10, offers the compromise approach of creating a new, refundable, 20-percent tax credit that would be a powerful incentive for employers to offer family and medical leave benefits.

I ask unanimous consent to print in the RECORD a description and fact-sheet on this legislation.

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

REINTRODUCTION OF FLEXIBLE FAMILY LEAVE TAX CREDIT

Senators LARRY CRAIG (ID), BOB DOLE (KS), ORRIN HATCH (UT), ALAN SIMPSON (WY), CHUCK GRASSLEY (IA), CONRAD BURNS (MT), and DICK KEMPTHORNE (ID) today introduced S. 10, the Flexible Family Leave Tax Credit Act of 1993.

The bill would make available a refundable tax credit, based on 20% of an employee's usual compensation, when the employee's employer gives him or her up to 12 weeks of family leave—paid or unpaid—due to the birth or adoption of a child, the serious health condition of an immediate family member, or the employee's own serious health condition.

S. 10 is similar to S. 3265 in the 102nd Congress, which built on earlier family leave tax incentive proposals introduced in the 102nd and 101st Congress. Summary information about S. 3265 is attached. Besides technical changes, the new bill would allow intermittent leave to qualify for the tax credit, and include clearer language on the tax credit being conditional on the protection of reinstatement and benefits.

The Joint Tax Committee (JTC) has just estimated the cost of the S. 3265 tax credit at $4.8 billion through FY 1998. To offset this revenue loss, S. 10 includes a 100% estimated tax payment rule for large corporations (see attached), would yield almost $5.7 billion over 5 years. This provision was included in last year's HR 11 and was not controversial. This provision simply would require large corporations (i.e., with taxable income of $1 million or more) to base their quarterly estimated tax payments on 100% of their current year tax liability (rather than the current law 97% through 1996 and 91% thereafter). Most corporations already overpay as a precaution.

Staff Contact: Damon Tobias, 4-2752.

FLEXIBLE PARENTAL LEAVE POLICY (102D CONGRESS)

President Bush has consistently supported employer policies to provide parental leave. But he has opposed mandates that require businesses to provide leave to employees. These mandates are a hidden tax on employers and employees that will cost the economy thousands of jobs.

However, the President supports tax credits for employers that will encourage flexible parental leave policies without stifling economic growth.

PARENTAL LEAVE TAX CREDIT

The Administration supports refundable tax credits for businesses that establish nondiscriminatory parental leave policies. The credit would be available for:

All businesses with under 500 employees, so long as the benefit is provided to all employees on a nondiscriminatory basis;

For 20% of total employee benefits and compensation of up to $2,000 per month, for a period of up to 12 weeks;

For birth or adoption leave, or for the care of a seriously ill child, parent or spouse; and

The cost of the credit would be less than $500 million per year.

The advantages of this approach over parental leave mandates are:

It gives employers the *flexibility* to design a leave package that best fits their employees' needs. The $400/month or $100/week credit is designed to allow the employer to cover the benefits of an absent employee—whether those costs are for continued health coverage, pension or 401k contributions, partial pay, or any other component of a flexible benefits package that an employer may offer. It may also partially defray the cost of temporary replacement employees.

It provides incentives for most small and mid-sized employers, where the need is greatest and the costs are more burdensome, to develop responsible parental leave policies. The Democratic plan excludes companies with under 50 employees in a weak attempt to limit the economic damage to small and mid-sized businesses. The Republican plan would offer positive incentives to all employers—of any size—to provide parental leave.

Instead of mandating hidden payroll taxes on small and mid-sized businesses, it would provide direct economic incentives to encourage the adoption of the responsible parental leave policies that President Bush has long supported.

FACT SHEET

CURRENT LAW

No deduction or credit is available to an employer who provides employees with unpaid leave for childbirth, medical care of children or parents or other serious medical needs. Compensation paid to employees during leave for these purposes is deductible under general tax principles.

REASONS FOR CHANGE

Care for family members with serious mental or physical health problems, including injuries and sickness necessitating hospital, hospice or substantial and continuous medical treatment, present substantial hardships on families. Families are further burdened by the requirements of childbirth and childcare. The increase in the number of two wage-earner families, as well as single parent families, has resulted in pressures to balance these family needs with employment requirements. This balancing has resulted in difficult decisions for both employers and employees.

Employers face significant costs related to extended employee absences. Extended absences could result in substantial lost production and lost business opportunities if the employee is not replaced. These costs are particularly high for small and medium-sized businesses. Economies of scale permit large firms to reduce these costs. Large businesses can train and maintain floating employees, temporarily shift employees to replace absentees or enter into regular arrangements with third parties for trained temporary employees. The costs of extended absences on small and medium size businesses may not be as readily reduced. For small and medium-sized businesses, it is often not economically reasonable to maintain floating employees, to shift employees from other duties or to retrain workers for only a temporary need. Accordingly, small and medium size businesses are more likely to experience severe economic consequences if they do not quickly replace absent workers.

Regardless of a business' ability to mitigate costs, all businesses must balance the legitimate family needs of their employees with the costs of extended absences. Since most businesses cannot economically tolerate unlimited employee absences, employers frequently must place limits on such absences. As a result of these limitations, employees can be placed in the situation of choosing between their employment and the serious medical or health needs of their families.

The proposal's tax incentives encourage small and medium-sized businesses to adopt flexible leave policies related to childbirth, adoption or serious family health problems. The tax incentives do not require that any particular form of flexible leave be adopted. Instead, the proposal allows employers and employees to arrive at a program based on their specific needs, while also providing an offset to the cost of extended employee absences.

EXPLANATION OF PROVISION

The provision provides a 20% refundable tax credit to small or medium-sized employers that provide family leave to their employees. "Family leave" is leave in connection with the birth of a child; the placement of a child with the employee for adoption or foster care; caring for a child, parent or spouse with a serious physical or mental health condition; or a serious physical or mental health condition that prevents the employee from performing his or her job. All employers with fewer than 500 employees are eligible for the family leave tax credit.

The amount of the credit is 20% of the cash wages that the employer provided to the employee during the period of family leave, or would have been provided to the employee during that period had he or she not taken the leave. The cash wages that would have been provided is based on the average wages for the preceding calendar year (or absent a sufficient period of employment, the preceding four calendar quarters). The maximum amount of wages taken into account for this purpose is $100 for each business day. The maximum period of family leave for which the credit is available shall not exceed 60 business days (12 calendar weeks) in any 12-month period. This results in a maximum available family leave credit of $1,200 per employee per year.

The proceeds of the family leave credit may be used by an employer for any purpose. For example, the proceeds may be contributed to a pool of funds provided by the employer and other employees to defray employee leave costs, paid as partial wage supplements to employees on leave or used to purchase wage continuation insurance or other insurance to cover leave related costs or to provide leave related benefits.

The credit is only available with respect to employees (whether part-time or full-time) who satisfy certain length of service requirements. Under these requirements, the employees must have been employed by the employer for at least 12 months before beginning the family leave and must have performed at least 1,000 hours of service for the employer in the preceding 12 months. Moreover, the credit applies only for the portion of family leave during which the employer reasonably expects that the employee will return to work for the employer.

In order to qualify for the credit, employers must provide employment and benefits protection to employees on family leave. Health benefits must continue during the leave under the terms and conditions that would have applied had the employees remained at work. In addition, all family leave must be provided on a nondiscriminatory basis.

REVENUE OFFSET

Modify estimated tax payment rules for large corporations.

PRESENT LAW

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning after June 30, 1992 and before 1997, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 97 percent of the tax liability shown on the return for the current taxable year. A corporation may estimate its current year tax liability based upon a method that annualizes its income through the period ending with either the month or the quarter ending prior to the estimated tax payment date.

For taxable years beginning after 1996, the 97-percent requirement becomes a 91-percent requirement. The present-law 97-percent and 91-percent requirements were added by the Unemployment Compensation Amendments of 1992.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

REASONS FOR CHANGE

The committee believes that corporate estimated tax requirements should be increased to require corporations to more timely remit their current year tax liabilities. In addition, the committee believes that in order to simplify and rationalize the calculation of annualized income for corporate estimated tax purposes, an additional set of annualization periods should be provided and applied consistency.

EXPLANATION OF PROVISION

For taxable years beginning after 1992, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments is required to base its estimated tax payments on 100 percent (rather than 97 percent or 91 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis.

The bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

In addition, the bill modifies the rules relating to income annualization for corporate estimated tax purposes. Under the bill, annualized income is to be determined based on the corporation's activity for the first 3 months of the taxable year (in the case of the first and second estimated tax installments); the first 6 months of the taxable

year (in the case of the third estimated tax installment); and the first 9 months of the taxable year (in the case of the fourth estimated tax installment). Alternatively, a corporation may elect to determine its annualized income based on the corporation's activity for either: (1) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 4 months of the taxable year (in the case of the second estimated tax installment); the first 7 months of the taxable year (in the case of the third estimated tax installment); and the first 10 months of the taxable year (in the case of the fourth estimated tax installment); or (2) the first 3 months of the taxable year (in the case of the first estimated tax installment); the first 5 months of the taxable year (in the case of the second estimated tax installment); the first 8 months of the taxable year (in case of the third estimated tax installment); and the first 11 months of the taxable year (in the case of the fourth estimated tax installment). An election to use either of the annualized income patterns described in (1) or (2) above must be made on or before the due date of the second estimated tax installment for the taxable year for which the election is to apply, in a manner prescribed by the Secretary of the Treasury.

Mr. CRAIG. Mr. President, a tax credit incentive to provide family and medical leave—as opposed to mandating fringe benefits in Federal law—is the approach that is consistent with how we always have approached both employee benefits and tax policy.

Generally speaking, we pass laws that punish to deter bad behavior and enact incentives to encourage good behavior. That is the approach we are taking in introducing the Family Leave Tax Credit Act.

Sixty years ago, there were virtually no employer-provided employee benefits. Congress enacted tax incentives. Today, more than 85 percent of employers provide health insurance. Some 90 percent of employees in medium and large firms have disability leave with at least some income replacement. According to surveys of employee benefits by the U.S. Chamber of Commerce in recent years, 97–99 percent of employers voluntarily provide some type of paid benefits.

It is not a fair or an accurate assessment of need, merely to identify how many employers provide the precise benefits provided for in S. 5. To a significant extent, when such benefits are not offered it is because other benefits were negotiated, instead. A Gallup Poll from a couple of years ago found that parental leave was the most important benefit to only 1 percent of respondents.

Because employee benefits must be carved from a finite pie of resources the employer has available for compensation, mandating one set of benefits means that employee choice will be overridden and, in some cases, employees will wind up losing other benefits they would have preferred.

The mandate bill represents one of the noble, but most misguided, impulses of legislators: The tendency to legislate by anecdote, to govern according to relatively isolated horror stories, and to ignore the possibility that, in doing so, the baby can be thrown out with the bath water.

In saying this, I do not argue that we should ignore each and every workplace that is without family leave benefits. The question is how best to expand the availability of such benefits. Experience shows us that tax incentives obviously have worked when Congress has wanted to expand the universe of available benefits.

The answer also turns on how we judge human nature. A balanced view is that the laws of human nature apply equally to employers and employees. Those of us who believe that individuals will be as good to others as they can be, believe in using the carrot rather than the club to foster good behavior.

I urge my colleagues, if you want to enact the fairest and most balanced bill, if you want a true compromise, if you want a family leave law this year, let us start by looking at our Flexible Family Leave Tax Credit Act. It's a new Congress. Let us sit down with the leadership from both sides of the aisle and the administration, and work out an effective, nonmandated, compromise.

Mr. President, let me discuss in this time that I have remaining the legislation that my leader, BOB DOLE, and I have introduced today, Senate S. 10, Flexible Family Leave Tax Credit Act of 1993. This issue has been debated on the floor before. Obviously by the introduction of both Republican leadership and Democratic leadership of this issue this year, it will be front and center and it probably deserves that kind of treatment.

I introduced this legislation a year ago, but it was obvious that it was not going to get the kind of treatment that it deserved because, frankly enough, this important issue became a political issue in the final days of the session and Members on the other side wished to use it for scoring purposes in the election process. That is unfair. It is unfortunate. Those kinds of things happen. I understand it.

Hopefully, with my introduction of opposing or differing approaches to the same problem this year early on in the session of the 103d, we will be able to deal with it in a fair and justifiable way. It is very important that that happen.

Mr. President, let me, therefore, in a brief way look at the two bills that have been offered because it is important that early on we begin to understand where all of us are coming from. We are talking about working people, people out there who, by necessity the commitment for the family, for their own personal reasons, need to leave the workplace for a period of time and in that, let me give that kind of an analogy.

That legislation introduced today by the Democratic majority leader covers a certain percentage of people working out there today estimated to be between 40 and 50 percent of those working. What about the rest of them? It is important that they be covered. The legislation we are looking at would address nearly 99 percent of the working people of this country in groups of 500 or fewer employees. We understand that the large companies already have oftentimes leave requirements.

So we would strive to cover a great many more of the citizens of this country, and we would not mandate. It is not going to be the heavy hand of the Federal Government reaching down and saying, "You will." It is going to be, as it should be in the workplace, management and labor coming together and saying here it what we have agreed is best for our work environment. We would create the incentive for that kind of chemistry to exist, and that would be created in the form of a tax credit. That is the way it ought to be.

As it relates to the budget impact of this kind of thing, when you mandate it, the private sector picks it up, obviously. You say to the private sector, you are going to do it; it is going to come out of your back pockets; we are not worried about competition; in an international economy, you do it. That is what was just spoken to by the other side.

What we are suggesting is that that relationship is going to cost some money, and if we give tax credits, it will cost. We have some offsets. And in doing those effective offsets we create a revenue neutral situation that I think is important as we struggle with the deficit in the coming year. Cost imposed on employers, well, in a general sense, the mandatory one as argued would be about $2.4 billion and we give the kind of encouragements through incentive that it ought to be.

As it relates to the type of leave, we are both suggesting unpaid although ours could be a paid environment, depending again upon the incentives, for all of the reasons I have given: birth, adoption, serious health conditions of the child, the parent, and the employee. And it is broken out in the text I have submitted to the RECORD. It is an important issue. We will move aggressively on it this year and I hope effectively address it for the working men and women of this country.

Mr. DOLE. Mr. President, I am pleased to be an original cosponsor of the Flexible Family Leave Tax Credit Act of 1993, which provides for refundable tax credits for businesses that establish nondiscriminatory parental leave policies.

FLEXIBLE FAMILY LEAVE TAX CREDIT ACT OF 1993

This credit would be available for all businesses with under 500 employees—covering 6 million businesses and almost 50 million workers.

The amount of the credit would be for 20 percent of total employee compensation of up to $2,000 per month for a period of up to 12 weeks. In other words, the credit would amount to $100/week or a maximum of $1,200 per employee to cover agreed-upon benefits during the period of absence.

An employee would be eligible to take leave in the event of the birth of a child, the placement of a child with the employee for adoption or foster care, or for a child, parent, or spouse with a serious health condition, or a serious health condition that prevents the employee from performing his or her job.

ADVANTAGES OF LEGISLATION

Mr. President, the need to enact family leave legislation is greater than ever. We have more and more households where both parents are in the workplace and more and more households run by single parents. We are told that these trends are here to stay.

The key for me is to find a legislative solution to this issue that is both pro-family and pro-business. I believe that the legislation introduced by the distinguished Senator from Idaho meets these two important objectives.

PRO-FAMILY

It is pro-family because it provides for a flexible leave program that allows the employer and employee—and not the Federal Government—to freely determine the terms of leave that works best for them.

It provides for the same types of leave and the same types of protections as legislation supported by my colleagues on the other side of the aisle. And this it accomplishes without all of the harmful effects that mandates cause to the economy and to efforts to create new jobs.

Finally, it is worth noting that the legislation offered by my distinguished colleague helps 15 million more families than legislation promoted by the other side of the aisle which excludes businesses with under 50 employees in a weak attempt to limit the acknowledged economic damage such legislation would do to smaller businesses.

PRO-BUSINESS

The legislation introduced by my distinguished colleague from Idaho is also a pro-business package and stands in sharp contrast to legislation supported by my colleagues on the other side of the aisle.

The Flexible Family Leave Tax Credit Act provides an incentive for businesses to establish family and medical leave programs.

Democrat alternatives, on the other hand, are mandates; hidden taxes; Washington, DC reaching out into every community, every office, and every factory telling the American people what is best for them.

It is an approach that for all its good intentions to help families—will ultimately cause more harm than good.

PRO-JOBS

Indeed, legislation mandating benefits demands an offset and will force employers to cut jobs or other more desirable employee benefits to pay for the hidden tax.

Some cost estimates run as high as $7 billion for such legislation.

To say the least, that's a lot of jobs—particularly at a time when we have an unemployment rate that is unacceptably high.

The legislation offered by the distinguished Senator from Idaho is a pro-jobs bill. Not only does it not tax employers to pay for a congressionally mandated benefit, but the credit provides an incentive to create new jobs to temporarily fill the places of those workers on leave.

You hear a lot of speeches around this place and in the media about creating jobs—preserving jobs.

And yet, anyone who supports legislation mandating that employers provide this benefit are doing the exact opposite. Simply put, mandating family leave will force employers to mandate a permanent leave program for some of their other workers.

DEFICIT NEUTRAL

The legislation introduced by the distinguished Senator from Idaho is also deficit neutral. It contains a pay-for previously contained in H.R. 11 from the 102d Congress which increases the corporate estimated tax to 100 percent.

I think everyone will agree that it is not easy to pay for legislation. Indeed, rather than do so, my colleagues on the other side of the aisle prefer to impose mandates on business so that they have to pay for it.

In this Senator's opinion, that is not the direction we should be moving in.

It hurts the economy and it hurts jobs. It is the easy way out—an out of sight-out of mind approach that shirks the responsibility we have to pay for the programs we make into laws.

JUDGE LEGISLATION BY MERIT—NOT BY POLITICS

Mr. President, we all support family and medical leave. There has never been a debate on the need and value of such programs. Rather, the debate has always been how you go about doing it, and it is there that the difference of opinion could not be greater.

I urge my colleagues to carefully review this legislation based on its merits—not on the politics that has governed this issue for the last 7 years.

My colleagues on the other side of the aisle support a bill that is an in kind tax on business—a clumsy, harmful one-size-fits-all mandate.

I think we can do better and the distinguished Senator from Idaho has done just that in the legislation he has introduced today.

By Mr. BIDEN (for himself, Mrs. BOXER, Mr. COHEN, Mr. KENNEDY, Mr. KOHL, Mr. BOREN, Mr. AKAKA, Mr. GLENN, Mr. GRAHAM, Mr. HOLLINGS, Mr. JOHNSTON, Mr. LIEBERMAN, Mr. SARBANES, Mr. SHELBY, Mr. ROCKEFELLER, Mr. ROBB, Mr. WARNER, Mr. PELL, Mr. SIMON, Mr. MOYNIHAN, Mr. BRADLEY, Mr. WELLSTONE, Mr. BREAUX, Mr. HARKIN, Mr. LEVIN, Mr. HATFIELD, Mr. DECONCINI, Mr. REID, Mr. CAMPBELL, Mr. RIEGLE, Mr. BRYAN, Mr. KERRY, Mr. DODD, Mr. CONRAD, Mr. BAUCUS, Mr. D'AMATO, Mr. DURENBERGER, Mr. KERREY, Mr. INOUYE, Mr. LAUTENBERG, Ms. MURRAY, Ms. MOSELEY-BRAUN, Mr. LEAHY, and Mr. SPECTER):

S. 11. A bill to combat violence and crimes against women on the streets and in homes; to the Committee on the Judiciary.

VIOLENCE AGAINST WOMEN ACT

Mr. BIDEN. Mr. President, I rise today to introduce Senate bill number 11, the Violence Against Women Act of 1993—the first comprehensive legislation to address the growing problem of violent crime confronting American women.

Since I first introduced this legislation in 1990, the Judiciary Committee has held a series of four hearings; we have refined the legislation and issued reports; we have garnered the support of prominent groups and individuals with widely differing interests—from law enforcement, women's groups, and victims' advocates. The bill has twice received the unanimous approval of the Judiciary Committee. Now, it is time to complete our efforts.

I am particularly heartened that my colleague, the gentlewoman from California [Mrs. BOXER], the author of this measure in the House of Representatives—can join me this year, here in the Senate, to help fight for this legislation. I know that she shares my conviction that we must do everything in our power to ensure that the Violence Against Women Act becomes law this year.

We have waited in my view too long, already, to recognize the horror and the sweep of this violence. For too many years, our idea of crime has left no room for violence against women. We now face a problem that has become doubly dangerous, as invisible to policymakers as it is terrifying to its victims.

Our blindness costs us dearly:

Every week, 21,000 women report to police that they been beaten in their own homes;

Every day, over 2,500 women visit an emergency room because of a violent act perpetrated against their persons;

Every hour, as many as 70 women across the Nation will be attacked by rapist—every hour.

Today, I believe more firmly than ever before, that this Nation will be powerless to change this course of violent crime against women unless the Congress takes a leadership role with the cooperation of the President of the United States. Only then can we as a Nation inscribe this violence with a name so that it will never be mistaken or dismissed as anything other than brutal, a brutal series of crimes and unconditionally, whether in the home or out of the home—wrong.

It bothers me when we talk about domestic violence, Mr. President. It implies somehow it is like a domesticated cat or a domesticated dog—that domestic violence is less violent than any other type.

The women who suffer the consequence of domestic violence are women who are shot, murdered, killed, beaten, deformed. This violence is of a most coarse nature. It is perpetrated and committed by someone who a person in that household trusts; had at one time, at least, loved; in fact lives with. It is the worst of all violence.

The bill I introduce today attacks violent crime against women at all levels—from our streets to our homes, from squad cars to courtrooms, from schoolrooms to hospitals. In large measure, it is the same bill that was introduced in the 102d Congress, with the addition of minor and technical amendments and a special new provision authored by Senator KENNEDY to provide Federal funds for a national domestic violence hotline.

Let me briefly review the principal parts of the legislation.

TITLE I—SAFE STREETS FOR WOMEN ACT

Title I focuses on making our streets safer by boosting funding for police, prosecutors, and victim advocates, promoting rape education, and changing evidentiary rules to make our justice system fairer for the victims of this violence—to make our courts more user-friendly.

TITLE II—SAFE HOMES FOR WOMEN

Title II—The Safe Homes for Women Act—acknowledges, for the first time, the role of the Federal Government in fighting spouse abuse. It creates the first Federal laws against battering, provides nationwide coverage for stay-away orders, encourages arrest of spouse abusers, and boosts funding for battered women's shelters.

TITLE III—CIVIL RIGHTS FOR WOMEN

Title III—the most innovative provision of this bill—recognizes that violence against women presents questions not only of criminal justice, but also of equal justice. It takes a dramatic step forward by defining gender-motivated crime as bias crime and declaring, for the first time, that civil rights remedies should be available to victims of such crimes.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Title IV, much of which passed in the higher education amendments of 1992, now authorizes increased funding for campus rape education efforts.

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

Finally, Title V of the bill recognizes the crucial role played by the judicial branch in forming an effective response to violence against women, authorizing comprehensive training programs for State and Federal judges.

Let me close by urging my colleagues to join me in supporting this desperately needed legislation. Already, 40 Senators have indicated their support as original cosponsors. I hope that a significant number of others will join us so that we can ensure swift consideration and debate in the full Senate. Let us not wait another year as millions more suffer the pain of violence against women.

I will not take any further time to describe the contents of the bill. I ask unanimous consent that a summary and the complete text of the legislation appear in the RECORD following my remarks.

S. 11

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violence Against Women Act of 1993".

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TITLE I—SAFE STREETS FOR WOMEN

SEC. 101. SHORT TITLE.

This title may be cited as the "Safe Streets for Women Act of 1993".

Subtitle A—Federal Penalties for Sex Crimes

SEC. 111. REPEAT OFFENDERS.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2247. Repeat offenders

"Any person who violates a provision of this chapter, after one or more prior convictions for an offense punishable under this chapter, or after one or more prior convictions under the laws of any State or foreign country relating to aggravated sexual abuse, sexual abuse, or abusive sexual contact, is punishable by a term of imprisonment up to twice that otherwise authorized.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 109A of title 18, United States Code, is amended by adding at the end the following new item:

"2247. Repeat offenders.".

SEC. 112. FEDERAL PENALTIES.

(a) RAPE AND AGGRAVATED RAPE.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend its sentencing guidelines to provide that a defendant convicted of aggravated sexual abuse under section 2241 of title 18, United States Code, or sexual abuse under section 2242 of title 18, United States Code, shall be assigned a base offense level under chapter 2 of the sentencing guidelines that is at least 4 levels greater than the base offense level applicable to criminal sexual abuse under the guidelines in effect on November 1, 1992, or otherwise shall amend the guidelines applicable to such offenses so as to achieve a comparable minimum guideline sentence. In amending such guidelines, the Sentencing Commission shall review the appropriateness of existing specific offense characteristics or other adjustments applicable to such offenses, and make such changes as it deems appropriate, taking into account the severity of rape offenses, with or without aggravating factors; the unique nature and duration of the mental injuries inflicted on the victims of such offenses; and any other relevant factors.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instructions set forth in subsection (a) so as to achieve a comparable result.

SEC. 113. MANDATORY RESTITUTION FOR SEX CRIMES.

(a) IN GENERAL.—Chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2248. Mandatory restitution

"(a) IN GENERAL.—Notwithstanding the terms of section 3663 of this title, and in addition to any other civil or criminal penalty authorized by law, the court shall order restitution for any offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) The order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) necessary transportation, temporary housing, and child care expenses;

"(D) lost income;

"(E) attorneys' fees, expert witness and investigators' fees, interpretive services, and court costs; and

"(F) any other losses suffered by the victim as a proximate result of the offense.

"(3) Restitution orders under this section are mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that a victim has, or is entitled to receive, compensation for his or her injuries from the proceeds of insurance or any other source.

"(4)(A) Notwithstanding the terms of paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid.

"(B) For purposes of this paragraph, the term 'economic circumstances' includes—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the defendant, including obligations to dependents.

"(C) An order under this section may direct the defendant to make a single lumpsum payment or partial payments at specified intervals. The order shall also provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(D) In the event that the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to subsection (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this section, shall be in camera in the judge's chambers.

"(4) In the event that the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) DEFINITIONS.—For purposes of this section, the term 'victim' includes the individual harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court: *Provided*, That in no event shall the defendant be named as such representative or guardian.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 109A of title 18, United States Code, is amended by adding at the end thereof the following:

"2248. Mandatory restitution.".

SEC. 114. AUTHORIZATION FOR FEDERAL VICTIM'S COUNSELORS.

There is authorized to be appropriated for fiscal year 1993 $1,500,000 for the United States Attorneys for the purpose of appointing Victim/Witness Counselors for the prosecution of sex crimes and domestic violence crimes where applicable (such as the District of Columbia).

Subtitle B—Law Enforcement and Prosecution Grants to Reduce Violent Crimes Against Women

SEC. 121. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.

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

(1) redesignating part P as part Q;

(2) redesignating section 1601 as section 1701; and

(3) adding after part O the following new part:

"PART N—GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN

"SEC. 1601. PURPOSE OF THE PROGRAM AND GRANTS.

"(a) GENERAL PROGRAM PURPOSE.—The purpose of this part is to assist States, Indian tribes, cities, and other localities to develop effective law enforcement and prosecution strategies to combat violent crimes against women and, in particular, to focus efforts on those areas with the highest rates of violent crime against women.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—Grants under this part shall provide additional personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women and specifically, for the purposes of—

"(1) training law enforcement officers and prosecutors to more effectively identify and respond to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(2) developing, training, or expanding units of law enforcement officers and pros-

ecutors specifically targeting violent crimes against women, including the crimes of sexual assault and domestic violence;

"(3) developing and implementing police and prosecution policies, protocols, or orders specifically devoted to identifying and responding to violent crimes against women, including the crimes of sexual assault and domestic violence;

"(4) developing, installing, or expanding data collection systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, prosecutions, and convictions for the crimes of sexual assault and domestic violence; and

"(5) developing, enlarging, or strengthening victim services programs, including sexual assault and domestic violence programs, to increase reporting and reduce attrition rates for cases involving violent crimes against women, including the crimes of sexual assault and domestic violence.

"Subpart 1—High Intensity Crime Area Grants

"SEC. 1611. HIGH INTENSITY GRANTS.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') shall make grants to areas of 'high intensity crime' against women.

"(b) DEFINITION.—For purposes of this part, 'high intensity crime area' means an area with one of the 40 highest rates of violent crime against women, as determined by the Bureau of Justice Statistics pursuant to section 1612.

"SEC. 1612. HIGH INTENSITY GRANT APPLICATION.

"(a) COMPUTATION.—Within 45 days after the date of enactment of this part, the Bureau of Justice Statistics shall compile a list of the 40 areas with the highest rates of violent crime against women based on the combined female victimization rate per population for assault, sexual assault (including, but not limited to, rape), murder, robbery, and kidnapping (without regard to the relationship between the crime victim and the offenders).

"(b) USE OF DATA.—In calculating the combined female victimization rate required by subsection (a), the Bureau of Justice Statistics may rely on—

"(1) existing data collected by States, municipalities, Indian reservations or statistical metropolitan areas showing the number of police reports of the crimes listed in subsection (a); and

"(2) existing data collected by the Federal Bureau of Investigation, including data from those governmental entities already complying with the National Incident Based Reporting System, showing the number of police reports of crimes listed in subsection (a).

"(c) PUBLICATION.—After compiling the list set forth in subsection (a), the Bureau of Justice Statistics shall convey it to the Director who shall publish it in the Federal Register.

"(d) QUALIFICATION.—Upon satisfying the terms of subsection (e), any high intensity crime area shall be qualified for a grant under this subpart upon application by the chief executive officer of the governmental entities responsible for law enforcement and prosecution of criminal offenses within the area and certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1601(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate program grants, with nongovernmental nonprofit victim services programs; and

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(e) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application must provide the certifications required by subsection (d) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (d)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

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

"(D) demographic characteristics of the population to be served, including age, marital status, disability, race, ethnicity, and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(f) DISBURSEMENT.—

"(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that grantees—

"(A) equitably distribute funds on a geographic basis;

"(B) determine the amount of subgrants based on the population to be served;

"(C) give priority to areas with the greatest showing of need; and

"(D) recognize and address the needs of underserved populations.

"(g) GRANTEE REPORTING.—(1) Upon completion of the grant period under this subpart, the grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this part.

"(2) A section of the performance report shall be completed by each grantee or subgrantee performing the services contemplated in the grant application, certifying performance of the services under the grants.

"(3) The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may be used to supplement, not supplant, State funds.

"Subpart 2—Other Grants to States To Combat Violent Crimes Against Women

"SEC. 1621. GENERAL GRANTS TO STATES.

"(a) GENERAL GRANTS.—The Director may make grants to States, for use by States, units of local government in the States, and nonprofit nongovernmental victim services programs in the States, for the purposes outlined in section 1601(b), and to reduce the rate of violent crimes against women.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be—

"(1) $500,000 to each State; and

"(2) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any State shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1601(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate, with nonprofit nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

"(3) at least 25 percent of the amount granted shall be allocated, without duplication, to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—The application requirements provided in section 513 of this title shall apply to grants made under this subpart. In addition, each application shall include the certifications of qualification required by subsection (c) including documentation from nonprofit nongovernmental victim services programs showing their participation in developing the plan required by subsection (c)(2). Applications shall—

"(1) include documentation from the prosecution, law enforcement, and victim services programs to be assisted showing—

"(A) need for the grant funds;

"(B) intended use of the grant funds;

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

"(D) demographic characteristics of the populations to be served, including age, marital status, disability, race, ethnicity and language background; and

"(2) proof of compliance with the requirements for the payment of forensic medical exams provided in section 162 of this title.

"(e) DISBURSEMENT.—(1) No later than 60 days after the receipt of an application under this subpart, the Director shall either disburse the appropriate sums provided for under this subpart or shall inform the applicant why the application does not conform to the terms of section 513 of this title or to the requirements of this section.

"(2) In disbursing monies under this subpart, the Director shall issue regulations to ensure that States will—

"(A) give priority to areas with the greatest showing of need;

"(B) determine the amount of subgrants based on the population and geographic area to be served;

"(C) equitably distribute monies on a geographic basis including nonurban and rural areas, and giving priority to localities with populations under 100,000; and

"(D) recognize and address the needs of underserved populations.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee and subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director

shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"SEC. 1622. GENERAL GRANTS TO TRIBES.

"(a) GENERAL GRANTS.—The Director is authorized to make grants to Indian tribes, for use by tribes, tribal organizations or nonprofit nongovernmental victim services programs on Indian reservations, for the purposes outlined in section 1401(b), and to reduce the rate of violent crimes against women in Indian country.

"(b) AMOUNTS.—From amounts appropriated, the amount of grants under subsection (a) shall be awarded on a competitive basis to tribes, with minimum grants of $35,000 and maximum grants of $300,000.

"(c) QUALIFICATION.—Upon satisfying the terms of subsection (d), any tribe shall be qualified for funds provided under this part upon certification that—

"(1) the funds shall be used to reduce the rate of violent crimes against women and for at least 3 of the purposes outlined in section 1401(b);

"(2) grantees and subgrantees shall develop a plan for implementation, and otherwise consult and coordinate with nonprofit; and

"(3) at least 25 percent of the grant funds shall be allocated to each of the following three areas: prosecution, law enforcement, and victim services.

"(d) APPLICATION REQUIREMENTS.—(1) Applications shall be made directly to the Director and shall contain a description of the tribes' law enforcement responsibilities for the Indian country described in the application and a description of the tribes' system of courts, including whether the tribal government operates courts of Indian offenses under section 201 of Public Law 90-284 (25 U.S.C. 1301) or part 11 of title 25, Code of Federal Regulations.

"(2) Applications shall be in such form as the Director may prescribe and shall specify the nature of the program proposed by the applicant tribe, the data and information on which the program is based, and the extent to which the program plans to use or incorporate existing victim services available in the Indian country where the grant will be used.

"(3) The term of any grant shall be for a minimum of 3 years.

"(e) GRANTEE REPORTING.—At the end of the first 12 months of the grant period and at the end of each year thereafter, the Indian tribal grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application, certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if funds are expended for purposes other than those set forth under this subpart. Federal funds may only be used to supplement, not supplant, State funds.

"(f) DEFINITIONS.—(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'Indian country' has the meaning stated in section 1151 of title 18, United States Code.

"Subpart 3—General Terms and Conditions

"SEC. 1631. GENERAL DEFINITIONS.

"As used in this part—

"(1) the term 'victim services' means any nongovernmental nonprofit organization that assists victims, including rape crisis centers, battered women's shelters, or other rape or domestic violence programs, including nonprofit nongovernmental organizations assisting victims through the legal process;

"(2) the term 'prosecution' means any public agency charged with direct responsibility for prosecuting criminal offenders, including such agency's component bureaus (such as governmental victim/witness programs);

"(3) the term 'law enforcement' means any public agency charged with policing functions, including any of its component bureaus (such as governmental victim services programs);

"(4) the term 'sexual assault' includes not only assaults committed by offenders who are strangers to the victim but also assaults committed by offenders who are known or related by blood or marriage to the victim;

"(5) the term 'domestic violence' includes felony or misdemeanor offenses committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabitating with or has cohabitated with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies; and

"(6) the term 'underserved populations' includes populations underserved because of geographic location (such as rural isolation), underserved racial or ethnic populations, and populations underserved because of special needs, such as language barriers or physical disabilities.

"SEC. 1632. GENERAL TERMS AND CONDITIONS.

"(a) NONMONETARY ASSISTANCE.—In addition to the assistance provided under subparts 1 or 2, the Director may direct any Federal agency, with or without reimbursement, to use its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts.

"(b) BUREAU REPORTING.—No later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Judiciary Committees of the House and the Senate a report that includes, for each high intensity crime area (as provided in subpart 1) and for each State and for each grantee Indian tribe (as provided in subpart 2)—

"(1) the amount of grants made under this part;

"(2) a summary of the purposes for which those grants were provided and an evaluation of their progress;

"(3) a statistical summary of persons served, detailing the nature of victimization, and providing data on age, sex, relationship of victim to offender, geographic distribution, race, ethnicity, language, and disability; and

"(4) a copy of each grantee report filed pursuant to sections 1612(g), 1621(f), and 1622(c).

"(c) REGULATIONS.—No later than 90 days after the date of enactment of this part, the Director shall publish proposed regulations implementing this part. No later than 120 days after such date, the Director shall publish final regulations implementing this part.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995, $100,000,000 to carry out subpart 1, and $190,000,000 to carry out subpart 2, and $10,000,000 to carry out section 1622 of subpart 2.".

Subtitle C—Safety for Women in Public Transit and Public Parks

SEC. 131. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION.

Section 24 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1620) is amended to read as follows:

"GRANTS TO PREVENT CRIME IN PUBLIC TRANSPORTATION

"SEC. 24. (a) GENERAL PURPOSE.—From funds authorized under section 21, not to exceed $10,000,000, the Secretary shall make capital grants for the prevention of crime and to increase security in existing and future public transportation systems. None of the provisions of this Act may be construed to prohibit the financing of projects under this section where law enforcement responsibilities are vested in a local public body other than the grant applicant.

"(b) GRANTS FOR LIGHTING, CAMERA SURVEILLANCE, AND SECURITY PHONES.—

"(1) From the sums authorized for expenditure under this section for crime prevention, the Secretary is authorized to make grants and loans to States and local public bodies or agencies for the purpose of increasing the safety of public transportation by—

"(A) increasing lighting within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(B) increasing camera surveillance of areas within and adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages;

"(C) providing emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public transportation systems, including bus stops, subway stations, parking lots, or garages; or

"(D) any other project intended to increase the security and safety of existing or planned public transportation systems.

"(2) From the sums authorized under this section, at least 75 percent shall be expended on projects of the type described in subsection (b)(1) (A) and (B).

"(c) REPORTING.—All grants under this section are contingent upon the filing of a report with the Secretary and the Department of Justice, Office of Victims of Crime, showing crime rates in or adjacent to public transportation before, and for a 1-year period after, the capital improvement. Statistics shall be broken down by type of crime, sex, race, ethnicity, language, and relationship of victim to the offender.

"(d) INCREASED FEDERAL SHARE.—Notwithstanding any other provision of this Act, the Federal share under this section for each capital improvement project which enhances the safety and security of public transportation systems and which is not required by law (including any other provision of this

chapter) shall be 90 percent of the net project cost of such project.

"(e) SPECIAL GRANTS FOR PROJECTS TO STUDY INCREASING SECURITY FOR WOMEN.—From the sums authorized under this section, the Secretary shall provide grants and loans for the purpose of studying ways to reduce violent crimes against women in public transit through better design or operation of public transit systems.

"(f) GENERAL REQUIREMENTS.—All grants or loans provided under this section shall be subject to all the terms, conditions, requirements, and provisions applicable to grants and loans made under section 2(a).".

SEC. 132. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN NATIONAL PARKS.

Public Law 91-383 (commonly known as the National Park System Improvements in Administration Act) (16 U.S.C. 1a-1 et seq.) is amended by adding at the end the following new section:

"SEC. 13. NATIONAL PARK SYSTEM CRIME PREVENTION ASSISTANCE.

"(a) From the sums authorized pursuant to section 7 of the Land and Water Conservation Act of 1965, not to exceed $10,000,000, the Secretary of the Interior may provide Federal assistance to reduce the incidence of violent crime in the National Park System.

"(b) The Secretary shall direct the chief official responsible for law enforcement within the National Park Services to—

"(1) compile a list of areas within the National Park System with the highest rates of violent crime;

"(2) make recommendations concerning capital improvements, and other measures, needed within the National Park System to reduce the rates of violent crime, including the rate of sexual assault; and

"(3) publish the information required by paragraphs (1) and (2) in the Federal Register.

"(c) No later than 120 days after the date of enactment of this section, and based on the recommendations and list issued pursuant to subsection (b), the Secretary shall distribute funds throughout the National Park Service. Priority shall be given to those areas with the highest rates of sexual assault.

"(d) Funds provided under this section may be used for the following purposes:

"(1) To increase lighting within or adjacent to public parks and recreation areas.

"(2) To provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas.

"(3) To increase security or law enforcement personnel within or adjacent to public parks and recreation areas.

"(4) Any other project intended to increase the security and safety of public parks and recreation areas.".

SEC. 133. GRANTS FOR CAPITAL IMPROVEMENTS TO PREVENT CRIME IN PUBLIC PARKS.

Section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-8) is amended by adding at the end the following new subsection:

"(h) CAPITAL IMPROVEMENT AND OTHER PROJECTS TO REDUCE CRIME.—In addition to assistance for planning projects, and in addition to the projects identified in subsection (e), and from amounts appropriated, the Secretary shall provide financial assistance to the States, not to exceed $15,000,000 in total, for the following types of projects or combinations thereof:

"(1) For the purpose of making capital improvements and other measures to increase safety in urban parks and recreation areas, including funds to—

"(A) increase lighting within or adjacent to public parks and recreation areas;

"(B) provide emergency phone lines to contact law enforcement or security personnel in areas within or adjacent to public parks and recreation areas;

"(C) increase security personnel within or adjacent to public parks and recreation areas; and

"(D) any other project intended to increase the security and safety of public parks and recreation areas.

"(2) In addition to the requirements for project approval imposed by this section, eligibility for assistance under this subsection is dependent upon a showing of need. In providing funds under this subsection, the Secretary shall give priority to those projects proposed for urban parks and recreation areas with the highest rates of crime and, in particular, to urban parks and recreation areas with the highest rates of sexual assault.

"(3) Notwithstanding subsection (c), the Secretary may provide 70 percent improvement grants for projects undertaken by any State for the purposes outlined in this subsection. The remaining share of the cost shall be borne by the State.".

Subtitle D—National Commission on Violence Against Women

SEC. 141. ESTABLISHMENT.

There is established a commission to be known as the National Commission on Violence Against Women (referred to as the "Commission").

SEC. 142. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purposes of promoting a national policy on violent crime against women, and for making recommendations for how to reduce violent crime against women.

(b) FUNCTIONS.—The Commission shall—

(1) evaluate the adequacy of, and make recommendations regarding, current law enforcement efforts at the Federal and State levels to reduce the rate of violent crimes against women;

(2) evaluate the adequacy of, and make recommendations regarding, the responsiveness of State prosecutors and State courts to violent crimes against women;

(3) evaluate the adequacy of, and make recommendations regarding, the adequacy of current education, prevention, and protection services for women victims of violent crime;

(4) evaluate the adequacy of, and make recommendations regarding, the role of the Federal Government in reducing violent crimes against women;

(5) evaluate the adequacy of, and make recommendations regarding, national public awareness and the public dissemination of information essential to the prevention of violent crimes against women;

(6) evaluate the adequacy of, and make recommendations regarding, data collection and government statistics on the incidence and prevalence of violent crimes against women;

(7) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on sexual assault and the need for a more uniform statutory response to sex offenses, including sexual assaults and other sex offenses committed by offenders who are known or related by blood or marriage to the victim;

(8) evaluate the adequacy of, and make recommendations regarding, the adequacy of State and Federal laws on domestic violence and the need for a more uniform statutory response to domestic violence; and

(9) evaluate and make recommendations regarding the feasibility of maintaining the confidentiality of addresses of domestic violence victims in voting, welfare, licensed public utilities, and other public records.

SEC. 143. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President—

(i) 3 of whom shall be—

(I) the Attorney General;

(II) the Secretary of Health and Human Services; and

(III) the Director of the Federal Bureau of Investigation,

who shall be nonvoting members, except that in the case of a tie vote by the Commission, the Attorney General shall be a voting member;

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience; and

(iii) at least one of whom shall be selected for their experience in providing services to women victims of sexual assault or domestic violence.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in title 18 of the United States Code.

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select persons who are specially qualified to serve on the Commission by reason of their experience in State or national efforts to fight violence against women and demonstrate experience in State or national advocacy or service organizations specializing in sexual assault and domestic violence; and

(B) engage in consultations for the purpose of ensuring that the expertise of the ten members appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, include representatives from law enforcement, prosecution, judicial administration, legal expertise, public health, social work, victim compensation boards, victim advocacy, and survivors of violence.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chair-

man from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be later than 60 days after the date of the enactment of this Act. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least 6 times.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—Except as provided in subsection (e), members of the Commission shall be allowed travel and other expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not later than 45 days after the date of enactment of this Act, the members of the Commission shall be appointed.

SEC. 144. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 143, the Commission shall prepare and submit a final report to the President and to congressional committees that have jurisdiction over legislation addressing violent crimes against women, including the crimes of domestic and sexual assault.

(b) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commission, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 145. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable for a position above GS–15 of the General Schedule contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

SEC. 146. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this subtitle, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this subtitle.

(c) ACCESS TO INFORMATION.—The Commission may request directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this subtitle, on the request of the Chairman of the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 147. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $500,000 for fiscal year 1993.

SEC. 148. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 144. The President may extend the life of the Commission for a period of not to exceed 1 year.

Subtitle E—New Evidentiary Rules

SEC. 151. SEXUAL HISTORY IN ALL CRIMINAL CASES.

The Federal Rules of Evidence are amended by inserting after rule 412 the following new rule:

"Rule 412A. Evidence of victim's past behavior in other criminal cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, reputation or opinion evidence of the past sexual behavior of an alleged victim is not admissible.

"(b) ADMISSIBILITY.—Notwithstanding any other law, in a criminal case, other than a sex offense case governed by rule 412, evidence of an alleged victim's past sexual behavior (other than reputation and opinion evidence) may be admissible if—

"(1) the evidence is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the alleged victim's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the alleged victim.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the alleged victim and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence which the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for such purpose, shall accept evidence on the issue of whether such condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2), that the evidence the defendant seeks to offer is relevant, not excluded by any other evidentiary rule, and that the probative value of such evidence outweighs the danger of unfair prejudice, such evidence shall be admissible in the trial to the extent an order made by the court specifies the evidence which may be offered and areas with respect to which the alleged victim may be examined or cross-examined. In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance, and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 152. SEXUAL HISTORY IN CIVIL CASES.

The Federal Rules of Evidence, as amended by section 151, are amended by adding after rule 412A the following new rule:

"Rule 412B. Evidence of past sexual behavior in civil cases

"(a) REPUTATION AND OPINION EVIDENCE EXCLUDED.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, reputation or opinion evidence of the plaintiff's past sexual behavior is not admissible.

"(b) ADMISSIBLE EVIDENCE.—Notwithstanding any other law, in a civil case in which a defendant is accused of actionable sexual misconduct, evidence of a plaintiff's past sexual behavior other than reputation or opinion evidence may be admissible if—

"(1) it is admitted in accordance with the procedures specified in subdivision (c); and

"(2) the probative value of the evidence outweighs the danger of unfair prejudice.

"(c) PROCEDURES.—(1) If the defendant intends to offer evidence of specific instances of the plaintiff's past sexual behavior, the defendant shall make a written motion to offer such evidence not later than 15 days before the date on which the trial in which such evidence is to be offered is scheduled to begin, except that the court may allow the motion to be made at a later date, including during trial, if the court determines either that the evidence is newly discovered and could not have been obtained earlier through the exercise of due diligence or that the issue to which such evidence relates has newly arisen in the case. Any motion made under this paragraph shall be served on all other parties and on the plaintiff.

"(2) The motion described in paragraph (1) shall be accompanied by a written offer of proof. If necessary, the court shall order a hearing in chambers to determine if such evidence is admissible. At the hearing, the parties may call witnesses, including the plaintiff and offer relevant evidence. Notwithstanding subdivision (b) of rule 104, if the relevancy of the evidence that the defendant seeks to offer in the trial depends upon the fulfillment of a condition of fact, the court, at the hearing in chambers or at a subsequent hearing in chambers scheduled for the purpose, shall accept evidence on the issue of whether the condition of fact is fulfilled and shall determine such issue.

"(3) If the court determines on the basis of the hearing described in paragraph (2) that

the evidence the defendant seeks to offer is relevant and not excluded by any other evidentiary rule, and that the probative value of the evidence outweighs the danger of unfair prejudice, the evidence shall be admissible in the trial to the extent an order made by the court specifies evidence that may be offered and areas with respect to which the plaintiff may be examined or cross-examined. In its order, the court should consider—

"(A) the chain of reasoning leading to its finding of relevance; and

"(B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.

"(d) DEFINITIONS.—For purposes of this rule, a case involving a claim of actionable sexual misconduct, includes sexual harassment or sex discrimination claims brought pursuant to title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000(e)) and gender bias claims brought pursuant to title III of the Violence Against Women Act of 1993.".

SEC. 153. AMENDMENTS TO RAPE SHIELD LAW.

Rule 412 of the Federal Rules of Evidence is amended—

(1) by adding at the end the following new subdivisions:

"(e) INTERLOCUTORY APPEAL.—Notwithstanding any other law, any evidentiary rulings made pursuant to this rule are subject to interlocutory appeal by the government or by the alleged victim.

"(f) RULE OF RELEVANCE AND PRIVILEGE.—If the prosecution seeks to offer evidence of prior sexual history, the provisions of this rule may be waived by the alleged victim."; and

(2) by adding at the end of subdivision (c)(3) the following: "In its order, the court should consider (A) the chain of reasoning leading to its finding of relevance; and (B) why the probative value of the evidence outweighs the danger of unfair prejudice given the potential of the evidence to humiliate and embarrass the alleged victim and to result in unfair or biased jury inferences.".

SEC. 154. EVIDENCE OF CLOTHING.

The Federal Rules of Evidence, as amended by section 152, are amended by adding after rule 412B the following new rule:

"Rule 413. Evidence of victim's clothing as inciting violence

"Notwithstanding any other law, in a criminal case in which a person is accused of an offense under chapter 109A of title 18, United States Code, evidence of an alleged victim's clothing is not admissible to show that the alleged victim incited or invited the offense charged.".

Subtitle F—Assistance to Victims of Sexual Assault

SEC. 161. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.

Part A of title XIX of the Public Health and Health Services Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new section:

"SEC. 1910A. USE OF ALLOTMENTS FOR RAPE PREVENTION EDUCATION.

"(a) PERMITTED USE.—Notwithstanding section 1904(a)(1), amounts transferred by the State for use under this part may be used for rape prevention and education programs conducted by rape crisis centers or similar nongovernmental nonprofit entities, which programs may include—

"(1) educational seminars;

"(2) the operation of hotlines;

"(3) training programs for professionals;

"(4) the preparation of informational materials; and

"(5) other efforts to increase awareness of the facts about, or to help prevent, sexual assault, including efforts to increase awareness in underserved racial, ethnic, and language minority communities.

"(b) TARGETING OF EDUCATION PROGRAMS.—States providing grant monies must ensure that at least 25 percent of the monies are devoted to education programs targeted for middle school, junior high school, and high school students.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $65,000,000 for each of fiscal years 1993, 1994, and 1995.

"(d) LIMITATION.—Funds authorized under this section may only be used for providing rape prevention and education programs.

"(e) DEFINITION.—For purposes of this section, the term 'rape prevention and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim.

"(f) TERMS.—States shall be allotted funds under this section pursuant to the terms of sections 1902 and 1903, and subject to the conditions provided in this section and sections 1904 through 1909.".

SEC. 162. RAPE EXAM PAYMENTS.

(a) No State or other grantee is entitled to funds under title I of the Violence Against Women Act of 1993 unless the State or other grantee incurs the full cost of forensic medical exams for victims of sexual assault. A State or other grantee does not incur the full medical cost of forensic medical exams if it chooses to reimburse the victim after the fact unless the reimbursement program waives any minimum loss or deductible requirement, provides victim reimbursement within a reasonable time (90 days), permits applications for reimbursement within one year from the date of the exam, and provides information to all subjects of forensic medical exams about how to obtain reimbursement.

(b) Within 90 days after the enactment of this Act, the Director of the Office of Victims of Crime shall propose regulations to implement this section, detailing qualified programs. Such regulations shall specify the type and form of information to be provided victims, including provisions for multilingual information, where appropriate.

SEC. 163. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF FEMALE RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended by—

(1) redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 315. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, and information and referral, for female runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to female runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1993, 1994, and 1995.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a female less than 21 years old who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

SEC. 164. VICTIM'S RIGHT OF ALLOCUTION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended—

(1) by striking "and" at the end of subdivision (a)(1)(B);

(2) by striking the period at the end of subdivision (a)(1)(C) and inserting "; and";

(3) by inserting after subdivision (a)(1)(C) the following new subdivision:

"(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the penultimate sentence of subdivision (a)(1), by striking "equivalent opportunity" and inserting "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) by inserting "the victim," before "or the attorney for the Government."; and

(6) by adding at the end the following new subdivision:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) the term 'victim' means any person against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of 18 years or incompetent; or

"(B) 1 of more family members or relatives designated by the court in case the victim is deceased or incapacitated,

if such person or persons are present at the sentencing hearing, regardless of whether the victim is present; and

"(2) the term 'crime of violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE II—SAFE HOMES FOR WOMEN

SEC. 201. SHORT TITLE.

This title may be cited as the "Safe Homes for Women Act of 1993".

Subtitle A—Family Violence Prevention and Services Act Amendments

SEC. 211. GRANTS FOR A NATIONAL DOMESTIC VIOLENCE HOTLINE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following new section:

"SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANTS.

"(a) IN GENERAL.—The Secretary may award grants to 1 or more private, nonprofit entities to provide for the operation of a national, toll-free telephone hotline to provide

information and assistance to victims of domestic violence.

"(b) ACTIVITIES.—Funds received by an entity under this section shall be utilized to open and operate a national, toll-free domestic violence hotline. Such funds may be used for activities including—

"(1) contracting with a carrier for the use of a toll-free telephone line;

"(2) employing, training and supervising personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

"(3) assembling, maintaining, and continually updating a database of information and resources to which callers may be referred throughout the United States; and

"(4) publicizing the hotline to potential users throughout the United States.

"(c) APPLICATION.—A grant, contract or cooperative agreement may not be made or entered into under this section unless an application for such grant, contract or cooperative agreement has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

"(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

"(A) the training program for hotline personnel;

"(B) the hiring criteria for hotline personnel;

"(C) the methods for the creation, maintenance and updating of a resource database; and

"(D) a plan for publicizing the availability of the hotline;

"(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence; and

"(4) contain such other information as the Secretary may require.

"(d) SPECIAL CONSIDERATIONS.—In considering an application under subsection (c), the Secretary shall also take into account the applicant's ability to offer multilingual services and services for the hearing impaired.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of fiscal years 1993, 1994, and 1995.".

Subtitle B—Interstate Enforcement

SEC. 221. INTERSTATE ENFORCEMENT.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 110 the following new chapter:

"CHAPTER 110A—VIOLENCE AGAINST SPOUSES

"Sec. 2261. Traveling to commit spousal abuse.
"Sec. 2262. Interstate violation of protection orders.
"Sec. 2263. Interim protections.
"Sec. 2264. Restitution.
"Sec. 2265. Full faith and credit given to protection orders.
"Sec. 2266. Definitions.

"§ 2261. Traveling to commit spousal abuse

"(a) IN GENERAL.—Any person who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner; or

"(2) for the purpose of harassing, intimidating, or injuring a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner,

shall be fined not more than $1,000 or imprisoned for not more than 10 years but not less than 3 months, or both, in addition to any fine or term of imprisonment provided under State law.

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress or fraud and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; if bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the offense was committed in the maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable conduct under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent of the offender required to establish an offense under subsection (b) is the general intent to do the acts that result in injury to a spouse or intimate partner and not the specific intent to violate the law of a State.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction or a prior civil protection order issued under State law to initiate Federal prosecution.

"§ 2262. Interstate violation of protection orders

"(a) IN GENERAL.—Any person against whom a valid protection order has been entered who travels across State lines—

"(1) and who, in the course of or as a result of such travel, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State; or

"(2) for the purpose of harassing, injuring, finding, contacting, or locating a spouse or intimate partner and who, in furtherance of that purpose, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State, shall be punished as provided in subsection (c).

"(b) CAUSING THE CROSSING OF STATE LINES.—Any person who causes a spouse or intimate partner to cross State lines by force, coercion, duress, or fraud, and, in the course or as a result of that conduct, commits an act that injures his or her spouse or intimate partner in violation of a valid protection order issued by a State shall be punished as provided in subsection (c).

"(c) PENALTIES.—A person who violates this section shall be punished as follows:

"(1) If permanent disfigurement or life-threatening bodily injury results, by imprisonment for not more than 20 years; if serious bodily injury results, by fine under this title or imprisonment for not more than 10 years, or both; if bodily injury results, by fine under this title or imprisonment for not more than 5 years, or both.

"(2) If the offense is committed with intent to commit another felony, by fine under this title or imprisonment for not more than 10 years, or both.

"(3) If the offense is committed with a dangerous weapon, with intent to do bodily harm, by fine under this title or imprisonment for not more than 5 years, or both.

"(4) If the offender has previously violated any prior protection order issued against that person for the protection of the same victim, by fine under this title or imprisonment for not more than 5 years and not less than 6 months, or both.

"(5) If the offense constitutes sexual abuse, as that conduct is described under chapter 109A of title 18, United States Code (without regard to whether the conduct was committed in the special maritime, territorial or prison jurisdiction of the United States) by fine or term of imprisonment as provided for the applicable offense under chapter 109A.

"(d) CRIMINAL INTENT.—The criminal intent required to establish the offense provided in subsection (a) is the general intent to do the acts which result in injury to a spouse or intimate partner and not the specific intent to violate a protection order or State law.

"(e) NO PRIOR STATE ACTION NECESSARY.—Nothing in this section requires a prior criminal prosecution or conviction under State law to initiate Federal prosecution.

"§ 2263. Interim protections

"(a) IN GENERAL.—In furtherance of the purposes of this chapter, and to protect against abuse of a spouse or intimate partner, any judge or magistrate before whom a criminal case under this chapter is brought, shall have the power to issue temporary orders of protection for the protection of an abused spouse or intimate partner pending final disposition of the case, upon a showing of a likelihood of danger to the abused spouse or intimate partner.

"(b) LIMITATION ON JURISDICTION.—This section does not confer original jurisdiction in a Federal district court to issue any order of protection in a case of injury to a spouse or intimate partner unless the case—

"(1) has been brought by a Federal prosecutor pursuant to section 2261 or 2262; and

"(2) includes the interstate nexus required under section 2261 or 2262.

"(c) APPLICATION OF STATE LAW.—In issuing a temporary order of protection pursuant to subsection (a), the judge or magistrate shall look to the law of the State where the injury occurred to determine the types of relief that are appropriate.

"§ 2264. Restitution

"(a) IN GENERAL.—In addition to any fine or term of imprisonment provided under this chapter, and notwithstanding section 3663, the court shall order restitution to the victim of an offense under this chapter.

"(b) SCOPE AND NATURE OF ORDER.—(1) An order of restitution under this section shall direct that—

"(A) the defendant pay to the victim (through the appropriate court mechanism) the full amount of the victim's losses as determined by the court, pursuant to paragraph (2); and

"(B) the United States Attorney enforce the restitution order by all available and reasonable means.

"(2) For purposes of this subsection, the term 'full amount of the victim's losses' includes any costs incurred by the victim for—

"(A) medical services relating to physical, psychiatric, or psychological care;

"(B) physical and occupational therapy or rehabilitation;

"(C) lost income;

"(D) attorneys' fees, plus any costs incurred in obtaining a civil protection order; and

"(E) any other losses suffered by the victim as a proximate result of the offense.

"(3) A restitution order under this section is mandatory. A court may not decline to issue an order under this section because of—

"(A) the economic circumstances of the defendant; or

"(B) the fact that victim has, or is entitled to receive, compensation for his or her injuries from the proceeds of insurance.

"(4)(A) Notwithstanding paragraph (3), the court may take into account the economic circumstances of the defendant in determining the manner in which and the schedule according to which the restitution is to be paid, including—

"(i) the financial resources and other assets of the defendant;

"(ii) projected earnings, earning capacity, and other income of the defendant; and

"(iii) any financial obligations of the offender, including obligations to dependents.

"(B) An order under this section may direct the defendant to make a single lumpsum payment, or partial payments at specified intervals. The order shall provide that the defendant's restitutionary obligation takes priority over any criminal fine ordered.

"(C) If the victim has recovered for any amount of loss through the proceeds of insurance or any other source, the order of restitution shall provide that restitution be paid to the person who provided the compensation, but that restitution shall be paid to the victim for the victim's other losses before any restitution is paid to any other provider of compensation.

"(5) Any amount paid to a victim under this section shall be set off against any amount later recovered as compensatory damages by the victim from the defendant in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(c) PROOF OF CLAIM.—(1) Within 60 days after conviction and, in any event, no later than 10 days prior to sentencing, the United States Attorney (or the United States Attorney's delegee), after consulting with the victim, shall prepare and file an affidavit with the court listing the amounts subject to restitution under this section. The affidavit shall be signed by the United States Attorney (or the United States Attorney's delegee) and the victim. Should the victim object to any of the information included in the affidavit, the United States Attorney (or the United States Attorney's delegee) shall advise the victim that the victim may file a separate affidavit and shall provide the victim with an affidavit form which may be used to do so.

"(2) If no objection is raised by the defendant, the amounts attested to in the affidavit filed pursuant to paragraph (1) shall be entered in the court's restitution order. If objection is raised, the court may require the victim or the United States Attorney (or the United States Attorney's delegee) to submit further affidavits or other supporting documents, demonstrating the victim's losses.

"(3) If the court concludes, after reviewing the supporting documentation and considering the defendant's objections, that there is a substantial reason for doubting the authenticity or veracity of the records submitted, the court may require additional documentation or hear testimony on those questions. Any records filed, or testimony heard, pursuant to this subsection, shall be in camera in the judge's chambers.

"(4) If the victim's losses are not ascertainable 10 days prior to sentencing as provided in subsection (c)(1), the United States Attorney (or the United States Attorney's delegee) shall so inform the court, and the court shall set a date for the final determination of the victim's losses, not to exceed 90 days after sentencing. If the victim subsequently discovers further losses, the victim shall have 60 days after discovery of those losses in which to petition the court for an amended restitution order. Such an order may be granted only upon a showing of good cause for the failure to include such losses in the initial claim for restitutionary relief.

"(d) RESTITUTION AND CRIMINAL PENALTIES.—An award of restitution to the victim of an offense under this chapter shall not be a substitute for imposition of punishment under sections 2261 and 2262.

"(e) DEFINITIONS.—For purposes of this section, the term 'victim' includes the person harmed as a result of a commission of a crime under this chapter, including, in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardian of the victim or representative of the victim's estate, another family member, or any other person appointed as suitable by the court, but in no event shall the defendant be named as such a representative or guardian.

"§ 2265. Full faith and credit given to protection orders

"(a) FULL FAITH AND CREDIT.—Any protection order issued consistent with subsection (b) by the court of 1 State (the issuing State) shall be accorded full faith and credit by the court of another State (the enforcing State) and enforced as if it were the order of the enforcing State.

"(b) PROTECTION ORDER.—(1) A protection order issued by a State court is consistent with this subsection if—

"(A) the court has jurisdiction over the parties and matter under the law of the State; and

"(B) reasonable notice and opportunity to be heard is given to the person against whom the order is sought sufficient to protect that person's right to due process.

"(2) In the case of an order under paragraph (1) that is issued ex parte, notice and opportunity to be heard shall be provided within the time required by State law, and in any event within a reasonable time after the order is issued, sufficient to protect the respondent's due process rights.

"(c) CROSS- OR COUNTER-PETITION.—A protection order issued by a State court against one who has petitioned, filed a complaint, or otherwise filed a written pleading for protection against abuse by a spouse or intimate partner is not entitled to full faith and credit if—

"(1) no cross- or counter-petition, complaint, or other written pleading was filed seeking such a protection order; or

"(2) if a cross- or counter-petition has been filed, if the court did not make specific findings that each party was entitled to such an order.

"§ 2266. Definitions

"As used in this chapter—

"(1) the term 'spouse or intimate partner' includes—

"(A) a present or former spouse, a person who shares a child in common with an abuser, and a person who cohabits or has cohabited with an abuser as a spouse; and

"(B) any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State in which the injury occurred or where the victim resides, or any other adult person who is protected from an abuser's acts under the domestic or family violence laws of the State in which the injury occurred or where the victim resides;

"(2) the term 'protection order' includes an injunction or other order issued for the purpose of preventing violent or threatening acts by 1 spouse against his or her spouse or intimate partner, including a temporary or final order issued by a civil or criminal court (other than a support or child custody order or provision) whether obtained by filing an independent action or as a pendente lite order in another proceeding, so long as, in the case of a civil order, the order was issued in response to a complaint, petition, or motion filed by or on behalf of an abused spouse or intimate partner;

"(3) the term 'act that injures' includes any act, except one done in self-defense, that results in physical injury or sexual abuse;

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any Indian tribe, commonwealth, territory, or possession of the United States; and

"(5) the term 'travel across State lines' includes any travel except travel across State lines by an Indian tribal member when that member remained at all times on tribal lands.".

(b) TECHNICAL AMENDMENT.—The part analysis for part 1 of title 18, United States Code, is amended by inserting after the item for chapter 110 the following new item:

"110A. Violence against spouses ..... 2261.".

Subtitle C—Arrest in Spousal Abuse Cases

SEC. 231. ENCOURAGING ARREST POLICIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 211, is amended by adding at the end the following new section:

"SEC. 317. ENCOURAGING ARREST POLICIES.

"(a) PURPOSE.—To encourage States, Indian tribes and localities to treat spousal violence as a serious violation of criminal law, the Secretary may make grants to eligible States, Indian tribes, municipalities, or local government entities for the following purposes:

"(1) To implement pro-arrest programs and policies in police departments and to improve tracking of cases involving spousal abuse.

"(2) To centralize police enforcement, prosecution, or judicial responsibility for, spousal abuse cases in one group or unit of police officers, prosecutors, or judges.

"(3) To coordinate computer tracking systems to ensure communication between police, prosecutors, and both criminal and family courts.

"(4) To educate judges in criminal and other courts about spousal abuse and to improve judicial handling of such cases.

"(b) ELIGIBILITY.—(1) Eligible grantees are those States, Indian tribes, municipalities or other local government entities that—

"(A) demonstrate, through arrest and conviction statistics, that their laws or policies have been effective in significantly increasing the number of arrests made of spouse abusers;

"(B) certify that their laws or official policies—

"(i) mandate arrest of spouse abusers based on probable cause that violence has been committed; or

"(ii) permit warrantless arrests of spouse abusers, encourage the use of that authority, and mandate arrest of spouses violating the terms of a valid and outstanding protection order;

"(C) demonstrate that their laws, policies, practices and training programs discourage 'dual' arrests of abused and abuser; and

"(D) certify that their laws, policies, and practices prohibit issuance of mutual protection orders in cases where only one spouse has sought a protection order, and require findings of mutual aggression to issue mutual protection orders in cases where both parties file a claim.

"(2) For purposes of this section—

"(A) the term 'protection order' includes any injunction issued for the purpose of preventing violent or threatening acts of spouse abuse, including a temporary or final order issued by civil or criminal courts (other than support or child custody orders or provisions) whether obtained by filing an independent action or as a pendente lite order in another proceeding; and

"(B) the term 'spousal or spouse abuse' includes a felony or misdemeanor offense committed by a current or former spouse of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or committed by any other adult person upon a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction receiving grant monies.

"(3) The eligibility requirements provided in this section shall take effect on the date that is 1 year after the date of enactment of this section.

"(c) DELEGATION AND AUTHORIZATION.—The Secretary shall delegate to the Attorney General of the United States the Secretary's responsibilities for carrying out this section. There are authorized to be appropriated not in excess of $25,000,000 for each fiscal year to be used for the purpose of making grants under this section.

"(d) APPLICATION.—An eligible grantee shall submit an application to the Secretary. Such an application shall—

"(1) contain a certification by the chief executive officer of the State, Indian tribe, municipality, or local government entity that the conditions of subsection (b) are met;

"(2) describe the entity's plans to further the purposes listed in subsection (a);

"(3) identify the agency or office or groups of agencies or offices responsible for carrying out the program; and

"(4) identify and include documentation showing the nonprofit nongovernmental victim services programs that will be consulted in developing, and implementing, the program.

"(e) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to a grantee that—

"(1) does not currently provide for centralized handling of cases involving spousal or family violence in any one of the areas listed in this subsection—police, prosecutors, and courts; and

"(2) demonstrates a commitment to strong enforcement of laws, and prosecution of cases, involving spousal or family violence.

"(f) REPORTING.—Each grantee receiving funds under this section shall submit a report to the Secretary evaluating the effectiveness of the plan described in subsection (d)(2) and containing such additional information as the Secretary may prescribe.

"(g) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.".

Subtitle D—Funding for Shelters

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

Section 310(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10409(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $85,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, and $125,000,000 for fiscal year 1995.".

Subtitle E—Family Violence Prevention and Services Act Amendments

SEC. 251. GRANTEE REPORTING.

(a) SUBMISSION OF APPLICATION.—Section 303(a)(2)(C) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation" after "such State".

(b) APPROVAL OF APPLICATION.—Section 303(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)) is amended by adding at the end the following new paragraph:

"(4) Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.".

Subtitle F—Youth Education and Domestic Violence

SEC. 261. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) as amended by section 231, is amended by adding at the end the following new section:

"SEC. 318. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

"(a) GENERAL PURPOSE.—For purposes of this section, the Secretary shall delegate the Secretary's powers to the Secretary of Education (hereafter in this section referred to as the "Secretary"). The Secretary shall select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

"(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in the light of the comments of educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers. The participation of each of those groups or individual consultants from such groups is essential to the selection, implementation, and evaluation of programs that meet both the needs of educational institutions and the needs of the domestic violence problem.

"(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $400,000 for fiscal year 1993.".

Subtitle G—Confidentiality for Abused Persons

SEC. 271. CONFIDENTIALITY OF ABUSED PERSON'S ADDRESS.

Not later than 90 days after enactment of this Act, the United States Postal Service shall promulgate regulations to secure the confidentiality of domestic violence shelters and abused persons' addresses consistent with the following guidelines:

(1) Confidentiality shall be provided to a person upon the presentation to an appropriate postal official of a valid court order or a police report documenting abuse.

(2) Confidentiality shall be provided to any domestic violence shelter upon presentation to an appropriate postal authority of proof from a State domestic violence coalition (within the meaning of section 311 of the Family Violence Prevention and Services Act (42 U.S.C. 10410)) verifying that the organization is a domestic violence shelter.

(3) Disclosure of addresses to State or Federal agencies for legitimate law enforcement or other governmental purposes shall not be prohibited.

(4) Compilations of addresses existing at the time the order is presented to an appropriate postal official shall be excluded from the scope of the proposed regulations.

Subtitle H—Technical Amendments

SEC. 281. STATE DOMESTIC VIOLENCE COALITIONS.

Section 311(a) of the Family Violence Prevention and Services Act (42 U.S.C. 10410(a)) is amended—

(1) by redesignating paragraphs (1), (2), (3), and (4) as paragraphs (2), (3), (4), and (5);

(2) by inserting before paragraph (2), as redesignated by paragraph (1), the following new paragraph:

"(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

"(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

"(B) planning and conducting State needs assessments and planning for comprehensive services;

"(C) serving as an information clearinghouse and resource center for the State; and

"(D) collaborating with other governmental systems which affect battered women;"

(3) in paragraph (2)(K), as redesignated by paragraph (1), by striking "and court offi-

cials and other professionals" and inserting ", judges, court officers and other criminal justice professionals,";

(4) in paragraph (3), as redesignated by paragraph (1)—

(A) by inserting ", criminal court judges," after "family law judges," each place it appears;

(B) in subparagraph (F), by inserting "custody" after "temporary"; and

(C) in subparagraph (H), by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children"; and

(5) in paragraph (4), as redesignated by paragraph (1), by inserting ", including information aimed at underserved racial, ethnic or language-minority populations" before the semicolon.

Subtitle I—Data and Research

SEC. 291. REPORT ON RECORDKEEPING.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Government Accounting Office shall complete a study of, and shall submit to Congress, a report on the progress of the Department of Justice in collecting statistics showing the relationship between an offender and victim for all reported Federal crimes, including the crimes of rape, kidnapping, assault, aggravated assault, and robbery.

(b) REPORT TO CONGRESS.—No later than 180 days after the date of enactment of this Act, the study required under subsection (a) shall be completed and a report describing the findings made submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the National Commission on Violence Against Women.

SEC. 292. RESEARCH AGENDA.

(a) REQUEST FOR CONTRACT.—The Director of the National Institute of Justice shall request the National Academy of Sciences, through its National Research Council, to enter into a contract to develop a research agenda to increase the understanding and control of violence against women, including rape and domestic violence. In furtherance of the contract, the National Academy shall convene a panel of nationally recognized experts on violence against women, in the fields of law, medicine, criminal justice and the social sciences. In setting the agenda, the Academy shall focus primarily upon preventive, educative, social, and legal strategies. Nothing in this section shall be construed to invoke the terms of the Federal Advisory Committee Act.

(b) DECLINATION OF REQUEST.—If the National Academy of Sciences declines to conduct the study and develop a research agenda, it shall recommend a nonprofit private entity that is qualified to conduct such a study. In that case, the Director of the National Institute of Justice shall carry out subsection (a) through the nonprofit private entity recommended by the Academy. In either case, whether the study is conducted by the National Academy of Sciences or by the nonprofit group it recommends, the funds for the contract shall be made available from sums appropriated for the conduct of research by the National Institute of Justice.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives, the Committee on the Judiciary of the Senate, and the National Commission on Violence Against Women.

SEC. 293. STATE DATABASES.

(a) IN GENERAL.—The National Institute of Justice, in conjunction with the Bureau of Justice Statistics, shall study and report to the States and to Congress on how the States may collect centralized databases on the incidence of domestic violence offenses within a State.

(b) CONSULTATION.—In conducting its study, the National Institute of Justice shall consult persons expert in the collection of criminal justice data, State statistical administrators, law enforcement personnel, and nonprofit nongovernmental agencies that provide direct services to victims of domestic violence. The Institute's final report shall set forth the views of the persons consulted on the Institute's recommendations.

(c) REPORT.—The Director of the National Institute of Justice shall ensure that no later than 9 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made is submitted to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as are necessary to carry out this section.

SEC. 294. NUMBER AND COST OF INJURIES.

(a) STUDY.—The Secretary of Health and Human Services, acting through the Centers for Disease Control Injury Control Division, shall conduct a study to obtain a national projection of the incidence of injuries resulting from domestic violence, the cost of injuries to health care facilities, and recommend health care strategies for reducing the incidence and cost of such injuries.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal year 1993.

TITLE III—CIVIL RIGHTS

SEC. 301. SHORT TITLE.

This title may be cited as the "Civil Rights Remedies for Gender-Motivated Violence Act".

SEC. 302. CIVIL RIGHTS.

(a) FINDINGS.—The Congress finds that—

(1) crimes motivated by the victim's gender constitute bias crimes in violation of the victim's right to be free from discrimination on the basis of gender;

(2) current law provides a civil rights remedy for gender crimes committed in the workplace, but not for gender crimes committed on the street or in the home;

(3) State and Federal criminal laws do not adequately protect against the bias element of gender-motivated crimes, which separates these crimes from acts of random violence, nor do those laws adequately provide victims of gender-motivated crimes the opportunity to vindicate their interests;

(4) existing bias and discrimination in the criminal justice system often deprives victims of gender-motivated crimes of equal protection of the laws and the redress to which they are entitled;

(5) gender-motivated violence has a substantial adverse effect on interstate commerce, by deterring potential victims from traveling interstate, from engaging in employment in interstate business, and from transacting with business, and in places involved, in interstate commerce;

(6) gender-motivated violence has a substantial adverse effect on interstate commerce, by diminishing national productivity, increasing medical and other costs, and decreasing the supply of and the demand for interstate products;

(7) a Federal civil rights action as specified in this section is necessary to guarantee equal protection of the laws and to reduce the substantial adverse effects of gender-motivated violence on interstate commerce; and

(8) victims of gender-motivated violence have a right to equal protection of the laws, including a system of justice that is unaffected by bias or discrimination and that, at every relevant stage, treats such crimes as seriously as other violent crimes.

(b) RIGHT TO BE FREE FROM CRIMES OF VIOLENCE.—All persons within the United States shall have the right to be free from crimes of violence motivated by gender (as defined in subsection (d)).

(c) CAUSE OF ACTION.—A person (including a person who acts under color of any statute, ordinance, regulation, custom, or usage of any State) who commits a crime of violence motivated by gender and thus deprives another of the right declared in subsection (b) shall be liable to the party injured, in an action for the recovery of compensatory and punitive damages, injunctive and declaratory relief, and such other relief as a court may deem appropriate.

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

(1) the term "crime of violence motivated by gender" means a crime of violence committed because of gender or on the basis of gender; and

(2) the term "crime of violence" means an act or series of acts that would come within the meaning of State or Federal offenses described in section 16 of title 18, United States Code, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction and whether or not those acts were committed in the special maritime, territorial, or prison jurisdiction of the United States.

(e) LIMITATION AND PROCEDURES.—

(1) LIMITATION.—Nothing in this section entitles a person to a cause of action under subsection (c) for random acts of violence unrelated to gender or for acts that cannot be demonstrated, by a preponderance of the evidence, to be motivated by gender (within the meaning of subsection (d)).

(2) NO PRIOR CRIMINAL ACTION.—Nothing in this section requires a prior criminal complaint, prosecution, or conviction to establish the elements of a cause of action under subsection (c).

SEC. 303. ATTORNEY'S FEES.

Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended in the last sentence—

(1) by striking "or" after "Public Law 92-318,"; and

(2) by inserting ", or title III of the Violence Against Women Act of 1993," after "1964".

SEC. 304. SENSE OF THE SENATE CONCERNING PROTECTION OF THE PRIVACY OF RAPE VICTIMS.

(a) FINDINGS AND DECLARATION.—The Congress finds and declares that—

(1) there is a need for a strong and clear Federal response to violence against women, particularly with respect to the crime of rape;

(2) rape is an abominable and repugnant crime, and one that is severely underreported to law enforcement authorities because of its stigmatizing nature;

(3) the victims of rape are often further victimized by a criminal justice system that is insensitive to the trauma caused by the

crime and are increasingly victimized by news media that are insensitive to the victim's emotional and psychological needs;

(4) rape victims' need for privacy should be respected;

(5) rape victims need to be encouraged to come forward and report the crime of rape without fear of being revictimized through involuntary public disclosure of their identities;

(6) rape victims need a reasonable expectation that their physical safety will be protected against retaliation or harassment by an assailant;

(7) the news media should, in the exercise of their discretion, balance the public's interest in knowing facts reported by free news media against important privacy interests of a rape victim, and an absolutist view of the public interest leads to insensitivity to a victim's privacy interest; and

(8) the public's interest in knowing the identity of a rape victim is small compared with the interests of maintaining the privacy of rape victims and encouraging rape victims to report and assist in the prosecution of the crime of rape.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that news media, law enforcement officers, and other persons should exercise restraint and respect a rape victim's privacy by not disclosing the victim's identity to the general public or facilitating such disclosure without the consent of the victim.

TITLE IV—SAFE CAMPUSES FOR WOMEN

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 1541(i) of the Higher Education Amendments of 1992 (20 U.S.C. 1145h(i)) is amended to read as follows:

"(i) For the purpose of carrying out this part, there are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, 1996, and 1997.".

TITLE V—EQUAL JUSTICE FOR WOMEN IN THE COURTS ACT

SECTION 501. SHORT TITLE.

This title may be cited as the "Equal Justice for Women in the Courts Act of 1993".

Subtitle A—Education and Training for Judges and Court Personnel in State Courts

SEC. 511. GRANTS AUTHORIZED.

The State Justice Institute may award grants for the purpose of developing, testing, presenting, and disseminating model programs to be used by States in training judges and court personnel in the laws of the States on rape, sexual assault, domestic violence, and other crimes of violence motivated by the victim's gender.

SEC. 512. TRAINING PROVIDED BY GRANTS.

Training provided pursuant to grants made under this subtitle may include current information, existing studies, or current data on—

(1) the nature and incidence of rape and sexual assault by strangers and nonstrangers, marital rape, and incest;

(2) the underreporting of rape, sexual assault, and child sexual abuse;

(3) the physical, psychological, and economic impact of rape and sexual assault on the victim, the costs to society, and the implications for sentencing;

(4) the psychology of sex offenders, their high rate of recidivism, and the implications for sentencing;

(5) the historical evolution of laws and attitudes on rape and sexual assault;

(6) sex stereotyping of female and male victims of rape and sexual assault, racial stereotyping of rape victims and defendants, and the impact of such stereotypes on credibility of witnesses, sentencing, and other aspects of the administration of justice;

(7) application of rape shield laws and other limits on introduction of evidence that may subject victims to improper sex stereotyping and harassment in both rape and nonrape cases, including the need for sua sponte judicial intervention in inappropriate cross-examination;

(8) the use of expert witness testimony on rape trauma syndrome, child sexual abuse accommodation syndrome, post-traumatic stress syndrome, and similar issues;

(9) the legitimate reasons why victims of rape, sexual assault, and incest may refuse to testify against a defendant;

(10) the nature and incidence of domestic violence;

(11) the physical, psychological, and economic impact of domestic violence on the victim, the costs to society, and the implications for court procedures and sentencing;

(12) the psychology and self-presentation of batterers and victims and the implications for court proceedings and credibility of witnesses;

(13) sex stereotyping of female and male victims of domestic violence, myths about presence or absence of domestic violence in certain racial, ethnic, religious, or socioeconomic groups, and their impact on the administration of justice;

(14) historical evolution of laws and attitudes on domestic violence;

(15) proper and improper interpretations of the defenses of self-defense and provocation, and the use of expert witness testimony on battered woman syndrome;

(16) the likelihood of retaliation, recidivism, and escalation of violence by batterers, and the potential impact of incarceration and other meaningful sanctions for acts of domestic violence including violations of orders of protection;

(17) economic, psychological, social and institutional reasons for victims' inability to leave the batterer, to report domestic violence or to follow through on complaints, including the influence of lack of support from police, judges, and court personnel, and the legitimate reasons why victims of domestic violence may refuse to testify against a defendant;

(18) the need for orders of protection, and the implications of mutual orders of protection, dual arrest policies, and mediation in domestic violence cases;

(19) recognition of and response to gender-motivated crimes of violence other than rape, sexual assault and domestic violence, such as mass or serial murder motivated by the gender of the victims; and

(20) current information on the impact of pornography on crimes against women, or data on other activities that tend to degrade women.

SEC. 513. COOPERATION IN DEVELOPING PROGRAMS IN MAKING GRANTS UNDER THIS TITLE.

The State Justice Institute shall ensure that model programs carried out pursuant to grants made under this subtitle are developed with the participation of law enforcement officials, public and private nonprofit victim advocates, legal experts, prosecutors, defense attorneys, and recognized experts on gender bias in the courts.

SEC. 514. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle $600,000 for fiscal year 1993. Of amounts appropriated under this section, the State Justice Institute shall expend no less than 40 percent on model programs regarding domestic violence and no less than 40 percent on model programs regarding rape and sexual assault.

Subtitle B—Education and Training for Judges and Court Personnel in Federal Courts

SEC. 521. AUTHORIZATIONS OF CIRCUIT STUDIES; EDUCATION AND TRAINING GRANTS.

(a) STUDY.—In order to gain a better understanding of the nature and the extent of gender bias in the Federal courts, the circuit judicial councils are encouraged to conduct studies of the instances, if any, of gender bias in their respective circuits. The studies may include an examination of the effects of gender on—

(1) the treatment of litigants, witnesses, attorneys, jurors, and judges in the courts, including before magistrate and bankruptcy judges;

(2) the interpretation and application of the law, both civil and criminal;

(3) treatment of defendants in criminal cases;

(4) treatment of victims of violent crimes;

(5) sentencing;

(6) sentencing alternatives, facilities for incarceration, and the nature of supervision of probation and parole;

(7) appointments to committees of the Judicial Conference and the courts;

(8) case management and court sponsored alternative dispute resolution programs;

(9) the selection, retention, promotion, and treatment of employees;

(10) appointment of arbitrators, experts, and special masters; and

(11) the aspects of the topics listed in section 512 that pertain to issues within the jurisdiction of the Federal courts.

(b) CLEARINGHOUSE.—The Judicial Conference of the United States shall designate an entity within the Judicial branch to act as a clearinghouse to disseminate any reports and materials issued by the gender bias task forces under subsection (a) and to respond to requests for such reports and materials. The gender bias task forces shall provide this entity with their reports and related material.

(c) MODEL PROGRAMS.—The Federal Judicial Center, in carrying out section 620(b)(3) of title 28, United States Code, may—

(1) include in the educational programs it presents and prepares, including the training programs for newly appointed judges, information on issues related to gender bias in the courts including such areas as are listed in subsection (a) along with such other topics as the Federal Judicial Center deems appropriate;

(2) prepare materials necessary to implement this subsection; and

(3) take into consideration the findings and recommendations of the studies conducted pursuant to subsection (a), and to consult with individuals and groups with relevant expertise in gender bias issues as it prepares or revises such materials.

SEC. 522. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) $400,000 to the Salaries and Expenses Account of the Courts of Appeals, District Courts, and other Judicial Services, to carry out section 521(a), to be available until expended through fiscal year 1994;

(2) $100,000 to the Federal Judicial Center to carry out section 521(c) and any activities designated by the Judicial Conference under section 521(b); and

(3) such sums as are necessary to the Administrative Office of the United States Courts to carry out any activities designated

by the Judicial Conference under section 521(b).

(b) THE JUDICIAL CONFERENCE OF THE UNITED STATES.—(1) The Judicial Conference of the United States Courts shall allocate funds to Federal circuit courts under this subtitle that—

(A) undertake studies in their own circuits; or

(B) implement reforms recommended as a result of such studies in their own or other circuits, including education and training.

(2) Funds shall be allocated to Federal circuits under this subtitle on a first come first serve basis in an amount not to exceed $50,000 on the first application. If within 6 months after the date on which funds authorized under this Act become available, funds are still available, circuits that have received funds may reapply for additional funds, with not more than $200,000 going to any one circuit.

BIDEN VIOLENCE AGAINST WOMEN ACT OF 1993 (S. 11)

TITLE I—SAFE STREETS FOR WOMEN

Creates new penalties for sex crimes

Creates new penalties for sex offenders.

Increases restitution for the victims of sex crimes.

Encourages women to prosecute their attackers

Extends "rape shield law" protection to civil cases (e.g. sexual harassment cases) and all criminal cases (other than sexual assault cases where it already applies) to bar embarrassing and irrelevant inquiries into a victim's sexual history at trial.

Bars the use of a woman's clothing to show, at trial, that the victim incited or invited a sexual assault.

Requires States to pay to rape exams.

Targets places most dangerous for women, including public transit and parks

Authorizes $300 million for law enforcement efforts to combat violence against women, aiding police, prosecutors and victim advocates.

Funds increased lighting and camera surveillance at bus stops, bus stations, subways and parking lots and targets existing funds for increased lighting, emergency telephones and police in public parks.

Education and prevention

Authorizes $65 million for rape education, starting in junior high.

Establishes the "National Commission on Violent Crime Against Women"

Creates a commission to develop a national strategy for combating violence against women.

TITLE II—SAFE HOMES FOR WOMEN

Protects women from abusive spouses

Creates federal penalties for spouse abusers who cross state lines to continue their abuse.

Requires all states to enforce any "stay-away" order, regardless of which state issues it.

Promotes arrests of abusive spouses

Authorizes $25 million for states that promote the arrest of abusing spouses and experiment with new techniques to increase prosecution.

Provides more money for shelters

Boosts funding for battered women's shelters.

Establishes a national domestic violence hotline

Provides federal funding for a national domestic violence hotline (Senator Kennedy).

Increases research and data

Authorizes research and increases data collection on violence against women.

TITLE III—CIVIL RIGHTS FOR WOMEN

Extends "Civil Rights" protections to all gender-motivated crimes

Makes gender-based assaults a violation of federal civil rights laws.

Allows victims of all felonies "motivated by gender" to bring civil rights suits against their assailants.

TITLE IV—SAFE CAMPUSES FOR WOMEN

Funds rape prevention programs

Boosts of $20 million funding for the neediest colleges to fund campus rape education and prevention programs.

TITLE V—EQUAL JUSTICE FOR WOMEN

Makes courts fairer by training judges

Creates training programs for State and Federal judges to raise awareness and increase sensitivity about crimes against women.

• Mr. KENNEDY. Mr. President, I am honored to join Senator BIDEN and many other colleagues today in introducing the Violence Against Women Act of 1993, a bill to combat violence and crimes against women on the streets and in their homes.

Domestic violence has reached epidemic proportions in this country. A Judiciary Committee staff report last October found that more than 1.1 million women every year are victims of reported domestic violence and as many as 3 million more domestic violence crimes go unreported each year.

Domestic violence occurs everywhere. It is not confined to any one class, race, or ethnic group. Women in all walks of life are the victims. They are beaten and maimed by husbands and boyfriends, stabbed in their homes, killed on the street. Sometimes they are battered while pregnant, or with their children looking on.

On December 31, the Boston Globe published a list of 26 women and 18 children and bystanders who lost their lives in Massachusetts in 1992 as a result of domestic violence. The articles described the horrible circumstances of each death. No one can read this grisly list without pledging to do something to combat such violence.

I commend Senator BIDEN for his leadership in holding a series of Judiciary Committee hearings on violence against women, and in drafting comprehensive legislation to address the problem in a variety of creative ways. The Violence Against Women Act will establish Federal penalties for such crimes where the perpetrator crosses State lines. It will authorize additional Federal funds for training and information sharing by State and local law enforcement authorities, and new funds for shelters for battered women.

These measures are urgently needed. Better training of police and prosecutors will help to ensure that abuse of women in their own homes is treated like the crime that it is. Establishment of more battered women's shelters will help to ensure that women who decide to leave home have a safe place to go. All too often, women in abusive situations are trapped between fear of staying where they are and fear of leaving, because they simply have no place to go.

One resource that has proved to be of great assistance to women in abusive situations is the 24-hour telephone hotline—a link to information and counseling that can help guide victims out of danger. Unfortunately, many communities do not have a local hotline. In the past, women in these areas could call a toll-free national line that would provide counseling and referrals to local agencies and shelters.

The national hotline, however, ran out of funds and went out of business last June. According to experts in this field, its restoration is urgently needed. It averaged 7.5 calls an hour, 180 calls a day, 65,520 calls a year. These numbers represent victims not being served—and violence not being prevented.

We have therefore included, in the Violence Against Women Act, a new provision authorizing Federal grants for the operation of a national toll-free domestic violence hotline. The national hotline must be revived, and soon. Women's lives are at stake.

All of us who support this legislation hope that it will be enacted this year. I look forward to working with other Senators on certain issues of concern, such as the mandatory sentencing provisions that affect the important role of the Sentencing Commission, and to enacting this important bill as soon as possible.•

• Mrs. BOXER. Mr. President, I am honored to join Senator BIDEN in reintroducing the Violence Against Women Act today.

For too long, society has chosen to ignore the growing epidemic of violence against women—so much so that even our statistics fail to adequately describe the full scope of the problem. In a groundbreaking report issued by the Senate Judiciary Committee last year, the committee documented that the 200 incidents of violence against women in their week long survey represented less than one-hundredth of the violent attacks against women reported to the police every week.

We live in a world where women are afraid to work late in offices, or to take public transit alone at night for fear of being sexually assaulted. They are afraid to walk the streets of their neighborhood and have become prisoners in their own homes. Tragically, for millions of women each year, even their own homes are unsafe. Domestic violence is now the leading cause of injury to women.

It is time to end the terror and the assault on women by passing the Violence Against Women Act. This far-reaching proposal focuses needed attention on this issue and provides for solutions which aid the survivors, increase the police and prosecutor re-

sponse, and work to break persistent stereotypes which cause both society and our judicial institutions to treat the crimes of rape and domestic violence as less serious and deserving of our resources than other violent crimes.

Like Senator BIDEN, I intend to make passage of the Violence Against Women Act one of my highest legislative priorities. I urge my colleagues to join us in supporting this bill.●

● Mr. DURENBERGER. Mr. President, I rise to express my support for the Violence Against Women Act, a bill that was introduced today. I am proud to be an original cosponsor of this important piece of legislation.

It is unconscionable that in a land that places so much emphasis on individual rights, one group is repeatedly denied their most basic rights by the crimes of rape and domestic violence. The No. 1 health risk to women today is violent attacks by men. Over the past decade, crimes against women have increased four times as much as other crimes. In fact, a woman is now 10 times more likely to be the victim of sexual assault than she is to die in a car accident.

The Violence Against Women Act significantly strengthens three areas essential to combating crimes against women: First, law enforcement, responsible for preventing these crimes and apprehending the suspects; second, the courts, responsible for protecting the rights of victims and punishing offenders; and third, the social service community, responsible for providing shelter, counseling, and other support services.

I encourage each of my colleagues to support this comprehensive bill, which simply promotes a basic right for women that all Americans should enjoy. Americans deserve the right to feel safe—in our homes, on the street, and in our courts. I hope that this Congress moves quickly to enact the Violence Against Women Act.●

● Mr. PACKWOOD. Mr. President, today I once again join as an original cosponsor of the Equal Remedies Act. This simple bill would expeditiously deal with an inequity in our civil rights laws.

Currently, unlimited monetary damages may be requested by a person who proves to a court that they suffered racial discrimination in employment. However, only limited damages are available to those who prove they were subjected to discrimination based on nonracial factors such as gender or handicap.

Like many flukes in our laws, this one has an interesting history. Briefly, in 1976 the Supreme Court decided that an old post-Civil War law making race discrimination in contracts illegal, applies to employment contracts. That law allows unlimited damages. However, title VII of the Civil Rights Act of 1964, which governs other types of employment discrimination, does not allow monetary damages. We partially addressed this unequal remedy scheme in the Civil Rights Act of 1991 by allowing limited damages for nonracial discrimination. Now we seek to lift these limits so that all employment discrimination, regardless of the group being protected, may receive the same remedy.

I know some employers fear an explosion of litigation if this legislation is passed. I am sensitive to those concerns. However, data provided by the National Women's Law Center suggests otherwise. Statistics are available on cases involving race discrimination in employment, in which unlimited damages are already available. From 1980 to 1991 a total of 594 such cases—less than 60 a year—were tried by Federal courts. In only 69 cases—11.6 percent of the total—were damages awarded. Only three awards were over $200,000 and one of those was reversed on appeal.

In addition to this information, which seems to indicate that uncapping damages will not encourage frivolous litigation, it is important to remember two things: One, that the Equal Remedies Act would allow uncapped damages only for intentional employment discrimination, not so-called "adverse impact" discrimination where an employer uses a practice which unintentionally results in discrimination. Second, to receive damages under the Equal Remedies Act, a plaintiff must prove to a court of law that the employer intentionally discriminated—not an easy burden of proof.

Mr. President, the Equal Remedies Act will bring parity to our scheme of civil rights laws and should be enacted. I urge my colleagues' support.●

By Mr. BIDEN:

S. 12. A bill to authorize the Secretary of Commerce to make grants to States and local governments for the construction of projects in areas of high unemployment, and for other purposes; to the Committee on Environment and Public Works.

INFRASTRUCTURE GROWTH AND EMPLOYMENT ACT

● Mr. BIDEN. Mr. President, our economy is balanced precariously between the grim reality of recent stagnation and the hope for revived growth in the future. I want to be optimistic about our economy. But more than once in the recent past, we have been told that full recovery was just around the corner, only to find ourselves still stuck in a rut of growth too slow to revive jobs and investment.

Today, I am introducing legislation that will provide a support for our fragile recovery, legislation that will create private sector jobs on State and local projects that need doing now. By rehabilitating the public foundations of our private enterprise economy, these projects will also help to sustain economic growth in the future.

Mr. President, I know there are many today who—based on mixed economic statistics—question the need for such a boost to our economy. Because this is such an important issue, I want to address those concerns.

Some point to encouraging statistics, claiming that the recovery we have been waiting for is here. But in fact, the prolonged economic stagnation that has marked so-called recovery from the last recession has driven home the lesson that our economy no longer operates the way it used to.

Global changes in important industries like autos, steel, electronics, and finance continue to force painful adjustments. Corporate restructuring continues to eliminate jobs and idle resources.

The current slump in the international economy and our prolonged hangover from the debt binge of the 1980's have slowed what used to be the normal process of creating new jobs and businesses. And continuing reductions in defense spending, a necessary adjustment to new circumstances, only add to these problems.

Because of these factors, this recovery is running far behind our modern experience in replacing lost jobs. High unemployment has persisted long after the last recession, and the best estimates are for a weak labor market for at least the next year, more likely for years to come.

In my own State of Delaware, the world's largest corporation, General Motors, has announced plans to close its Boxwood assembly plant. Last year, DuPont cut thousands of positions from its Delaware work force. Every day brings news of similar corporate restructuring—IBM may be the most striking recent example—from what used to be our economy's most stable employers.

These realities were undoubtedly behind the resounding support my plan received last year in my home State of Delaware. The State Chamber of Commerce and local public officials, building trades workers and building contractors—all agreed that quick investment in needed local infrastructure projects would give an important boost to Delaware's economy that the private sector alone could not provide.

Many in the business community agree with this analysis. Just last month, Business Week editorialized that "there is no clear-cut evidence that, unaided,"—and I emphasize "unaided"—"the U.S. economy can sustain the 3-percent growth needed for a significant long-term decline in unemployment.

Still, Mr. President, some observers point to discouraging projections for Federal budget deficits and argue that economic stimulus will come at the ex-

pense of long-term growth, as deficits threaten public and private investment.

This is a serious concern, Mr. President, but in fact quick, focused support for employment, incomes, and public confidence is essential to our goals of long-term growth and deficit reduction.

Stronger growth is a necessary step toward bringing the deficit under control. Of course, in addition to providing the additional stimulus needed now we must also address the long-term deficit problem with a comprehensive program that includes a review of entitlement programs and health care cost controls.

I have supported a line-item veto, sunset legislation, budget freeze, and other steps to restore balance to our Government's finances. But without economic growth, none of these steps could achieve its goal.

Recent experience shows that increasing deficits are due in large part to weak economic activity. Unless and until we revive economic growth, bringing down the deficit will not only force much more difficult political choices—which are therefore more likely to be deferred—but also threaten to cut off our fragile recovery.

Finally, even some who agree that economic stimulus is justified by continued weak economic performance are skeptical that we can design legislation that will achieve its goals.

The legislation I am introducing today answers that objection: It will provide jobs quickly for millions of Americans, rehabilitating our Nation's economic foundations—the roads, bridges, water systems, and other facilities that support our private enterprise system.

This legislation is limited to 1 year—or less if the national unemployment rate drops below 6 percent. The Secretary of Commerce will allocate funds to States and localities based on their histories of unemployment and approve projects based on their capacity to create jobs and support private sector growth in the future.

Local governments will provide 20 percent matching funds, to ensure their commitment to the projects they propose. Sixty-day approval of the projects by the Secretary of Commerce will speed the process of job creation and keep the focus on those projects, already locally approved, that have been put on hold due to strained State and local budgets.

In a hearing last year, a similar proposal of mine earned the support of respected economists Alan Blinder and David Alan Aschauer. It has the endorsement of the AFL-CIO, National League of Cities, the National Association of Towns and Townships, National Association of Counties, National Association of Development Organizations, American Consulting Engineers Council, and other groups.

I hope my colleagues will join with me in this proposal, a program to support economic recovery now and to rehabilitate the foundations of our economy for the future.

I ask unanimous-consent that the bill and a section-by-section analysis be printed in the RECORD.

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

S. 12

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Infrastructure Growth and Employment Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the national economy has failed for several years to maintain sufficient levels of economic growth;

(2) the current inadequate levels of economic activity and job creation are anticipated to persist into the foreseeable future;

(3) this prospect will mean continued high rates of business failures and unemployment, increased Federal spending and reduced revenues, thereby deepening the Federal deficit;

(4) recovery of the economy and reduction of the Federal deficit depend on the creation of higher levels of employment and economic activity;

(5) in recent years all levels of government have neglected to add to or maintain existing public infrastructure essential to economic efficiency and the future prosperity of the country; and

(6) economic growth rates and the future efficiency and competitiveness of the national economy will be substantially enhanced by a program of Federal Government assistance to State and local governments to construct and rehabilitate the Nation's economic infrastructure.

SEC. 3. DIRECT GRANTS.

(a) CONSTRUCTION.—The Secretary is authorized to make grants to any State or local government for the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of local public works projects, including those public works projects of State and local governments for which Federal financial assistance is authorized under provisions of law other than this Act. To the extent appropriate, the Secretary may coordinate with other Federal agencies in assessing grant request and in providing appropriate levels of support.

(b) FEDERAL SHARE.—The Federal share of any project for which a grant is made under this section shall be no more than 80 percent of the cost of the project.

(c) TERMINATION OF GRANTS.—No new grants shall be made pursuant to this Act after the expiration of any 3-consecutive-month period during which the national unemployment rate remained below 6 percent for each such month, or after September 30, 1994, whichever first occurs.

SEC. 4. ALLOCATION OF FUNDS; PREFERENCES.

(a) ALLOCATION OF FUNDS.—The Secretary shall allocate funds appropriated pursuant to section 8 of this Act as follows:

(1) INDIAN TRIBES.—Three-quarters of one percent of such funds shall be set aside and shall be expended only for grants for public works projects under this Act to Indian tribes and Alaska Native villages. None of the remainder of such funds shall be expended for such grants to such tribes and villages.

(2) OTHERS.—After the set-aside required by paragraphs (1), (3) and (4) of this subsection, 60 percent of such funds shall be allocated among the States on the basis of the ratio that the number of unemployed persons in each State bears to the total number of unemployed persons in all the States and 40 percent of such funds shall be allocated among those States with an average unemployment rate for the preceding 6-month period in excess of 6 percent on the basis of the relative severity of unemployment in each such State, except that no State shall be allocated less than three-quarters of one percent or more than twelve and one-half percent of such funds for local public works projects within such State, except that in the case of Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, not less than one-half of one percent in the aggregate shall be granted for such projects in all 4 of such territories.

(3) SET-ASIDE.—Not less than 10 percent of each State's allocations shall be set aside and shall be expended only for grants for public work projects under this Act for local units of general government with populations under 10,000.

(4) DEVELOPMENT AND ADMINISTRATION.—Up to three-quarters of one percent of the total grant award will be available for project development and preparation, and for ongoing project administration. This allocation will be available for local units of government defined as nonentitlement under the Housing and Urban Development Community Development Block Grant Program. Such allocation shall not exceed $15,000 for any single grant award.

(b) PREFERENCES.—

(1) LOCAL GOVERNMENT PROJECTS.—In making grants under this Act, the Secretary shall give priority and preference to public works projects of local governments.

(2) LOCALLY ENDORSED PROJECTS.—In making grants under this Act, the Secretary shall also give priority and preference to any public works project requested by a State or by a special purpose unit of local government which is endorsed by a general purpose local government within such State.

(3) SCHOOL DISTRICT PROJECTS.—A project requested by a school district shall be accorded the full priority and preference to public works projects of local governments provided in this subsection.

(4) APPLIED INDUSTRIAL RESEARCH PROJECTS.—A project that creates or adds to an applied research facility at an institution of higher education, and that facility is intended to promote the development of new products and processes, or that the Secretary determines will improve the competitiveness of American industry shall be accorded full priority and preference. For projects under this section, matching funds requirements shall be waived if the company or companies and school involved commit, in the Secretary's determination, to undertake all future equipment and maintenance expenses.

(c) HIGH UNEMPLOYMENT RATES.—

(1) PRIORITY.—In making grants under this Act, if for the 12 most recent consecutive months, the average national unemployment rate is equal to or exceeds 6 percent, the Secretary shall (A) expedite and give priority to applications submitted by States or local governments having unemployment rates for

the 12 most recent consecutive months in excess of the national unemployment rate, and (B) shall give priority thereafter to applications submitted by States or local governments having average unemployment rates for the 12 most recent consecutive months in excess of 6 percent, but less than the national unemployment rate.

(2) INFORMATION REGARDING UNEMPLOYMENT RATES.—Information regarding unemployment rates may be furnished either by the Federal Government, or by States or local governments, provided the Secretary (A) determines that the unemployment rates furnished by States or local governments are accurate, and (B) shall provide assistance to States or local governments in the calculation of such rates to ensure validity and standardization.

(3) LIMITATION OF APPLICABILITY.—Paragraph (1) of this subsection shall not apply to any States which receives a minimum allocation pursuant to paragraph (2) of subsection (a) of this section.

(d) STATE AND LOCAL PRIORITIZATION OF APPLICATIONS.—Whenever a State or local governments submits applications for grants under this Act for 2 or more projects, such State or local government shall submit as part of such applications its priority for each such project.

(e) LOCALIZATION OF UNEMPLOYMENT DETERMINATIONS.—The unemployment rate of a local government may, for the purposes of this Act, and upon request of the applicant, be based upon the unemployment rate of any community or neighborhood (defined without regard to political or other subdivisions or boundaries) within the jurisdiction of such local government.

SEC. 5. RULES, REGULATIONS, AND PROCEDURES.

(a) IN GENERAL.—The Secretary shall, not later than 30 days after date of enactment of this Act, prescribe those rules, regulations, and procedures (including application forms) necessary to carry out this Act. Such rules, regulations, and procedures shall assure that adequate consideration is given to the relative needs of various sections of the country. The Secretary shall consider among other factors (1) the severity and duration of unemployment in proposed project areas, (2) the income levels and extent of underemployment in proposed project areas, and (3) the extent to which proposed projects will contribute to the reduction of unemployment and future economic growth.

(b) CONSIDERATION OF APPLICATIONS.—The Secretary shall make a final determination with respect to each application for a grant submitted to him under this Act not later than the 60th day after the date the Secretary receives such application.

(c) CONSIDERATION OF CONSTRUCTION INDUSTRY UNEMPLOYMENT.—For purposes of this section, in considering the extent of unemployment or underemployment, the Secretary shall consider the amount of unemployment or underemployment in the construction and construction-related industries.

SEC. 6. GENERAL LIMITATIONS.

(a) ACQUISITION OF LAND.—No part of any grant made under section 3 of this Act shall be used for the acquisition of any interest in real property.

(b) MAINTENANCE COSTS.—Nothing in this Act shall be construed to authorize the payment of routine scheduled maintenance costs in connection with any projects constructed (in whole or in part) with Federal financial assistance under this Act.

(c) ON-SITE LABOR.—Grants made by the Secretary under this Act shall be made only for projects for which the applicant gives satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that, if funds are available, on-site labor work can begin within 90 days of project approval.

(d) CONTRACTING.—

(1) CONTRACTING OUT REQUIRED.—No part of the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of any public works project for which a grant is made under this Act shall be performed directly by any department, agency, or instrumentality of any State or local government.

(2) COMPETITIVE BIDDING.—Construction of each project for which a grant is made under this Act shall be performed by contract awarded by competitive bidding, unless the Secretary shall affirmatively find that, under the circumstances relating to such project, an alternative method is in the public interest.

(3) LOWEST RESPONSIVE BID.—Contracts for the construction of each project for which a grant is made under this Act shall be awarded only on the basis of the lowest responsive bid submitted by a bidder meeting established criteria of responsibility.

(4) ADVERTISING.—No requirement or obligation shall be imposed as a condition precedent to the award of a contract to a bidder for a project for which a grant is made under this Act, or to the Secretary's concurrence in the award of a contract to such bidder, unless such requirement or obligation is otherwise lawful and is specifically set forth in the advertised specifications.

(e) ENVIRONMENTAL SAFEGUARDS.—All local public works projects carried out with Federal financial assistance under this Act shall comply with all relevant Federal, State, and local environmental laws and regulations.

(f) BUY AMERICAN.—If a local public works project carried out with Federal financial assistance under this Act would be eligible for Federal financial assistance under provisions of law other than this act and, under such other provisions of law, would be subject to title III of the Act of March 3, 1933, popularly known as the Buy American Act, or similar requirements, such project shall be subject to such title of such Act of March 3, 1933, or similar requirements under the Act in the same manner and to the same extent as such project would be subject to such title of such Act of March 3, 1933, or such similar requirements under such other provisions of law.

(g) MINORITY PARTICIPATION.—If a local public works project carried out with Federal financial assistance under this Act would be eligible for Federal financial assistance under provisions of law other than this Act and, under such other provisions of law, would be subject to any minority participation requirement, such project shall be subject to such requirement under this Act in the same manner and to the same extent as such project would be subject to such requirement under such other provisions of law.

(h) APPLICABILITY OF LAWS REGARDING INDIVIDUALS WITH DISABILITIES.—Section 504 and 505 of the Rehabilitation Act of 1973 and the Americans With Disabilities Act of 1990 shall apply to local public works projects carried out under this Act.

SEC. 7. PREVAILING RATE OF WAGES.

If a local public works project carried out with Federal financial assistance under this Act would be eligible for Federal financial assistance under provisions of law other than this Act and, under such other provisions of law, would be subject to the Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a–276a–5), or similar requirements, such project shall be subject to such Act in the same manner and to the same extent as such project would be subject to such Act of March 3, 1931, or such similar requirements under such other provisions of law.

SEC. 8. FUNDING.

There is authorized to be appropriated $20,000,000,000 to carry out this Act. Moneys appropriated pursuant to this authorization shall remain available until expended. Any amounts made available under this Act for fiscal year 1992 shall be deemed to be emergency spending under section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 9. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) SECRETARY.—The term "Secretary" means the Secretary of Commerce, acting through the Economic Development Administration.

(2) LOCAL GOVERNMENT.—The term "local government" means any city, county, town, parish, or other political subdivision of a State, and any Indian tribe.

(3) PUBLIC WORKS.—The term "public works" includes water and sewer lines, streets and roads, water and sewage treatment plants, port facilities, police and fire stations, detention centers, schools, health facilities, and industrial research or development parks, research facilities at institutions of higher education, and other projects the Secretary determines to be appropriate.

(4) STATE.—The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

INFRASTRUCTURE, GROWTH AND EMPLOYMENT ACT OF 1993

Section 1. Short Title:

Section 2. Findings:

Economic recovery, deficit reduction, and future competitiveness require funds for infrastructure and employment.

Section 3. Grants:

For public works.

20 percent matching funds required.

Funds available immediately.

Sunset at less than 6 percent national unemployment or one year after enactment, whichever comes first.

Section 4. Allocation of Funds:

To states based on severity of unemployment.

Minimum of ¾ of one percent per state.

10 percent set-aside for local governments under 10,000 population.

Priorities for schools, applied research facilities.

½ of one percent for Native Americans.

½ of one percent for U.S. possessions.

Section 5. Rules and Regulations:

Secretary of Commerce shall consider local construction unemployment in allocating grants. Decision rules made within 30 days of enactment. Grant decisions made within 60 days of application.

Section 6. Limitations:

No funds for land purchases, routine maintenance costs.

Competitive bids, private contractors.

Standard environmental, minority participation, and American content considerations.

Section 7. Wages:

Davis-Bacon requirements imposed.
Section 8. Funding:
$20 Billion Total.
Section 9. Definitions:
Public works means roads, schools, bridges, water, and sewer systems, health and public safety facilities, university research facilities.●

By Mr. HATCH:

S. 13. A bill to institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY ACCOUNTABILITY ACT OF 1993

Mr. HATCH. Mr. President, today I am introducing the Regulatory Accountability Act of 1993. This legislation is designed to make the Federal regulatory process more accountable and to establish a program for the systematic selection of regulatory priorities.

Jean Baptiste Colbert once said:

The art of taxation consists in so plucking the goose as to obtain the largest amount of feathers with the least amount of hissing.

Well Mr. President, the Government has found a way to pluck the goose by increasing the burdens on its citizens without voting for tax increases: Federal regulation.

Federal regulation is a hidden tax. The costs of compliance and the costs of enforcement are necessarily passed on to American families. For example, if to comply with a new regulation a company has to purchase a new scrubber system for a smokestack at a cost of $2 million, the consumers of products produced by that factory will pay more.

If other regulations force that same company to spend another $4 or $5 million on special packaging and to hire extra staff to comply with the paperwork requirements that document compliance with those regulations, the prices of its goods will rise again to absorb these added costs. Since they do not contribute to the production or distribution of economic goods or services, this additional staff is nonproductive. Of course, if the market in which that company competes cannot bear these extra costs, then the company may even be forced to go out of business.

Not only that, these regulatory costs also steal valuable resources from other sectors of that firm: research and development, upgrading equipment and facilities, and hiring productive staff to produce goods and services.

Mr. President, these are not unrealistic examples. There are countless indicators of costly regulation adversely affecting business, both large and small throughout this Nation. In my home State of Utah, job growth relies heavily on a spirit of entrepreneurship that is reflected in the creation of small businesses statewide. Unfortunately, Federal regulation often hits these small businesses the hardest. Many of these small businesses, for the first few years of existence, operate on a shoestring and make just enough to continue paying their operating costs. Regulation steals these valuable funds for compliance, making business starts more difficult and threatening the ability of small business to succeed.

As I examined the costs and effects of regulation, I went to some people who actually have to live with rules created here in Washington—the people of Utah. I asked business people how regulation affected them, and I received some very clear responses. In addition, I have also been contacted by elected officials in Utah's small towns who are frustrated with a Federal Government that not only interferes in local decisionmaking, but also provides no means to pay for compliance with the regulations the Federal Government mandates.

For example, I received a letter from Mr. Don Gallent, the president and chief executive officer, and Mrs. Loretta Gallent, chairman, of Digitran Simulation Systems. Mrs. Gallent founded this company and, together with her husband, operates an international organization from Logan, UT, that successfully markets products around the world.

They have told me that the effects of Government regulation on American business are many. While some of these regulations may serve to help a few selected industries, by and large, the effect on most businesses is negative. When the hand of Government weighs heavily upon us, it stifles our ability to create, to grow, and, indeed, to even exist.

Mr. President, I believe that Mr. Frank Shaw, manufacturing services manager of National Semiconductor of West Jordan, UT, has hit the issue directly on target when he states:

National Semiconductor fully supports the intent of all health, safety, environment, and employment regulations. These requirements establish a sound foundation for good business policies. However, just as our manufacturing process must continually be improved for us to remain competitive in a world marketplace, the procedures and cost of regulation compliance must also be improved and simplified.

Mr. President, we continue to regulate new burdens on top of our businesses, regardless of the costs or number of jobs lost. Yet, ironically, we expect these same businesses to get back on their feet and produce a sustained economic recovery.

Mr. President, this is not only a small business problem, it is also affecting our local governments. Let me share a few of the experiences of Utah's small towns.

Stockton, UT, has a population of approximately 440. These Utahns work hard, and they don't have a lot of money to spare. This small town has been trying to come to grips with the Americans with Disabilities Act and the costs to comply with the regulations.

Mayor Elden Sandino writes:

We support these regulations in theory and are willing to do what we can to abide by them. Unfortunately, like most small towns in the State of Utah, we are very limited in our funds and feel if these regulations are to be imposed on us, some kind of federal or state funding or grants also need to be addressed.

Mr. President, regulations are a way of imposing the costs of Governments' priorities on others. Who is going to provide the funds for remodeling public buildings in Stockton and other small Utah towns? Additionally, how are very small businesses located in these areas going to find the funds to pay for compliance with regulations?

Two other small towns in Utah, Fountain Green and Enoch, are struggling to decide who is going to pay for provisions of the Clean Water Act that would require them to install expensive sewer systems. Fountain Green has discovered that, to satisfy the regulations implementing this statute, the town would have to borrow $2.1 million to install a new sewer system for 250 users. They have concluded that they would have to charge each resident $35 per month for 20 years just to pay back the loan. This does not include the cost of operating the facility and the residents' usual water bills. The town of Enoch would be forced to charge each resident $54.67 per month over a 20-year period on a $6.5 million loan for its new sewer system.

Mr. President, these amounts may not seem large to those who deal in billions of dollars every day, but to the residents of rural Utah, these costs are tremendous. New regulation on top of new regulation is burdening these Utahns beyond belief, and they want to know why. They, and others like them across the Nation, want to be sure the benefits of a new regulation will justify its cost.

Mr. President, I agree that there are benefits to certain regulations. I am not arguing that all regulations are bad or unnecessary. Regulation, used properly, is a positive tool that can provide the American people with some protection against the bad actors in our society.

But, there are some regulations that have not been reviewed in decades. Some regulations have become inflexible and inefficient given rapid changes in the American economy, the development of new technologies, and increased competition in the global marketplace. Instead of regulating more, instead of filling out additional forms and conducting more and more audits, it is time for us to regulate smarter.

THE HIDDEN TAX

Mr. President, how many of us truly realize the staggering burden the hidden tax of regulation is placing on each

and every American household? How many of us truly comprehend what the cost of Government regulation is and how these costs affect our economy?

In a recently published report entitled "The Costs of Federal Regulation," Professor Thomas Hopkins of the Rochester Institute of Technology provides some very startling information regarding the overall cost of Government regulation. He estimates that currently the United States spends over $400 billion each year on the entire spectrum of Government regulation and compliance with promulgated rules. Professor Hopkins concludes that, given the current rate of growth, regulatory costs could easily balloon to over $600 billion per year by the year 2000. These staggering amounts do not even include State and local regulation. The average American household picks up this tab through higher prices, decreased product selection, increased paperwork, lost time, job loss, and other costs of compliance.

Mr. President, this cost does not show up on any Government ledgers. It does not appear in any withholding category on a paycheck stub. But in all, according to Professor Hopkins, this hidden tax in 1988 accounted for over $4,100 per household and has been on the rise ever since. By comparison, the average Federal tax burden for an American family during that same time was under $4,000, according to the Bureau of Labor Statistics Consumer Expenditure Survey, 1988–89.

Mr. President, there are some on both sides of the aisle who are shaking their heads in disbelief. I did the same thing when I first saw these figures. But report after report supports the fact that regulatory costs are both substantial and increasing. Esteemed economists such as Prof. Murray Weidenbaum, of Washington University in St. Louis and former Chairman of the Council of Economic Advisers from 1981–82; Dr. Ronald Utt, vice president, of the National Chamber Foundation; Robert Hahn, adjunct professor, Carnegie Mellon University; and John A. Hird, assistant professor of political science and research associate, University of Massachusetts have all concluded studies that build on each others' work and support this startling picture. Imagine, over $400 billion spent in complying with Federal regulation.

The economic impact of most regulations is never studied because they are considered relatively minor. By minor, I mean that the agency estimates the cost of implementing the regulation to be under $100 million. However, the cumulative effect of these so-called minor regulations can be staggering. For example, in the October 1991 edition of the Unified Agenda of Federal Regulations only 102 of 4,863 regulatory entries had a regulatory impact analysis either finished or in the process of completion. How much do the other 4,761 regulations cost?

Mr. President, add up the cost of 10, 20, 50, or 100 of these regulations at just $100 million apiece, and you end up with a monstrous burden. For example, implementation of new regulations in just one area are expected to significantly increase compliance costs in 1992. Prof. Robert Hahn has estimated that, in 1992 alone, the compliance costs associated with environmental regulation will increase by $70.5 billion over 1991 costs.

Mr. President, in the Regulatory Program of the U.S. Government, April 1991 through March 1992, the Office of Management and Budget outlines general guidelines each agency should apply to pending regulations so that new rules will be the most beneficial and the most efficient. This report also stresses the need for accountability. While these guidelines are admirable and look good on paper, they are only guidelines and as such, difficult to enforce.

Government must take responsibility for this hidden tax of regulation. It is time to be honest with the American people. We simply cannot continue to turn our heads and pretend this burden does not exist. It does.

The level of public interest in regulatory policy was confirmed in a recent poll compiled by Penn & Schoen Associates, Inc., on March 30, 1992, just after President Bush's 90-day moratorium on new regulations was announced. When asked whether or not the country currently has a lot of unnecessary and costly regulation, 83 percent answered yes.

When asked if Congress and agencies adequately considered the impact of regulations on jobs, 71 percent said no.

Another question revealed very interesting results. When asked if Congress and Federal agencies currently adequately consider how much the regulations will cost consumers, 82 percent answered no.

Obviously, Mr. President, shifting the public policy agenda from direct spending—which we cannot afford—to regulatory requirements—so we can get business and individuals to pick up the tab—is not fooling anyone.

THE REGULATORY ACCOUNTABILITY ACT OF 1993

For these reasons, Mr. President, I am introducing the Regulatory Accountability Act of 1993.

It is time to take control of this skyrocketing burden. This is especially important during this period of economic recovery. It should be the task of this Congress, starting with this Senate, to take responsibility for setting guidelines. And, we must force each promulgating agency to account for the entire impact of a pending regulation. We must make certain that the American people receive the greatest benefit in the most cost-effective and efficient manner.

This legislation places a 3-year cap on the overall costs of regulation. Under this cap, in order for a new regulation to go into effect, the agency would be required to offset any new costs by equal regulatory savings achieved through revoking or revising existing regulations, trimming and streamlining the paperwork burden, or by any other regulatory offsets. After a regulation has undergone this offsetting process, it may then be promulgated. During this time, agencies promulgating new rules would be required to study the entire cost of compliance and outline effective alternative approaches.

Nothing in this legislation would prohibit an agency from issuing a new rule. If the overall cap has been reached, however, and unless the President declares that the rule is needed to address an emergency, before a new regulation could be issued the agency would have to offset the cost of the new rule by revoking or reversing already existing rules.

The revisions and revocations to existing regulations could be on a rule issued by that agency or by another agency of the Federal Government. The President would be responsible for coordinating these interagency offsets. If the President believes the rule cannot wait to be implemented, and declares an emergency need for the rule, the requirement to offset the costs could be delayed until the necessary research and coordinating action could be considered. However, the President would be required to set a deadline for compliance with the statute.

Now, what would this legislation mean for future regulatory policy?

Essentially this: New regulations must be prioritized. Agencies will only promulgate the most important new rules. This bill will promote more effective and efficient regulation and accountability.

The act would sunset in 3 years. This period will give American enterprise the opportunity to grow without an increasing regulatory burden. Resources that otherwise would be used in complying with new regulations would be available for research and development, new jobs, and investments in plan and equipment.

Also, this act will provide relief to the American people—a chance to see exactly what their hard-earned money is paying for before some unseen regulatory hand in Washington digs into their pockets again.

CONCLUSION

Mr. President, I believe a leaner, more effective regulatory policy will grow from this legislation. Nothing in this act would prohibit the promulgation of new, necessary protections. Rather, we are simply giving the American people the ability to understand what they are receiving for their hard-earned money and the power to control

the hidden tax they are being forced to pay. Mr. President, this legislation will ensure that the hidden tax is not an irresponsible tax.

Mr. President, I ask unanimous consent that the full text of the bill; the letters I have received from Mr. and Mrs. Gallent, Mayor Sandino, and Prof. Thomas Hopkins, and an article by Robert Genetski from the Wall Street Journal of February 19, 1992, be inserted in the RECORD at this point.

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

S. 13

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Accountability Act of 1993".

SEC. 2. CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the overall cost of Federal regulation in the United States has risen to well over $400,000,000,000 per year;

(2) this regulatory burden is paid by individual citizens and their families in the form of a "hidden tax" because intermediaries have no option that do not pass these expenditures to individuals;

(3) the most recent data reveals that the "hidden tax" paid by the citizens of this Nation now exceeds $4,100 annually for each household;

(4) left unchecked, this "hidden tax" will increase by 50 percent between now and the year 2000; and

(5) it is in the best interests of the American people to have the Federal Government devise a systematic way to account for the new regulatory costs that taxpayers are forced to absorb and to have this financial burden better controlled.

(b) PURPOSE.—It is the purpose of this Act to establish that each agency shall, as a mandatory requirement for the issuance of—

(1) any proposed regulation—

(A) thoroughly assess and document the anticipated benefits, reasonable alternative approaches, and all foreseeable compliance costs of each approach; and

(B) assess, and include in all proposed regulatory actions, a range of possible offsets for the costs; and

(2) any final regulation—

(A) have selected the most cost-effective alternative; and

(B) for a period of 3 years following enactment, have fully offset all foreseeable costs through revocation or revision of one or more existing regulations.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "agency" has the same meaning given such term in section 3502(1) of title 44, United States Code, excluding those agencies specified in section 3502(10) of title 44, United States Code; and

(2) the term "regulation" or "rule" means any agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency, but does not include—

(A) administrative actions governed by the provisions of sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

SEC. 4. MANDATORY REQUIREMENT FOR THE ISSUANCE OF NEW REGULATIONS.

In taking any regulatory action, each agency shall strictly adhere to the following requirements:

(1) Administrative regulatory decisions shall be based on substantial evidence on the public record documenting—

(A) the ability of an action to result in specific, reasonably anticipated benefits;

(B) all alternative regulatory approaches, including performance-based approaches, that will result in the benefits documented under subparagraph (A); and

(C) all foreseeable costs that can reasonably be expected to flow, directly or incidentally, from each approach documented under subparagraph (B).

(2) No final regulatory actions may be taken unless the specific benefits resulting from a specific regulatory approach documented under paragraph (1) clearly outweigh the costs documented under paragraph (1).

(3) Agencies shall—

(A) for all proposed new regulatory actions that will generate any cost, propose a range of possible revisions to, or revocation of, one or more existing regulations, that can reasonably be expected to fully offset the reasonably anticipated costs of such proposed regulatory action; and

(B) fully offset the costs documented under paragraph (1) through revision to, or revocation of, existing Federal regulation.

SEC. 5. EXEMPTION.

The requirements of section 4(3) shall not apply in the case of regulatory actions for which the President includes in the Federal Register, accompanying the regulatory action, a statement of waiver that fully outlines the reasons and needs for waiving the requirements of section 4(3) because of emergency need for such specific regulatory action and includes a timetable for satisfying the requirements of section 4 at the earliest possible date thereafter.

SEC. 6. INDEPENDENT EVALUATION.

(a) IN GENERAL.—Three years following the date of enactment of this Act, the President shall provide for independent evaluation of the regulatory process and the effect of regulations on the different areas of the economy, including—

(1) business startups and viability;

(2) employment, including job creation, compensation, and employment of foreign nationals by United States firms;

(3) international trade and competitiveness with foreign entities;

(4) research and development;

(5) impact on State and local governments; and

(6) direct Federal spending for enforcement of regulations.

(b) STUDY FOCUS.—The evaluation required by this section shall also include a study of—

(1) the effect of the regulatory cost cap imposed by this Act;

(2) the methodologies used by regulatory agencies to estimate the cost of a rule or regulation; and

(3) the use of alternative regulatory approaches described in section 4(1)(B).

(c) OMB.—The Office of Management and Budget shall carry out the provisions of this section.

(d) FUNDING.—Notwithstanding section 1346 of title 31, United States Code, the President is authorized to transfer up to $50,000 from the funds available to any agency for administrative purposes to the Office of Management and Budget for the purpose of carrying out this section.

SEC. 7. EFFECTIVE DATE; SUNSET PROVISION.

(a) EFFECTIVE DATE.—The provisions of this Act shall take effect upon the date of enactment of this Act, except that the effective date for regulations or rules promulgated pursuant to a law enacted after the date that is 2 years before the date of enactment of this Act and not later than the date of enactment of this Act shall be 6 months after the date of enactment of this Act.

(b) SUNSET.—The requirements of section 4(3) shall cease to have effect on the date that is 3 years following the date of enactment of this Act.

DIGITRAN SIMULATION SYSTEMS,
Logan, UT, May 28, 1992.

Hon. ORRIN G. HATCH,
U.S. Senator, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR HATCH: The effects of government regulation on American businesses are many. While some of these regulations may serve to help a few select industries, by and large, the effect on most businesses is negative. When the hand of government weighs heavily upon us, it stifles our ability to create, to grow, and, indeed, to even exist.

A good example of this is an incident which recently took place involving our company. Last year, Digitran undertook the necessary procedures to be listed on the National Association of Security Dealers Automated Quotation System (NASDAQ). What should have been a relatively easy listing procedure turned into a nightmare when we learned that the Securities and Exchange Commission, acting under the mandate of the Penny Stock Reform Act of 1990, had changed the listing rules.

Suddenly we were required to have between two and five million dollars in net tangible assets and a five dollar per share stock price. Under these new regulations, if our stock ever fell below that $5 per share price, our company and any broker dealing with our stock would be penalized severely. These regulations have a rippling effect of great consequence. To begin with, no broker in his right mind would touch a company's stock that couldn't be maintained above five dollars. This in turn would slam the door on capital formation. Without capital, the company would be unable to grow, growth necessary to meet the five dollar per share price. Without capital and without growth, the company would die.

As the Creator of most new jobs and economic prosperity in this country, small business needs a friend in government. The current adversarial relationship between business and government is detrimental to the very growth for which both are seeking.

The story is told of a new car traveling the backroads of Brazil in the early part of this century. This car with its large body and powerful engine took the hills and valleys of the country with ease until it encountered a cloud of migratory butterflies. One by one the tiny butterflies were pressed against the radiator of the car until no more air could be circulated, the engine overheated, the car stopped.

Like this car, American business has been tied down with excessive rules and regulations which have effectively stifled the spirit of the free enterprise system. I find it ironic that the very country we criticize most in fits of economic jealousy, is known by the term of Japan Inc. Japan's government-busi-

ness relationship is one of friendship and cooperation. While its foreign trade practices may be irritating and frustrating, there is no question as to the value Japan places on her businesses. No less frustrating is the fact that members of Congress will verbally flail Japan one day and the next day enact dozens more of business regulations which only make American business weaker and less competitive.

We look to you and the other members of Congress for relief of this situation. America's competitiveness problem will not be fixed by turning to the workplace, the schools, or even Japan. It will have to be resolved in the United States Congress.

Sincerely,

DON GALLENT,
President and CEO.
LORETTA GALLENT,
Chairman.

TOWN OF STOCKTON,
Stockton, UT, Oct. 25, 1991.

Re ADA regulations.

Senator ORRIN G. HATCH,
125 South State Street, Room 3438, Salt Lake City, UT.

DEAR SENATOR HATCH: We recently received a copy of the ADA Regulations from the League of Cities and Towns and would like to address some of our concerns.

We support these regulations in theory and are willing to do what we can to abide by them. Unfortunately, like most small towns in the State of Utah, we are very limited in our funds and feel if these regulations are to be imposed upon us, some kind of Federal or State funding or grant also needs to be addressed.

Our building does have a ramp access in the rear, however our restrooms are down stairs. Our building used to be an elementary school and the stairs and stalls in the restrooms are rather small. Making these facilities handicap accessible would be a major undertaking and very costly. The Town Board has discussed the matter and has decided it would be feasible to rent a handicap accessible portable toilet for times when many people would be using the building (such as elections) but don't know if this would be an acceptable solution.

We would appreciate these concerns being addressed for small towns in Utah.

Respectively,

ELDEN SANDINO,
Mayor.

ROCHESTER INSTITUTE OF TECHNOLOGY,
Rochester, NY, Apr. 28, 1992.

Senator ORRIN G. HATCH,
Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: Thank you for the opportunity to review draft legislation entitled "Regulatory Accountability Act of 1992."

It is clear to me that regulatory costs are not now adequately monitored and controlled. In my judgment, the bill directly and effectively addresses this troublesome weakness in our current regulatory system. I believe it warrants the Senate's serious consideration.

Sincerely,

THOMAS D. HOPKINS,
Arthur J. Gosnell Professor of Economics.

[From the Wall Street Journal, Feb. 19, 1992]

THE TRUE COST OF GOVERNMENT

(By Robert Genetski)

President Bush showed he had some understanding of problems of the economy when he announced his 90-day freeze on regulation in the State of the Union address. But it is clear that Mr. Bush hasn't grasped the full extent to which regulation has added to the burden that taxes impose on the economy. Regulation's effect on the economy can be every bit as damaging as the effect of taxes. Even though Americans have not seen it in their pay stubs, they have borne the equivalent of growing tax burdens. And tax burdens have climbed as dramatically during his watch as they have under any other President.

The table shows the combined tax and regulatory burden that has been placed on American businesses and workers in recent years. The numbers refer only to increases over and above whatever was imposed the previous year. For example, a new tax of $25 billion in year one and nothing thereafter. Only if the tax is increased above its initial level is the increase presented in a subsequent year.

HIDE BURDEN

In a few cases, Congress and the administration have decided to hide the true burden of government programs by ordering businesses to spend the necessary money to comply with certain edicts. But ordering companies to spend $25 billion to fulfill a public need does not mean that the public has avoided a $25 billion tax. Businesses today earn only 4 cents in profit for every dollar of sales. When a businessman receives the bill for a mandated benefit, the business must reorganize its operations in order to survive. This often means layoffs, plants closing and other cost-cutting moves. Companies that are not able to cut cost sufficiently to pay for the additional burdens are forced to close entirely.

The Clean Air Act and the Americans with Disabilities Act represent two of the largest hidden tax burdens to hit the economy in 1991 and 1992. In both of these cases, the administration and Congress appear to have seriously underestimated the cost of compliance with these acts. Both of these acts are worded so vaguely that the regulatory bodies have raised the cost of compliance far above the official figures. The numbers presented in the accompanying table are conservative estimates.

The official estimate for complying with the Clean Air Act was put at roughly $25 billion per year. Nongovernmental estimates of the cost of complying with the act range as high as $100 billion per year. The table shows a compromise compliance cost of $25 billion in new compliance expenditures for 1991 and an additional $25 billion for 1992.

It appears too that the cost of complying with the Americans with Disabilities Act will be staggering. The disabilities act was supposed to cost $2 billion annually, but depending on how aggressively it is implemented, the cost of compliance could easily amount to at least $20 billion a year for the next five years.

Based on an early sample of plans to alter office buildings to comply with the Americans with Disabilities Act, the cost of compliance appears to be close to $5 per square foot. This figure does not take into account all possible modifications, but just those that are deemed "reasonable."

There are an estimated 180,000 square feet in an average office building. This places the cost of compliance at almost $1 million per building. There are an estimated nine billion square feet of office space in the nation, bringing the total compliance cost nationwide to $45 billion., And that's just for office space.

The American Hospital Association, a hospital lobby, estimates that its members will have to spend $20 billion and counting—and that's before considering the costs for equipping trains, buses, restaurants, rental cars and public facilities.

In addition to the costs of complying which these mandates, there are legal and administrative costs to consider. In the case of the Americans with Disabilities Act vague terminology virtually assures billions of dollars per year in legal expenses. No attempt was made to estimate these legal and administrative expenses.

None of these calculations should be taken to suggest that it is somehow wrong or bad to spend money for cleaner air or to help the disabled. The list of worthy causes has no real limits. Unfortunately, there are definite limits to the amount by which tax and regulatory burdens can be raised without having a serious economic impact. The present economic situation strongly suggests that the push toward higher tax and regulatory burdens has had much greater costs in terms of lost jobs and weaker productivity than most people had assured.

Recent productivity trends clearly support the sense that something is wrong. But the problem is not the Americans are "lazy" as a Japanese politician has recently been quoted as suggesting. Part of the recent weakness in productivity can be attributed to the recession. Productivity tends to increase more slowly than normal during recessions and faster than normal during recoveries.

Still, adjustments can be made for cyclical developments. Judging from past experience, the magnitude of the current recession should have caused actual productivity to fall approximately 2% below a level consistent with a fully employed economy. After making such an adjustment, we see that it becomes readily apparent that U.S. cyclically adjusted productivity has deteriorated dramatically in recent years. The record of what we can call underlying productivity is convincing support for the widespread sense that America's economic problems are more fundamental than cyclical.

Each society has its fair share of workers and loafers. The extent to which those workers improve their productivity depends far more on the overall economic environment in which they operate than on their inherent intelligence or initiative. Tax burdens are an important determinant of that environment.

During the period from the late 1970's to 1981, productivity growth in the U.S. deteriorated dramatically as tax burdens rose. With the tax cuts of 1982–84, U.S. productivity growth returned to its long-term average. Productivity rose by approximately 1.5% per year in the mid-1980's, and the nation experienced its longest peacetime expansion. More recently, the resumption of higher traditional and hidden tax burdens has again brought about a fundamental deterioration in the nation's productivity trend and a renewed sense of economic malaise.

After showing the rest of the world how lower tax rates could boost productivity and living standards, the U.S. regressed. Fortunately, the U.S. economy can revive. Layoffs can be brought to an end and productivity growth restored.

PAINFUL MEASURES

Many politicians have maintained that such a revival would mean painful measures. In a sense, they are right. A true revival would involve major cuts in traditional and hidden taxes to offset the increased burdens that have occurred. This, of course, would

not be painful for most workers and businesses; they would keep more of their income. But it would be painful for politicians and, in some cases, those who benefit from regulation, such as the handicapped. Cuts in traditional taxes or in regulation would mean that politicians would be forced to recognize that there are effective limits to what public policy can accomplish.

In a democracy, the public seldom tolerates poor economic performance for very long. For those politicians who fail to recognize the limits to public policy, there will eventually be political costs as well.

By Mr. HATCH (for himself and Mr. BENNETT):

S. 14. A bill to amend the amount of grants received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; to the Committee on Labor and Human Resources.

EDUCATIONAL EQUITY ACT OF 1993

Mr. HATCH. Mr. President, there is not one of us in this body who is not concerned about education. Republican or Democrat, there is not one of us who does not want to help our State and local governments cope with the mounting demand for more rigorous curricula, new and expanded equipment and facilities, and more specialized and experienced teachers.

One of the things we can do at the Federal level to help improve our schools is to ensure fairness in the distribution of scarce Federal resources. Today, I am reintroducing the Educational Equity Act to do precisely that. Congressman JIM HANSEN, the dean of Utah's delegation in the House of Representatives, will sponsor an identical bill in the House.

Under current law, the dominant factor in the chapter 1 program formula is State per pupil expenditure. States that can afford to spend more money per pupil receive a greater share of the chapter 1 money than States that spend less. This means that a poor child living in a wealthy State is valued more highly in terms of chapter 1 funds than the same poor child if he or she lived in a poorer State. Despite the floors and ceilings currently built into the chapter 1 formula, there are still wide disparities. Even after the 1990 census data is taken into account, an estimated 28 States would benefit from this legislation.

The bill I am introducing today, S. 14, would simply change the chapter 1 formula so that allocations are based on the national per pupil expenditure. This means that poor children will be treated the same under this program regardless of whether they live in Utah or Massachusetts, Mississippi, or Connecticut. The problem of inequality in the distribution of Federal funds was made especially clear in the recent report prepared for the Department of Education by Stephen M. Barro, "The Distribution of Federal Elementary-Secondary Education Grants Among the States."

Some may argue that this bill would simply reward States for not spending their own resources on education. In response, I would make two points. First, the Federal Government supplies only about 7 percent of all education funding. States and local governments are already bearing the lion's share of the costs of educating our children. Second, the current chapter 1 formula does not measure tax effort. In that category, Utah, for example, ranks 10th in the Nation.

And, Mr. President, let me emphasize that I am not proposing to rob from the rich to give to the poor. S. 14 does not require that States with higher per capita incomes receive less in chapter 1 funds per eligible student than any other State. On the contrary, my legislation, the Educational Equity Act, would treat each eligible child the same regardless of whether the child lived in Utah or Maryland. It's treating Johnny and Mary who live in Arkansas the same as Johnny and Mary who live in Michigan.

The inherent unfairness—and inefficiency—of the current chapter 1 formula has also been compounded over the years because it has been used to allocate funds for a number of other education programs—some of which do not even have low-income children as their primary target.

If chapter 1 is a program to help States and local school districts serve educationally/economically disadvantaged children, it makes no sense to me that wealthier States get a disproportionate share of the funds. It's not pork, and it's not partisan. It's just good education policy.

Mr. President, I am proud of what my State has been able to accomplish in education. Utahns are above the national average in years of schooling completed. Our school administration costs are among the lowest in the Nation. Utah citizens make an above average contribution to education through their taxes. Utah is 50th in the Nation of Federal education aid despite being 10th in the Nation in total tax effort. And, Utah has the highest percentage of students who pass advanced placement exams.

The Educational Equity Act will, however, provide equal treatment for educationally/economically disadvantaged children in all States so that Utah and 27 other States can better address continuing educational needs. While many of our States have been able to make do with less than their fair share, it is time to rectify this longstanding imbalance in the chapter 1 formula.

I am very pleased to have the support of the Utah State Office of Education for this important bill, and I ask unanimous consent that this letter be printed in the RECORD at the conclusion of my remarks.

I urge all Senators to join me as a cosponsor of this important education legislation.

I ask unanimous consent that the text of S. 14 be printed in the RECORD at this point.

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

S. 14

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Educational Equity Act of 1993".

SEC. 2. AMOUNT OF GRANTS.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) is amended—

(1) in subparagraph (A) of section 1005(a)(2), by striking the second sentence and inserting "The amount determined under this sentence shall be the average per pupil expenditure in the United States."; and

(2) in each of sections 1201(b), 1221(c), and 1241(b), by striking "in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of average per pupil expenditure in the United States)" and inserting "in the United States".

THE UTAH STATE OFFICE OF EDUCATION,
Salt Lake City UT, January 20, 1993.

Hon. ORRIN G. HATCH,
U.S. Senator, Washington, DC.

DEAR SENATOR HATCH: We understand that you will soon be introducing legislation in the Senate which will focus on revising the funding formula currently in place for Chapter 1 of Title 1 under Public Law 100-297. As you well know, the current formula makes use of state per pupil expenditure (PPE) amounts rather than utilizing the national average per pupil expenditure. This approach has resulted in poorer states receiving less funding than those with greater financial resources, although the avowed purpose of Chapter 1 is to provide additional educational assistance to children of poverty.

The change which you are suggesting, that of revising the formula to utilize the national average per pupil expenditure, will be a significant move toward providing equitable educational opportunity for all children of poverty. Regardless of how poor a particular state may be, the formula change which you are proposing will generate equal per pupil amounts of funding for all Chapter 1 students in all states. No longer will the students in poorer states be faced with the double jeopardy of low state per public expenditures and low Chapter 1 federal funding allocations. Your proposed formula revision will truly provide equitable support for all Chapter 1 students and should result in significant educational benefits.

Please know that Utah educators appreciate and applaud the leadership you are taking with this important issue. We wish you every success in securing passage of this critical legislation.

Sincerely,

SCOTT W. BEAN,
State Superintendent of Public Instruction.

By Mr. ROTH (for himself and Mr. CAMPBELL):

S. 15. A bill to establish a Commission on Government Reform.

REINVENTING GOVERNMENT ACT

Mr. ROTH. Mr. President, yesterday, in his inaugural address, President Clinton talked about the vision and courage to reinvent America. President Clinton, this is an answer to your call. I rise today to introduce legislation aimed at fundamental reform of the organization and operations of the Federal Government.

If the recent election was about anything, it was about change. The American people are demanding that the Government be more responsive to their needs and more efficient in its missions. And, frankly, the people are right. The Federal Government plays a tremendous role in our lives. Yet whenever we try to accomplish something, the number of agencies one must go through, the bureaucratic struggles one must engage in, the regulations and redtape one must conquer, are enough to discourage even the most courageous among us. This must change if America is to change.

The American people are demanding a Government that is responsive, efficient, capable of completing the mission it has been given. In addition, the Federal Government must become more responsive to making our Nation economically competitive. While the Government plays a fundamental role in our lives and the Nation's business, its structure is based on the outdated model of the 1930's, 1940's, and 1950's. President Clinton's inaugural sounded this same theme:

> Let us resolve to make our government a place for what Franklin Roosevelt called "bold, persistent experimentation," a government for the tomorrows, not our yesterdays.

If we are to reinvent America, Mr. President, we must reinvent government.

We need to reform the structure and operations of our Government. The American people are yearning for a government that works. I find it very troubling to have the Comptroller General of the United States, Charles Bowsher, recently tell the Committee on Governmental Affairs that there are practically no programs, no agencies, no departments that he can say are well run.

That is why I am introducing legislation to establish a Presidential Commission on Government Reform.

We all know that a new President comes in with the best of intentions, but the President has so many matters before him. Internationally, this new President is going to have his plate full on just that alone. But we must look into bringing this Government into the 21st century. That is why establishing a Presidential Commission on Government Reform is so necessary.

During the confirmation hearing for Congressman Leon Panetta, the President Clinton's designee to be the new Director of the Office of Management and Budget, I asked him whether he would support such an approach. He responded that:

> I think you have to do it. I think you do need to have a Commission do it, because, frankly, the problem is it has to be done in a comprehensive fashion. And if you just try to nit-pick away at this, you will never get anywhere. You will run into jurisdictional problems in the Congress on both sides * * * I do think it is essential that we do that. We have not moved into the 21st century yet in terms of our structure of government.

I could not agree with the new Director of OMB more, and I look forward to working with him during this session to see this legislation enacted.

We need to create a new government structure that is much less bureaucratic and more responsive in its provision of daily services to the public. From environmental laws to workplace safety to the regulation of the financial industry, the government is involved in almost every aspect of American business and trade. Instead of an impediment to being competitive, the Government must employ policies which promote competitiveness. The Government must also be able to respond quickly to needs of new business. In formulating such a Commission, I am not suggesting that we weaken laws which help to achieve cleaner air, safer workplaces, and stable financial markets. I am simply proposing that whatever role we mandate for government, that it be performed efficiently and effectively.

With this goal in mind, I am introducing the Reinventing Government Act, which would establish a nine-member Commission on Government Reform. The bipartisan Presidential Commission would develop up to five major pieces of legislation restructuring the executive branch and overhauling personnel systems. Those proposals approved by the President would be voted on, unamended, by Congress. Unless disapproved by both Houses, they would go into effect. This legislative mechanism is similar to that recently used to close military bases and may be the only way we can hope to achieve real action on these politically difficult issues.

The legislation mandates the Commission to propose ways to consolidate and streamline agencies and programs, to reduce the size of the Federal workforce through attrition, and to sunset programs every 5 years.

The Commission would recommend reforms to personnel and management systems which promote personal accountability, maximize productivity, and reward excellence. It also would recommend ways to consolidate the nearly 600 separate grant programs to State and local governments, and to establish criteria for awarding the grants on the basis of performance.

Mr. President, I want to give this new Commission the authority to reorganize the executive branch and to reform the Civil Service System. Government needs to be less costly and more results-oriented. We need to eliminate obsolete programs, unnecessary offices, and overlapping responsibilities. We need more personal accountability and pay-for-performance. Mr. President, this legislation would help to achieve all of these goals.

This Nation is challenged by an increasingly complex set of economic and social problems in the period since World War II. The complicated, seemingly intractable nature of these problems has spawned a host of public sector responses. New agencies, new programs and a vast array of regulatory mandates are evidence of this governmental response.

But as government has tried to grapple with the tough problems, the role of government in our lives has expanded immensely, governmental expenditure levels have risen almost exponentially, and the institutional relationships within government have taken on the complexity of the very problems that government seeks to address. It is no secret to me or to the American people that governmental performance rarely lives up to its promise.

The Commission on Government Reform provides the means for us to step back and examine the broad sweep of how our Government is structured and how it operates. The recommendations produced by the Commission will lay the groundwork for the structural and managerial changes so badly needed in government today.

We have already begun such a process aimed at reforming Congress: The Joint Committee on Organization of Congress, which is due to report on the operations of Congress and recommend ways to make Congress more efficient. Now a similar examination of the executive branch is needed. Its departments and agencies need to be restructured, consolidated, and streamlined. The size of government reduced through attrition, while we take advantage of the technological progress which will take us into the 21st century.

Mr. President, the Commission would consider such ideas as a major restructuring of the Federal Government to make it more efficient and responsive to the needs of the public. Of equal importance, the legislation provides a strategy for carrying through with the implementation of the recommended changes. Like the Base Closure and Realignment Commission, the recommendations of this Commission will have real teeth. I believe this mechanism has worked well for the Base Commission, and I believe it can work well here.

It is important to emphasize that the Commission will be strictly bipartisan in nature. The Commission will be comprised of nine members, appointed

by the President with the advice and consent of the Senate. The members of the Commission will be selected by the President after consultation with congressional leaders. It will not be subject to the influence of one political party or another, or to any particular philosophical bias other than the one based upon effective public service delivery at a minimal cost.

The Commission on Government Reform will provide the independent and objective review we need to improve Government service and efficiency. It will encourage action on the commonsense governmental reforms that so often receive inadequate attention. And it will break the strangle hold of special interests which has prevented Congress from reforming those Government agencies and services in most need of change.

In his inaugural, President Clinton sounded the trumpet of change: "Thomas Jefferson believed that to preserve the very foundations of our Nation, we would need dramatic change from time to time. Well, my fellow citizens, this is our time. Let us embrace it." President Clinton pledged his efforts to America renewal. Government reform will be an essential part of America's renewal. I pledge my efforts for that renewal, and look forward to working with the new President to see these changes take effect.

I ask unanimous consent that a section-by-section analysis and the text of the legislation be included in the RECORD at this point.

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

S. 15

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

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Reinventing Government Act".

(b) FINDINGS.—

The Congress finds that the American people face a crisis of confidence in the Federal Government that cannot be remedied without dramatic and fundamental reform. Recent polls indicate that an all-time low of only 17 percent of the public approves of Congress, that 78 percent are dissatisfied or angry about the Federal Government, and that Americans think an average of 48 cents out of every dollar in Federal taxes is wasted. While the American people are demanding more performance from their Government for less money, Congress and the executive branch still debate the same old options of fewer services or higher taxes.

The Federal Government has many talented and hardworking employees whose effectiveness is hindered by existing organizations and operations. Such organizations have too often become inefficient and have structures and missions not reflecting current domestic and international priorities. These organizations were developed during the industrial era and have large, centralized bureaucracies, a preoccupation with rules and regulations, and a hierarchical chain of command. Such governmental organizations are so obsessed with regulating processes and procedures that they have ignored the outcomes of their programs.

Unlike the Federal Government, American corporations have spent the last decade making revolutionary changes by streamlining their organizations, decentralizing authority, flattening hierarchies, focusing on quality, and emphasizing responsiveness to the customer. State and local governments have also begun to apply those same principles of post-industrial organization and uses of technology in successful efforts aimed at reinventing government. There is now a crucial need for a serious examination of how the Federal Government might apply such organizational and operational reforms to its own institutions.

SEC. 2. DEFINITIONS.

In this Act—

(1) "Commission" means the Commission on Government Reform established by section 3.

(2) "executive entities" includes all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations.

SEC. 3. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the "Commission on Government Reform".

(b) DUTIES.—The Commission shall carry out the duties specified for it in this Act.

(c) APPOINTMENT.—(1) The Commission shall be bipartisan, composed of 9 members appointed by the President, by and with the advice and consent of the Senate, of whom there must be at least 4 each from the two major political parties.

(2) The President shall transmit to the Senate the nominations for the appointment to the Commission not later than 60 days after the date of enactment of this Act.

(3) In selecting nominees for appointment to the Commission, the President shall consult with—

(A) the Speaker of the House of Representatives;

(B) the majority leader of the Senate;

(C) the minority leader of the House of Representatives; and

(D) the minority leader of the Senate.

(4) When the President submits to the Congress nominations for appointment to the Commission, the President shall designate 1 nominee to serve as chairman of the Commission.

(d) TERMS.—Each member of the Commission appointed under paragraph (1)(A) shall serve until the termination of the Commission.

(e) MEETINGS.—(1) Each meeting of the Commission, except a meeting in which classified information is to be discussed, shall be open to the public.

(2) All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the chairman and the ranking minority member of the Committee on Governmental Affairs of the Senate and the chairman and the ranking minority member of the Committee on Government Operations of the House of Representatives.

(f) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as was the original appointment.

(g) PAY AND TRAVEL EXPENSES.—(1)(A) The chairman of the Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the chairman is engaged in the performance of duties vested in the Commission.

(B) Each member of the Commission other than the chairman shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the Commission.

(2) Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) DIRECTOR AND STAFF.—(1) The Commission shall appoint a director of the Commission without regard to section 5311(b) of title 5, United States Code.

(2) The director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—(1) The Director may, with the approval of the Commission, appoint and fix the pay of employees of the Commission without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and any Commission employee may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that a Commission employee may not receive pay in excess of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Upon request of the director, the head of any Federal department or agency may detail any of the personnel of the department or agency to the Commission to assist the Commission in carrying out its duties under this title.

(3) The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(j) OTHER AUTHORITY.—(1) The Commission may procure by contract the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent that funds are available for that purpose.

(k) FUNDING.—There are authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act, such sums to remain available until expended.

(l) TERMINATION.—The Commission shall terminate 2 years after the date of enactment of this Act.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS.

(a) IN GENERAL.—The Commission shall transmit to the President findings and recommendations regarding reforms of the organization and operations of the executive branch of the Federal Government that would improve governmental performance while minimizing costs. Such recommendations shall promote economy, efficiency, and improved service in the transaction of the public business, and shall include ways to—

(1) define program missions in terms of measurable outcomes, emphasizing quality of service, customer satisfaction, and result-oriented accountability;

(2) reform personnel and management systems so as to improve morale, inspire initiative, maximize productivity and effectiveness, promote personal accountability, and reward excellence;

(3) increase program responsiveness by reducing paperwork and procedural requirements and increasing managerial discretion, in return for greater accountability for achieving results;

(4) consolidate and streamline departments, agencies, and programs so as to reduce costs, minimize hierarchy, and focus responsibility;

(5) reduce the size of the Federal work force through attrition and redirect funding toward improved training and rewarding excellence in the work force;

(6) promote the application of new information technologies to improve management and reduce administrative costs;

(7) consolidate Federal grant programs to State and local governments and establish criteria for awarding grants on the basis of performance;

(8) develop procedures for the substantive review and reauthorization of each Federal program at least once every 5 years; and

(9) develop mechanisms to promote greater cooperation and coordination between the legislative and executive branches and greater attention to the long-term impacts of budgetary and policy decisions.

(b) ACTION BY THE CONGRESS, COMPTROLLER GENERAL, AND THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—The Comptroller General of the United States and the Director of the Office of Management and Budget shall—

(1) assist the Commission, to the extent requested, in the Commission's review and analysis of the matters described in subsection (a); and

(2) not later than January 1, 1994, transmit to the Congress and to the Commission a report containing a detailed analysis of any findings and statutory recommendations they may choose to offer.

(c) REPORTS.—Not later than June 1, 1994, the Commission shall transmit to the President and Congress not more than 5 reports containing the Commission's findings and statutory recommendations for the restructuring of, or improving the operations of, governmental entities.

(d) UNDERLYING INFORMATION.—After June 1, 1994, the Commission shall, upon request, promptly provide to any member of Congress information used by the Commission in making its findings and statutory recommendations.

(e) REPORTS BY THE PRESIDENT.—(1) Not later than July 1, 1994, the President shall transmit to the Commission and Congress separate reports containing the President's approval or disapproval of the Commission's reports made pursuant to subsection (c).

(2) If the President approves a report of the Commission, the President shall transmit a copy of the report to the Congress, together with a certification of the approval.

(3) If the President disapproves a report of the Commission, in whole or in part—

(A) the President shall transmit to the Commission and Congress the reasons for the disapproval; and

(B) not later than July 15, 1994, the Commission shall transmit to the President a revised report containing revised findings and statutory recommendations.

(4) If the President approves a revised report of the Commission submitted to the President pursuant to paragraph (3)(B), the President shall transmit to Congress a copy of the revised report together with a certification of such approval.

(5) If the President does not transmit to the Congress an approval and certification of a report or reports by August 1, 1994, the process by which the report or reports of the Commission are to be implemented shall be terminated.

SEC. 5. IMPLEMENTATION OF COMMISSION RECOMMENDATIONS FOR THE EXECUTIVE BRANCH.

(a) IN GENERAL.—Subject to subsection (b), the President shall—

(1) restructure and improve the operation of all executive branch organizations recommended for reform by the Commission in its reports transmitted to the Congress by the President pursuant to section 4 (c) and (e);

(2) initiate all such restructuring and improvements not later than 2 years after the date on which the President transmits a report to the Congress pursuant to section 4 (c) and (e) containing such restructurings and improvements; and

(3) complete all such restructurings and improvements not later than the end of the 6-year period beginning on the date on which the President transmits the report pursuant to section 4 (c) and (e) containing such restructurings and improvements.

(b) CONGRESSIONAL DISAPPROVAL.—

(1) IN GENERAL.—The President may not carry out any restructuring and improvements recommended by the Commission in a report transmitted from the President pursuant to section 4 (c) and (e) if a joint resolution is enacted, in accordance with subsection (c), disapproving the recommendations of the Commission before the earlier of—

(A) the end of the 30-day period beginning on the date on which the President transmits the report; or

(B) the adjournment of Congress sine die for the session during which the report is transmitted.

(2) CONGRESS NOT IN SESSION.—For the purposes of paragraph (1) and subsection (c) (1) and (3), the days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of a period.

(c) CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT.—

(1) TERMS OF THE RESOLUTION.—For the purposes of subsection (b), the term "joint resolution" means a joint resolution that—

(A) is introduced within the 5-day period beginning on the date on which the President transmits a report to the Congress under section 4 (c) and (e);

(B) does not have a preamble;

(C) states after the resolving clause "That Congress disapproves the recommendations of the Commission on Government Reform submitted by the President on ", the blank space being filled in with the appropriate date; and

(D) is entitled a "Joint resolution disapproving the recommendations of the Commission on Government Reform.".

(2) REFERRAL.—(A) A resolution described in paragraph (1) that is introduced in the House of Representatives shall be referred to the Committee on Government Operations of the House of Representatives.

(B) A resolution described in paragraph (1) that is introduced in the Senate shall be referred to the Committee on Governmental Affairs of the Senate.

(3) DISCHARGE.—If the committee to which a resolution described in paragraph (1) is referred has not reported the resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 4 (c) and (e), such committee shall, at the end of that period, be discharged from further consideration of the resolution, and the resolution shall be placed on the appropriate calendar of the House of Representatives or the Senate, as the case may be.

(4) CONSIDERATION.—(A)(i) On or after the third day after the date on which the committee to which a joint resolution described in paragraph (1) is referred has reported, or has been discharged (under paragraph (3)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any member of the House of Representatives or the Senate, respectively, to move to proceed to the consideration of the resolution (but only on the date after the calendar day on which the member announces to the House concerned the member's intention to do so).

(ii) All points of order against a resolution described in paragraph (1) (and against consideration of the resolution) are waived.

(iii)(I) A motion to proceed to the consideration of a joint resolution described in paragraph (1) is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable.

(II) A motion described in subclause (I) is not subject to amendment, to a motion to postpone consideration of the resolution, or to a motion to proceed to the consideration of other business.

(III) A motion to reconsider the vote by which a motion described in subclause (I) is agreed to or not agreed to shall not be in order.

(IV) If a motion described in subclause (I) is agreed to, the House of Representatives or the Senate, as the case may be, shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the House of Representatives or the Senate, as the case may be, until disposed of.

(B)(i) Debate on a joint resolution described in paragraph (1) and on all debatable motions and appeals in connection therewith shall be limited to not more than 5 hours, which shall be divided equally between those favoring and those opposing the resolution.

(ii) An amendment to a joint resolution described in paragraph (1) is not in order.

(iii) A motion further to limit debate on a joint resolution described in paragraph (1) is in order and not debatable.

(iv) A motion to postpone consideration of a joint resolution described in paragraph (1), a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

(v) A motion to reconsider the vote by which a resolution described in paragraph (1) is agreed to or not agreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution described in paragraph (1) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the House of Representatives or the Senate, as the case may be, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives or of the Senate, as the case may be, to the procedure relating to a joint resolution described in paragraph (1) shall be decided without debate.

(5) CONSIDERATION BY OTHER HOUSE.—(A) If, before the passage by one House of a joint resolution described in paragraph (1) that was introduced in that House, that House re-

ceives from the other House a joint resolution described in paragraph (1)—

(i) the resolution of the other House shall not be referred to a committee and may not be considered in the House that receives it otherwise than on final passage under clause (ii)(II); and

(ii)(I) the procedure in the House that receives such a resolution with respect to such a resolution that was introduced in that House shall be the same as if no resolution had been received from the other House; but

(II) the vote on final passage shall be on the resolution of the other House.

(B) Upon disposition of a joint resolution described in paragraph (1) that is received by one House from the other House, it shall no longer be in order to consider such a resolution that was introduced in the receiving House.

(6) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

THE REINVENTING GOVERNMENT ACT—SECTION-BY-SECTION ANALYSIS

SEC. 1. SHORT TITLE AND FINDINGS

This Act may be cited as the "Reinventing Government Act".

The Congress finds that—

The American people face a crisis of confidence in the Federal Government, which cannot be remedied without fundamental reform. While the American people are demanding more performance from their government for less money, Congress and the Executive branch continue to debate the same old options of fewer services or higher taxes. The public wants governmental institutions that respond quickly to citizens needs, with high-quality services delivered at the minimum necessary cost, and with ever more value squeezed out of each tax dollar.

The government has many talented and hardworking employees whose effectiveness is hindered by existing organizational structures and operations. Such organizations have too often become inefficient and have structures and missions not reflecting current priorities. These organizations were developed during the industrial era, and have large, centralized bureaucracies, a preoccupation with rules and regulations, and a hierarchical chain of command. Such governmental organizations are so obsessed with regulating processes and procedures, that they have ignored the outcomes of their programs.

Unlike the Federal Government, American corporations have spent the last decade making revolutionary changes by streamlining their organizations, decentralizing authority, focusing on quality, and emphasizing responsiveness to the customer. State and local governments have also begun to apply those same principles of post-industrial organization and uses of technology in successful efforts aimed at reinventing government. There is a crucial need for a serious examination of how the Federal Government might apply such organizational and operational reforms to its own institutions.

SEC. 2. DEFINITIONS

Defines the term "Commission" as the Commission on Government Reform.

Defines the term "governmental entities" as all Federal departments, independent agencies, Government-sponsored enterprises, and Government corporations.

SEC. 3. THE COMMISSION

The bipartisan Commission shall be composed of nine members appointed by the President, by and with the advice and consent of the Senate. There must be at least four members from each of the two major political parties. The President shall transmit to the Senate the nominations for appointment no later than 60 days after enactment.

In selecting individuals for the bipartisan Commission, the President shall consult with the Speaker of the House, the majority leader of the Senate, the minority leader of the House, and the minority leader of the Senate.

Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

SEC. 4. PROCEDURES FOR MAKING RECOMMENDATIONS

The Commission shall transmit to the President findings and statutory recommendations regarding reforms to the organization and operations of the executive branch which would improve governmental performance while minimizing costs. Such recommendations shall promote economy, efficiency, and improve service in the transaction of the public business, and include ways to—

(1) define program missions in terms of measurable outcomes, emphasizing quality of service, customer satisfaction, and results-oriented accountability;

(2) reform personnel and management systems so as to improve morale, inspire initiative, maximize productivity and effectiveness, promote personal accountability, and reward excellence;

(3) increase program responsiveness, by reducing paperwork and procedural requirements and increasing managerial discretion, in return for greater accountability for achieving results;

(4) consolidate and streamline departments, agencies, and programs, so as to reduce costs, minimize hierarchy, and focus responsibility;

(5) reduce the size of the Federal workforce through attrition and redirect funding toward improved training and rewarding excellence in the workforce;

(6) promote the application of new information technologies, to improve management and reduce administrative costs;

(7) consolidate Federal grant programs to State and local governments and establish criteria for awarding grants on the basis of performance;

(8) develop procedures for the substantive review and reauthorization of each Federal program at least once every five years; and

(9) develop mechanisms to promote greater cooperation and coordination between the legislative and executive branches, and greater attention to the long-term impacts of budgetary and policy decisions.

The Director of the Office of Management and Budget and the Comptroller General of the United States shall assist the Commission to the extent requested by the Commission. Not later than January 1, 1994, both the OMB Director and Comptroller General may transmit to the Congress and Commission any recommendations they may choose to offer.

The Commission shall conduct public hearings on the recommendations. The Commission shall, by no later than June 1, 1994, transmit to the President a series of no more than five reports containing the Commission's findings and statutory recommendations.

The President shall, by no later than July 1, 1994, transmit to the Commission and to the Congress the President's approval or disapproval of the Commission's recommendations. The President shall treat each report of the Commission as a separate report. If the President approves the recommendations of the Commission, the President shall transmit a copy of such recommendations to the Congress, together with a certification of the approval.

If the President disapproves the recommendations in any of the reports of the Commission, the President shall transmit to the Commission and to the Congress the reasons for that disapproval. The Commission shall then transmit to the President, by no later than July 15, 1994, a revised list of recommendations with regard to that report. If the President approves the revised report, the President shall transmit a copy of the revised report to the Congress, together with a certification of such approval.

If the President does not transmit to the Congress an approval and certification by August 1, 1994, of a particular report, the process by which the recommendations under this Act are to be implemented shall be terminated.

SEC. 5. IMPLEMENTATION OF EXECUTIVE BRANCH RECOMMENDATIONS

Subject to Congressional disapproval of a particular report, the President shall initiate all the recommendations within two years and complete all action no later than the end of six years.

The President may not carry out any of the recommendations if a joint resolution is enacted disapproving such recommendations of a particular report of the Commission before the earlier of the end of the 30-day period beginning on the date on which the President transmits the report or the adjournment of Congress sine die for the session.

A joint resolution is required to be introduced within the 5-day period beginning on the date on which the President transmits a report to the Congress. The resolution shall be referred to the Committee on Government Operations in the House and the Committee on Governmental Affairs in the Senate.

If the committee has not reported a resolution by the end of the 20-day period beginning the date the President transmits the report, the committee will be discharged from further consideration, and the resolution placed on the calendar of the House involved.

On or after the third day after the date on which the committee reported or been discharged of the resolution, it is in order for any Member to move to proceed to the consideration of the resolution. Debate on the resolution shall be limited to not more than five hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order.

TIMETABLE

60 days after enactment: President submits names of the bipartisan Presidential Com-

mission members to Senate for confirmation.

January 1, 1994: Optional reports to Commission by the Office of Management and Budget and the Comptroller General of the United States.

June 1, 1994: Commission reports recommendations in a maximum of five separate reports.

July 1, 1994: President accepts recommendations and sends them to Congress or returns recommendations to the Commission for further review.

July 15, 1994: If President returned recommendations, Commission can issued revised recommendations.

August 1, 1994: President either sends recommendations to the Congress or rejects them.

30 Days: If accepted by the President, the Congress then has 30 days to vote on resolution of disapproval for both executive and legislative branch findings and statutory recommendations.

By Mr. MOYNIHAN:

S. 16. A bill to amend title IV of the Social Security Act to require full funding of the Job Opportunity and Basic Skills Training Program under part F of such title, and for other purposes; to the Committee on Finance.

WORK FOR WELFARE ACT

Mr. MOYNIHAN. Mr. President, ask American parents what they dislike about how things are in our country, and chances are good that pretty soon they'll get to welfare.

Americans are the most generous people on Earth. But we have to go back to the insight of Franklin Roosevelt who, when he spoke of what became the welfare program, warned that it must not become "a narcotic" and a "subtle destroyer" of the spirit.

Welfare was never meant to be a lifestyle; it was never meant to be a habit; it was never supposed to be passed from generation to generation like a legacy.

It is time to replace the assumptions of the welfare state, and help reform the welfare system.

Today I am introducing a bill to do just that.

In his State of the Union Address of 1935, FDR was not addressing the subject of welfare as we know it today. He was referring, as he stated, to the then gigantic relief rolls which cared for able-bodied men and their families in the depths of the Great Depression. Probably a quarter of work force was then unemployed. He was proposing a giant public works program.

What we now call welfare is title IV of the Social Security Act which was enacted later in 1935. Originally designed as a "widow's pension," it has since become a vast program supporting single parent, female headed households. There are at present twice as many AFDC cases as unemployment cases. AFDC supports some 4.4 million adults at this time, along with 9 million children, over 13 million Americans in all.

In 1988 the Family Support Act, overwhelmingly passed by Congress and signed by President Reagan changed the terms of the AFDC program. The bill would not have passed without the leadership of a chairman of the Governors Association, namely Bill Clinton, our new President. With his help, a new social contract was put in place. Society would help the dependents in return for a concerted effort by dependents to help themselves. Welfare would be temporary; it would lead to work.

Title II of the act created the Job Opportunities and Basic Skills Training Program [JOBS].

The terms of the JOBS Program are simple and direct. All able-bodied adult recipients of AFDC must enroll or lose their benefits. The exceptions are mothers with children under age 3, or, at State option, under age 1.

The program has been coming along. There are now some 500,000 adults in the JOBS pipeline, with about half that number actually in education or jobs programs. Current expenditures, including day care, are $1.5 billion per year.

However, Federal funds for JOBS are capped at $1 billion, and the State match is such that in the current recession many States are not using all the Federal funds available.

The Work for Welfare Act of 1993 would respond to this emergency by: eliminating the cap on Federal funds, and eliminating State matching requirement beyond current outlays.

The additional funding will come to $4.5 billion, including some $1.4 billion for day care.

The bill answers the public's demand for action. As of the date of enactment, signing up for JOBS becomes part of signing up for welfare.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 16

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Work for Welfare Act of 1993".

SEC. 2. FULL FUNDING OF JOB OPPORTUNITY AND BASIC SKILLS TRAINING PROGRAM.

(a) IN GENERAL.—Section 402(a)(19) of the Social Security Act (42 U.S.C. 602(a)(19)) is amended—

(1) in subparagraph (B)(i), by striking "and State resources otherwise permit"; and

(2) in subparagraph (E)(i), by striking "and State resources otherwise permit".

(b) REMOVAL OF FEDERAL PAYMENT LIMITATION AND IMPOSITION OF STATE MAINTENANCE OF EFFORT.—Section 403(k) of such Act (42 U.S.C. 603(k)) is amended—

(1) in paragraph (1)—

(A) by striking "of the applicable percentages (specified in such subsection)"; and

(B) by striking "but such payments" and all that follows through "the State";

(2) by striking paragraphs (2), (3), and (4) and by inserting after paragraph (1) the following new paragraph:

"(2) In order to receive the payments described in paragraph (1), each State must maintain its payments in any fiscal year under this part at or above the level of such payments as of fiscal year 1993.";

(3) by redesignating paragraph (5) as paragraph (3); and

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

"(4) The State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.".

(c) REMOVAL OF CERTAIN PAYMENT LIMITS AND MANDATED STATE PARTICIPATION RATES.—Section 403(l) of such Act (42 U.S.C. 603(l)) is amended—

(1) in paragraph (3)(A)—

(A) by striking "Notwithstanding paragraph (1), the" and inserting "The";

(B) by striking "(in lieu of any different percentage specified in paragraph (1)(A))";

(C) in clause (v), by striking "15" and inserting "50"; and

(D) in clause (vi), by striking "20" and inserting "50";

(2) in paragraph (3)(C), by striking "(in lieu of paragraph (1)(A))";

(3) in paragraph (4)(B)(i), by striking "40" and inserting "50"; and

(4) by striking paragraphs (1) and (2) and redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(d) REPEAL OF STATE MATCH REQUIREMENT FOR SUPPORTIVE SERVICES.—Section 402(g) of such Act (42 U.S.C. 602(g)) is amended by striking paragraph (3)(A) and inserting the following:

"(3)(A) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, there shall be no requirement for State resources for purposes of section 403(a), except that no such State shall expend amounts for child care in any fiscal year less than the amount such State expended in fiscal year 1993.".

(e) TIME LIMITATION.—Section 482(b) of such Act (42 U.S.C. 682(b)) is amended by adding at the end the following new paragraph:

"(4) For all individuals required to participate in the program pursuant to section 402(a)(19)(C), the State agency shall conduct the assessment, develop the employability plan, and refer the individuals to a program component (as required in this subsection) within 60 days of the date upon which the individual is found eligible for such program.".

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to expenditures made after September 30, 1993.

By Mr. KENNEDY (for himself, Mr. DURENBERGER, Mr. PACKWOOD, Mr. AKAKA, Mr. BRADLEY, Ms. MOSELEY-BRAUN, Mr. DECONCINI, Mr. FEINGOLD, Ms. FEINSTEIN, Mr. INOUYE, Ms. MIKULSKI, Ms. MURRAY, Mr. PELL, Mr. ROBB, Mr. SIMON, Mr. WELLSTONE, Mr. ROCKEFELLER, Mrs. BOXER, Mr. BINGAMAN, Mr. WOFFORD, Mr. LEAHY, Mr. CAMPBELL, Mr. BIDEN, Mr. DODD, Mr. METZENBAUM, Mr. LAUTENBERG, Mr. MOYNIHAN, Mr. RIEGLE, Mr. MITCHELL, Mr. COHEN, Mr. HARKIN, and Mr. SPECTER):

S. 17. A bill to amend section 1977A of the Revised Statutes to equalize the

remedies available to all victims of intentional employment discrimination, and for other purposes; to the Committee on Labor and Human Resources.

EQUAL REMEDIES ACT OF 1993

• Mr. KENNEDY. Mr. President, on behalf of Senators DURENBERGER, PACKWOOD, AKAKA, BRADLEY, MOSELEY-BRAUN, DECONCINI, FEINGOLD, FEINSTEIN, INOUYE, MIKULSKI, MURRAY, PELL, ROBB, SIMON, WELLSTONE, ROCKEFELLER, BOXER, BINGAMAN, WOFFORD, LEAHY, CAMPBELL, BIDEN, DODD, and METZENBAUM, I am pleased to reintroduce the Equal Remedies Act, to repeal the caps on the amount of damages available in employment discrimination cases brought under the Civil Rights Act of 1991.

The Civil Rights Act of 1991 for the first time gave women, religious minorities, and the disabled the right to recover compensatory and punitive damages when they suffer intentional discrimination on the job—but only up to specified monetary limits. Victims of discrimination on the basis of race or national origin, by contrast, can recover such damages without arbitrary upper limits. The Equal Remedies Act will remove this inequity by eliminating the caps on damages that were imposed by the 1991 act.

The caps on damages in the Civil Rights Act of 1991 were a compromise necessitated by concern about passing a bill that then-President Bush would sign. The issue was only one of the important issues covered in that piece of legislation, which also reversed a series of Supreme Court decisions that had made it far more difficult for working Americans to challenge discrimination. The bill as a whole represented a significant advance in the ongoing battle to overcome discrimination in the workplace. In order to guarantee that the bill would become law, many Senators joined in agreeing to the compromise on damages. However, many of us made clear that we intended to work for swift enactment of separate legislation to remove the caps.

I am committed to enactment of the Equal Remedies Act in this Congress. We must end the double standard that relegates women, religious minorities, and the disabled to second-class remedies under the civil rights laws.

The caps on damages deny an adequate remedy to the most severely injured victims of discrimination. For example, if a woman proves that as a result of discrimination, she needs extensive and costly medical treatment exceeding the level of the caps, she will be limited to receiving only partial compensation for her injury.

At the same time, the caps limit the extent to which employers who discriminate—particularly the worst violators—are punished for their discriminatory acts and deterred from engaging in such conduct in the future. The more offensive the conduct and the greater the damages inflicted, the more the employer benefits from the caps.

The caps on damages are unjustifiable and unacceptable. Damages available to victims of job discrimination based on race and national origin are not limited in this way. No similar caps exist in any other civil rights laws, and they are not appropriate in this instance. Enactment of the Equal Remedies Act is essential to remove this glaring injustice in our civil rights laws.

Mr. President, I ask unanimous consent that the text of the bill may be printed in the RECORD.

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

S. 17

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Remedies Act of 1993".

SEC. 2. EQUALIZATION OF REMEDIES.

Section 1977A of the Revised Statutes (42 U.S.C. 1981a), as added by section 102 of the Civil Rights Act of 1991, is amended—

(1) in subsection (b)—

(A) by striking paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3), and

(2) in subsection (c), by striking "section—" and all that follows through the period and inserting "section, any party may demand a jury trial.".•

• Mr. FEINGOLD. Mr. President, I am pleased to join my distinguished colleague, Senator KENNEDY, and other Members of this body in sponsoring the Equal Remedies Act, which was first introduced in the 102d Congress. I strongly support this bill, which is aimed at achieving equitable application of our civil laws.

Title VII of the Civil Rights Act of 1964 was intended to guarantee equity in employment, proscribe discrimination, and remedy injury caused by discrimination by ensuring accountability for intentional wrongdoing by employers. The Civil Rights Act of 1991 reinforced the original act's intent, and for the first time established the right of women, religious minorities, and the disabled to recover compensatory and punitive damages. However, the 1991 act set arbitrary limits on the amount of damages that can be recovered by these groups of individuals. The limits range from $50,000 to $300,000, depending on the number of employees who work for the defendant. For 15 to 100 employees, the limit is $50,000; for 101 to 200 employees, the limit is $100,000; for 201 to 500 employees the limit is $200,000; and for more than 500 employees, the limit is $300,000.

The effect of these limits violates the fundamental principles of equality, which underlie our uniquely American form of democracy. Within this context, no law can remedy injustice if it is unjust on its face. As it stands, the 1991 Civil Rights Act creates a double standard remedy for those who are victims of intentional illegal discrimination. This bill seeks to eliminate the double standard, and to avoid the creation of a two-tiered system of justice. At its heart is a reaffirmation of the basic principles of civil rights law, full and fair remedy for employment discrimination. Further, the current act's arbitrary treatment of women, religious minorities and the disabled flies in the face of the 14th amendment to the Constitution of the United States. Equal treatment under law requires that the same standards be applied in the application of law and the administration of justice to all those who are affected and protected by the law.

Opponents of this legislation will argue that it will open the flood gates of litigation. However, a 10-year study of litigation under the civil rights statute without arbitrary limitations or damages did not reveal excessive awards. There is simply no basis for assuming any different results in cases involving intentional discrimination covered by the Equal Remedies Act of 1993.

Employers who intentionally discriminate must be held fully accountable for their actions. We cannot tolerate laws that shield lawbreakers from full responsibility. The employing community itself should welcome strict enforcement and imposition of penalties for those who intentionally commit acts that damage the reputation of all businesses.

Mr. President, the Equal Remedies Act of 1993 would simply establish equitable treatment for all victims of invidious discrimination, regardless of whether that discrimination is based upon race or national origin, gender, religious beliefs, or disability. There is no justifiable basis for continuing this double standard of justice.•

• Mr. METZENBAUM. Mr. President, I rise as an original cosponsor of the Equal Remedies Act of 1993. For millions of working women, as well as millions of religious minorities and disabled Americans, this bill represents a giant step toward equal treatment under the law.

The Civil Rights Act of 1991 addressed a longstanding injustice in terms of the remedies available under Federal civil rights law. The injustice was a simple one: Racial minorities could recover unlimited compensatory and punitive damages for intentional discrimination, but women, religious minorities, and the disabled could not.

The Civil Rights Act of 1991 allowed these excluded groups to recover damages for the first time. But President Bush refused to sign the bill unless we included strict limits on the damages they could recover. So the injustice in Federal law remains: Racial minorities can still recover unlimited punitive

and compensatory damages, but women, religious minorities, and the disabled cannot. Instead, these groups are stuck with limited damages no matter how outrageous an employer's conduct was, no matter how many months or years that conduct continued, and no matter how severe a worker's injuries or losses were.

The Equal Remedies Act we are introducing today eliminates these monetary limitations, to ensure that we treat all forms of intentional discrimination equally.

For workers, the costs of job discrimination go far beyond just lost wages. There is living evidence all around us of the emotional and psychological damage that bigotry inflicts on its victims. Often this harm is accompanied by physical symptoms as well, such as migraines, ulcers, miscarriages, and other stress-related injuries.

In addition, there may be other economic losses. These include medical expenses, as well as professional injuries.

One of the principal goals of our Federal civil rights laws is to make discrimination victims whole for all losses they have suffered. Putting a limit on compensatory damages is completely incompatible with this purpose. The losses suffered by these victims are not capped in any way; why should their remedies be?

Our Nation was built upon the premise that every person has a fair chance, based on ability, to make it in our society. That is the essence of the American dream. But the very laws that embody that dream of equal opportunity discriminate against women, religious minorities, and the disabled in terms of the remedies they may recover. We must remove this inequity from our laws.●

● Mrs. BOXER. Mr. President, I support the Equal Remedies Act of 1993 because all Americans have a right to work in an environment free from harassment and intimidation.

Our Constitution promises equal opportunity and our Government must guarantee it. The Civil Rights Act of 1991 took an important step toward eradicating discrimination in the workplace. The Equal Remedies Act will finish the job.

By lifting the cap on damages for intentional discrimination against women, religious minorities, and the disabled, we will and the double standard that has offered these groups second-class remedies under civil rights laws.

I urge my colleagues to support this important legislation.●

By Mr. SPECTER:

S. 18. A bill to provide improved access to health care, enhance informed individual choice regarding health care services, lower health care costs through the use of appropriate providers, improve the quality of health care, improve access to long-term care, and for other purposes; to the Committee on Finance.

COMPREHENSIVE HEALTH CARE ACT

Mr. SPECTER. Mr. President, the Federal Government should act promptly to reform the health care system in the United States. Aside from stimulating an economic recovery, the 1992 great national political debate demonstrated that health care legislation is our Nation's highest priority.

Escalating costs are out of control while 37 million Americans have no health care insurance. In 1992, Americans spend $839 billion[1] on health care or 14 percent of our gross national product. Those figures for 1970 were $74.4 billion and 7.4 percent of the GNP. At the current rate of increase, the cost of national health care by the year 2000 is projected to be $1.6 trillion, or 18 percent of GNP.[2]

This bill has two objectives:

First, to provide health insurance for 37 million Americans now not covered;

Second, to reduce the health care costs for all Americans.

Health care reform is a very complex issue for Congress to address. But it is not so complex that we cannot act now. As many of my colleagues will recall, in 1990 the Congress passed the Clean Air Act that many said was not possible. That issue was brought to the Senate floor, and task forces were formed which took up the complex question of sulfuric acid in the air. We targeted the removal of 10 million tons in a year. We made significant changes in industrial pollution and in tailpipe emissions. We produced a balanced bill which protected the environment and retained jobs.

During the 102d Congress, I pressed to have the Senate take action on this issue. On July 29, 1992, I offered an amendment on health care to other legislation then pending on the Senate floor. When the majority leader argued that the health care amendment did not belong on that bill, I offered to withdraw the amendment if he would set a date certain to take up health care, just as product liability legislation had been placed on the calendar for September 8, 1992. The majority leader rejected that suggestion and the Senate did not consider comprehensive health care legislation during the balance of the 102d Congress.

While there were early suggestions that the new administration and the congressional leaders would place health care legislation on a priority basis, recent reports suggest that it will be deferred until the end of the first 100 days or perhaps beyond that time.

I urge the new President and the congressional leaders to act now on health care legislation. I suggest this bill is a good starting point.

The health care legislation which I am introducing is comprised of initiatives which are reforms that our health care system can readily adopt—now. They are reforms which both improve access and affordability of insurance coverage and implement systemic change to bring down the escalating cost of care in this country.

This bill, entitled the Comprehensive Health Care Act of 1993, melds together the three health care reform bills I introduced in the 102d Congress and builds upon them with significant additions. The additions include the implementation of small business insurance market reforms which I pressed for, and which were adopted by the Senate in modified form, during the last Congress. They also include new incentives to increase the supply of generalists physicians and a program to provide comprehensive health education to children from preschool through high school.

Taken together, I believe these reforms will both improve the quality of health care delivery and will cut the escalating cost of health care in this country. They represent a blueprint which can be modified, improved, and expanded. In total, I believe this bill can significantly reduce the number of uninsured Americans, improve the affordability of care, and yield cost savings of billions of dollars to the Federal Government which can be used to insure the remaining uninsured and underinsured Americans.

SUMMARY OF THE BILL

In the eight titles described below, this bill seeks to reduce the health care costs for the 219 million Americans now covered, 86.1 percent, and to cover the other 37 million Americans, 13.9 percent, who are not. The 219 million Americans now covered derive their health insurance coverage as follows: approximately 64.3 percent from employer plans; 15 percent from Medicare; 9.6 percent from Medicaid; 3.6 percent from the military; and 7.5 percent from individual private insurance.[3]

Title I, which deals with health insurance market reforms, targets the 29 million uninsured who are employed or are dependents of employed persons. While it is not possible to predict with certainty how many additional Americans will be covered by the full deductibility of health insurance costs for the self-employed, small employer health insurance market reforms, health insurance purchasing groups, and the elimination of managed care plan re-

[1] The Commerce Department Annual U.S. Industrial Outlook Report.

[2] Agency for Health Care Policy and Research, "Nutritional Health Expenditures as Percent of GNP Over Time: 1970 to 1987"; Congressional Budget Office, "Study of Projections of National Health Expenditures," October 1992.

[3] Congressional Budget Office study, "Projections of National Health Expenditures," October 1991.

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strictions imposed by the States, as set forth in title I, a reasonable expectation would be that approximately 15 million Americans would be added to those covered at a cost of $8.6 billion over 5 years. The coverage estimate is based on the fact that over 50 percent of the 29 million uninsured individuals who are employed, or dependents of employed persons, work in businesses covered by the insurance market reforms under title I of the bill. It is anticipated that cost would be offset by administrative savings from the development of purchasing groups as I propose. Such savings have been estimated as high as $9 billion.[4]

With the expansion of primary and preventive health services—focusing particularly on low-birthweight babies—and the expansion of health care education to cover toddlers through 12th graders, as proposed in title II, it is conservatively projected that approximately $2.5 billion per year could be saved. I believe the savings will be higher. Again, it is impossible to be certain of such savings; only experience will tell. For example, how do you quantify today the savings that will surely be achieved tomorrow from future generations of children that are truly educated in a range of health-related subjects including hygiene, nutrition, physical and emotional health, drug and alcohol abuse, accident prevention and safety, et cetera? I suggest these projections, subject to future modification, only to give some generalized perspective on the impact of this bill.

Title III of the bill, relating to disclosure of information to Medicare and Medicaid beneficiaries, can lead to savings of very substantial dollars because consumers will be provided with material information regarding the quality and cost of health care services. This will cause the health care services market to function more efficiently, with a concomitant decrease in health care costs. I believe that such disclosure will result in savings, but there is no source material available estimating such savings.

Title IV, concerning the patient's right to decline medical treatment, will also lead to substantial dollar savings. Approximately 27 percent of Medicare expenditures are made in the final days of life,[5] and conservatively estimating that approximately 10 percent of such expenditures are unwanted, we could save well over $3 billion.[6]

Increasing the number of primary care providers like generalists, physicians, nurse practitioners, and physician assistants, as proposed in title V, I believe will also yield substantial savings. A study of the Canadian health system utilizing nurse practitioners projected a 10 to 15 percent savings for all medical costs—or $300 million to $450 million. While our system is dramatically different from Canada's, it may not be unreasonable to project a 5-percent—or $41.5 billion—savings from the increase in the number of primary care providers in our system. Again, experence will raise or lower this projection. Assuming this savings, though, it seems reasonable, based on an average expenditure for health care of $3,742 per person projected for 1992, that we could cover another 10 million uninsured persons.[7]

I believe that we can achieve 20 percent, if not more, savings by increasing the use of managed care in the Medicare Program. Title VI promotes this. Managed care has worked in the private sector to help control costs. Successful private sector management principles can, and should, be applied to Medicare beneficiaries. This could control costs, improve quality of care, and could result in a savings of as much as $26 billion, based on projected Medicare expenditures in 1993 of $131 billion.

Outcomes research is another area where we can achieve considerable health care savings in the long run. According to the former editor-in-chief of the New England Journal of Medicine, Dr. Marcia Angell, 20 to 30 percent of health care procedures are either inappropriate, ineffective, or unnecessary. If the implementation of medical practice guidelines eliminates 10 to 20 percent of these costs, savings between $8 and $16 billion can be realized.[8] To achieve this we must, as Dr. C. Everett Koop, former Surgeon General of the United States says, have a well funded program for outcomes research. Title VII accomplishes this by imposing a one-tenth of 1 cent surcharge on all health insurance premiums. Based on the Congressional Budget Office's estimate that in 1992 private health insurance premiums totaled $254 billion, this surcharge would result in a $254 million outcomes research fund—compared to the approximately $70 million appropriated for fiscal year 1993.

Finally, title VIII addresses the issue of home nursing care. The costs of such care to those requiring it are exorbitant. Title VIII proposes, among other things, tax credits and tax deductions to defray such costs and proposes home and community-based care benefits as less costly alternatives to institutional care. The cost to the Treasury of this needed proposal is also expected to be costly, however, possibly approximately $20 billion.

Action must also be taken to eliminate health care fraud and streamline the cumbersome and costly administrative structure within the health care system. The General Accounting Office has estimated that $70 billion per year is the cost of health care fraud in this country.

Last year the Labor, HHS, and Education Appropriations Subcommittee, on which I serve as the ranking member, appropriated nearly $400 million for fiscal year 1993 to safeguard Medicare payments and combat fraud and abuse in the system. While this is a substantial amount, a recent report by the General Accounting Office stated that limited resources and the fluctuations in administrative budgets have disrupted fraud detection efforts and limited enforcement capabilities. In reviewing five of the Medicare contractors, the GAO found that only half of the complaints involving allegations of fraud or abuse Medicare contractors reported receiving in fiscal year 1990 were investigated. As ranking member, I intend to press for additional funding in fiscal year 1994 to ensure that allegations involving fraud and abuse in the Medicare Program are fully investigated.

Estimates for administrative costs range as high as 25 cents per dollar spent on health care, or over $200 billion annually. Regarding action to reduce administrative costs, the Senate report accompanying the Labor, HHS, and Education appropriations bill for fiscal year 1993 noted that substantial savings could be achieved from the $838 billion expended for health care services through the development of a national uniform electronic billing system. The report directed the Health Care Financing Administration to use a portion of the funds appropriated for research and demonstration projects to support projects designed to enable a speedier and more successful move to a national uniform electronic billing and data system.

While the development of a national electronic claims system to handle the billions of dollars in claims is complex and will take time to implement fully, I believe it is essential for operating a more efficient health care system and achieving the savings necessary to provide insurance for the remaining uninsured Americans. I am prepared to work with other Senators and take a leadership role in the development of implementing legislation, to press this important area of health care reform.

To repeat, the specifications of expanded coverage and savings are necessarily imprecise. Suggested modifications on the projections are welcome from other Senators or anyone else interested in this subject. It is hoped that this bill and hearings will stimu-

[4] Congressional Budget Office testimony before the Committee on Ways and Means, U.S. House of Representatives, March 4, 1992.

[5] J. Lubitz and R. Prihoda, "The Use and Costs of Medicare Services in the Last Two Years of Life," Health Care Financing Review, Spring, 1984.

[6] Based on 1992 Medicare expenditures of $116 billion and 1993 projected expenditures of $131 billion.

[7] Based on Congressional Budget Office projections of the number of insured persons in 1992 divided by the estimated total expenditures for health care for the same year.

[8] Dr. Marcia Angell, former Editor of the New England Journal of Medicine, "Cost Containment and the Physician," The Journal of the American Medical Association, September 6, 1985.

late discussion and input from specialists in the field.

While precision is again impossible, it is a reasonable projection that we could achieve under my proposal a net savings of approximately $82 billion I arrived at this sum by totaling the projected savings of $112.4 billion—$9 billion in small business administrative cost savings; $12.5 billion for preventive health services; $15 billion for reducing unwanted care; $41.9 billion from increasing primary care providers; $26 billion through managed care reform; and $8 billion through outcomes research—and netting against that the projected cost of $30.4 billion—$254 million for funding outcomes research, $8.6 billion for the health insurance market reforms, $20 billion for long term care, and approximately $1.6 billion in funding for the primary and preventive health care, low birth weight, health education and generalists physician—for the initiatives that I am proposing. I believe this net savings of $82 billion would be sufficient for new Federal programs to provide health care coverage for the 12 million Americans who would still not be covered. Obviously, experience will require modification of these projections, but at least it is a beginning.

TITLE I

HEALTH INSURANCE MARKET REFORMS

We have the greatest health system that has ever been devised, but it needs substantial improvement. Our system covers 86 percent of the American people, yet 37 million Americans are uncovered, and it is too expensive for those who are covered. It is estimated that 80 percent of the individuals without health insurance today have jobs or are dependents of those who are employed. In 1990, about half of the working uninsured and their dependents were connected to the labor force through small businesses which employed fewer than 25 persons. Clearly, one means of improving access to health care is to make insurance more affordable to these employers and their employees. Title I, therefore, implements a series of health insurance market reforms in order to make health insurance more affordable and available to employers and employees of small businesses.

The substance of each of these initiatives passed the Senate on two occasions during the last Congress. Regretably, they did not become law. The reforms are long overdue, and given their bipartisan support, they deserve our prompt attention. They include the following: First, expanding full deductibility of insurance premiums to self-employed individuals; second, establishing a basic health benefits plan for small employers and setting minimum standards for insurers offering insurance to small businesses; third, authorizing Federal grants for the support of small business health insurance purchasing groups; and fourth, fostering the development of efficient managed care plans by exempting plans which meet Federal standards from State mandates.

DEDUCTIBILITY FOR SELF-EMPLOYED

Under current law, businesses are permitted to deduct 100 percent of what they pay for the health insurance of their employees, but self-employed individuals may not deduct any of their costs. The provision permitting self-employed individuals to deduct 25 percent of their health insurance costs expired on December 31, 1992. It is hard to find a provision in the Internal Revenue Code that is more discriminatory than this one concerning the deductibility of health care costs.

It is estimated that 13.6 percent of uninsured workers are self-employed. Providing full deductibility of health insurance premiums for self-employed individuals is a simple matter of fairness. It also should make health insurance coverage more affordable for the estimated 4.6 million self-employed individuals and their families who are now uninsured.

It is estimated that the cost of this provision is $1.7 billion in the first year and $8.6 billion over the next 5 years.[9]

SMALL EMPLOYER HEALTH INSURANCE

Two factors contribute heavily to the cost and lack of availability of health insurance for small employers. The first is State mandated benefits. There are over 800 mandated benefit requirements which states have enacted to regulate health insurance coverage. Overall, estimates of the cost of mandates vary from a low of 3 percent of premiums in Iowa to a high of 21 percent of premiums in Maryland. For those health plans which meet the Secretary's basic benefit standards for small employers, the bill would exempt insurers from these State mandated benefit requirements.

The second factor which limits the ability of small employers to afford insurance coverage is insurers engaging in activities with regard to small groups, such as medical underwriting and exclusionary practices, that effectively preclude small employers from obtaining coverage. For example, in setting premiums insurers build a margin of 8.5 percent of claims for risk and profit for groups of one to four employees, compared with 1.1 percent for larger firms.

To combat these practices, the bill implements several Federal standards for the sale of insurance to employers with 3 to 49 employees who work at least 20 hours per week. Insurers would be required to meet these standards or, failing that, they would lose valuable tax deductions for reserves set aside to meet future liabilities. The standards include: First, guaranteed issue and renewability requirements; second, strict limits on preexisting condition exclusions in order to expand coverage to the estimated 1.5 million persons presently excluded from group plans; third, limits on the variation of premiums across and within business classes; fourth, meeting the minimum benefits requirements established by the bill; and lastly, permit termination of small employer insurance contracts only if the entire class of business is terminated.

HEALTH INSURANCE PURCHASING GROUPS

A major obstacle for making health insurance affordable to small employers is the fact that they generally pay higher premiums for comparable benefits than large employers. This is due in large measure to the fact that charges for administrative costs in premiums for small employers can be as high as 40 percent of claims. This contrasts with an average charge for large firms of 5.5 percent.

In order to help reduce the administrative costs associated with marketing and administering plans to small employers, title I also establishes a new grant program intended to encourage the development of health insurance purchasing groups for small employers. The program authorizes the Secretary of Health and Human Services to award grants to assist in the formation and initial operation of qualified small employer purchasing groups. The purchasing groups, consisting of a minimum of 100 small employers, would enter into health insurance contracts with insurance carriers, and would market and administer the products in order to provide health insurance for their employee members. The establishment of these purchasing groups should substantially reduce the cost of insurance to participating small businesses and to their employees.

My bill authorizes such sums as may be necessary to implement this provision. Similar proposals have included authorizations of up to $150 million per year.

MANAGED CARE PLAN RESTRICTIONS

Increasingly, managed care plans, such as health maintenance organizations and preferred provider organizations, are viewed as critical components to controlling the cost of care and increasing the affordability of coverage. Because these plans actually manage both the providers and the delivery of health care, they are able to better control costs.

Many States, however, have enacted restrictions on managed care plans which have hampered the ability of insurers to operate efficiently and effectively. To remedy this problem, the bill directs the Secretary of Health and Human Services to develop standards for approved managed care plans which meet the basic benefit requirements. The Secretary is to take into account the recommendations of the Managed

[9] Congressional Joint Committee on Taxation, March 1992.

Care Advisory Committee established in the bill. For those health plans which meet these standards, the bill would exempt them from State restrictions on managed care.

Key aspects of the bill I am introducing today focus on expanding primary and preventive health services, and enhancing the management of health care costs in several areas: First, enhancing consumer decision-making about their health care; second, reducing inefficient and unnecessary care; third, preventing disease and ill health, particularly low-birthweight births which result in costly neonatal care; fourth, expanding Federal health education and disease prevention programs among children from preschool through high school; fifth, improving efficiency by permitting access to the most appropriate providers and increasing the number of generalists physicians; sixth, encouraging the development of medical practice guidelines; and lastly, studying the feasibility of implementing health care expenditure targets.

TITLE II

PRIMARY AND PREVENTIVE HEALTH SERVICES

LOW BIRTHWEIGHT BABIES

While examining the issues that contribute to our health care crisis, I was struck by the fact that so much attention is being focused on treating the symptoms and so little on some of its root causes. Granted, our existing health care system suffers from some very serious structural problems. But there also are some commonsense steps we can take to head off problem before they reach crisis proportions. Subtitle A includes three initiatives which enhance primary and preventive care services aimed at preventing disease and ill health.

Each year about 7 percent, or 287,000, of the 4,100,000 American babies born in the United States are born of low birthweight, multiplying their risk of death and disability. Although the infant mortality rate in the United States fell to an all-time low in 1989, an increasing percentage of babies still are born of low-birthweight. The Executive Director of the National Commission to Prevent Infant Mortality, put it this way: More babies are being born at risk and all we are doing is saving them with expensive technology.''

It is a human tragedy for a child to be born weighing 16 ounces with attendant problems which last a lifetime. I first saw 1-pound babies in 1984, when I was astounded to learn that Pittsburgh, PA, had the highest infant mortality rate of African-American babies of any city in the United States. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a 1-pound baby, about as big as my hand.

It is tough enough coming into this world if you weigh 8 pounds 10 ounces, as I was reported to have weighed when I was born. If you weigh 16 or 20 ounces, it is a tragedy. Even if the child responds to the medical treatment and survives, the physical and developmental consequences of being born of such low weight last long into life.

Beyond the human tragedy of low birth weight there are the financial consequences. Low-birthweight children, those who weigh less than 5.5 pounds, account for 16 percent of all costs for initial hospitalization, rehospitalization, and special services up to age 35. The short- and long-term costs of saving and caring for infants of low birth weight is staggering. A study issued by the Office of Technology Assessment in 1988, concluded that $8 billion was expended in 1987 for the care of 262,000 low-birthweight infants in excess of that which would have been spent on an equivalent number of babies born of normal weight. Furthermore, the OTA estimated that for every low-birthweight birth averted by earlier or more frequent prenatal care, the U.S. health care system saves between $14,000 and $30,000 in the first year in addition to the projected savings in lifetime care.

The Department of Health and Human Services estimated that by reducing the number of children born of low-birthweight by 82,000 births, we could save between $1.1 billion and $2.5 billion per year.

The costs associated with low-birthweight babies obviously are more pronounced for those of exceptional low-birthweight, babies who weigh 2 pounds or less at birth. It is also a financial disaster. According to the National Association of Children's Hospitals, the costs of hospital care for a 1–2 pound baby range from $120,000 to $180,000 during their initial hospitalization, with a length of stay between 80 and 100 days.

We know that in most instances prenatal care is effective in preventing low-birthweight babies. Numerous studies have demonstrated that low-birthweight is associated with inadequate prenatal care or lack of prenatal care. To improve pregnancy outcomes for women at risk of low-birthweight, subtitle A authorizes the establishment of an innovative maternal and infant care coordination Federal grant program.

The program targets Federal resources to States to assist them in the development and implementation of coordinated, comprehensive primary health care, social services, and health and nutrition education for women at high risk for low-birthweight pregnancies. Participating States would be required to offer comprehensive services including:

Family planning counseling;

Pregnancy testing;

Prenatal care;

Delivery, intrapartum and postpartum care;

Pediatric care for infants, including in-home services for low-birthweight babies; and

Social services, including, outreach, home visits, child care, transportation, risk assessment, nutrition counseling, dental care, mental health services, substance abuse services, services relating to HIV infection, and prevention counseling.

States would coordinate to the maximum extent possible existing Federal and State resources, such as, Medicaid, WIC, and other maternal and child health programs. They also would be required to demonstrate that the major service providers, and community-based organizations involved in maternal and child health, are involved in the program. Finally, the grantees would need to demonstrate that health promotion and outreach activities under the State program are targeted to women of childbearing age, particularly those at risk for having low-birthweight babies.

At the suggestion of Dr. Koop, the program authorizes incentives of $500 for pregnant teenagers, women 19 years of age and under, who agree to enroll in prenatal care consisting of five prenatal and one postnatal care visit. Dr. Koop noted that the French once paid pregnant women to have such prenatal and postnatal visits, and this resulted in materially improving the health of French babies. While in an ideal world such an incentive payment should not be necessary, if it is effective, it is money well spent, both in humanitarian and economic terms.

HEALTH EDUCATION

The second initiative involves the provisions of comprehensive health education for our Nation's children. The Carnegie Foundation for the Advancement of Teaching recently conducted a survey of teachers. More than half of the respondents said that poor nourishment among students is a serious problem at their schools; 60 percent cited poor health as a serious problem. Another study issued last year by the Children's Defense Fund reported that children deprived of basic health care and nutrition are ill-prepared to learn. Both studies indicated that poor health and social habits are carried into adulthood and often passed on to the next generation.

To interrupt this tragic cycle this Nation must invest in proven preventive health education programs. My legislation includes two comprehensive health education and prevention initiatives.

The first focuses on elementary and secondary school students. To meet the needs of these children my bill establishes a $50 million program of grants to local educational agencies to develop and strengthen comprehensive health education programs. A portion of these funds could be used for curriculum development, teacher training, coordination, and program evaluation.

Drawn from the recommendations of the Carnegie Foundation's report entitled "Ready to Learn," this effort supports school-based instruction in health education. Through an integrated health curriculum, students advancing from grade to grade would be taught a range of health-related subjects, including nutrition, physical and emotional health, drug and alcohol abuse, accident prevention and safety, and environmental hazards. Throughout the course of study, special emphasis will be placed on prevention of chronic and communicable disease ranging from the basics of washing hands before meals to stopping the spread of AIDS and other sexually transmitted diseases.

About one million teenage girls each year risk their futures through early pregnancy and childbearing. My proposal would deal with this issue by teaching preteens prevention options, the consequences of becoming pregnant, responsibilities of parenting, and the challenges of child rearing.

As it stands now, over half of the teens who become pregnant receive no early prenatal care. My bill would provide information to these teens on the importance of nutrition during pregnancy, early prenatal care and effective use of health services and the health care delivery system. "This Nation", Dr. Ernest Boyer, of the Carnegie Foundation recently wrote, "simply must interrupt the cycle of ignorance that will have such tragic consequences for the coming generations. Today's students urgently need to be taught the facts of health—as well as the facts of life."

In order to lay the foundation for sound health and nutrition habits, however, we must begin when children are in their most formative years. As Dr. Koop has recently suggested, everything we do in public education is too late; we have neglected to focus on toddlers through kindergartners. "These early years in every child's life when preventive measures can actually stop a lifetime of poor health and poor prospects for learning, deserve our caring and nurturing attention."

The second phase of my proposal would address this issue by authorizing a $40 million grant program to be awarded to Head Start resource centers to support health education training programs for teachers and other day care workers. This amount, according to the Children's Defense Fund would provide sufficient funds for expansion of the current training program.

Head Start currently serves 722,000 children, or approximately 36 percent of the eligible 3-, 4-, and 5-year olds. My proposal would support training to enhance teacher skills and the development of a comprehensive health education curriculum at the preschool level. Expanding training to day care workers will support health and education instruction for preschool children who now receive little or no training in health and personal hygiene. By emphasizing the consequences of alcohol and drug use, seat belt safety, proper use of smoke detectors, and health and fitness, this initiative would instill in these young minds good behavior patterns which will have social as well as cost-saving benefits for the future. Other components of this effort will strengthen the role of parent involvement, ensure coordination, and the transition of students into the public school environment.

This Nation's children spend thousands of hours in day care, Head Start, and elementary and secondary schools. These experiences shape the quality of their lives. If a comprehensive health education program is begun in the early childhood programs and continued through the formative years, the health of the next generation, and succeeding generations, will be greatly improved and this Nation will be well on its way to solving a large part of the health care crisis.

Title II further expands the authorization for a variety of public health programs, such as breast and cervical cancer prevention, childhood immunizations, family planning, and community health centers. These existing programs are designed to improve the public health and prevent disease through primary and secondary prevention initiatives. It is essential that we invest more resources now in these programs if we are to make any substantial progress in reducing the costs of acute care in this country.

TITLE III

DISCLOSURE OF INFORMATION TO BENEFICIARIES UNDER MEDICARE & MEDICAID

The Nation's attention is focused today on improving the access to, and the financing of, health care for all Americans. These two issues cannot be resolved satisfactorily, however, without expanding the involvement of the consumer in decisionmaking and focusing on patient-centered care. This should include, at a minimum, a payment system that gives patients a choice of health care plans, physicians and nonphysician providers, and hospitals; access to the kind of patient information and education that allows informed choice; and rewards the practitioners and facilities that provide the type of care consumers choose. Consumers should compare hospitals and health care providers on price and performance, much as people compare mileage rating, service records, and sticker prices when they shop for automobiles.

A recent report issued by the Congressional Budget Office [CBO] on the economic implications of rising health care costs found that consumers lack information regarding the quality and cost of health care services. The CBO argued that this is a key factor in the increasing cost of care. According to the CBO, consumers do not have information about the full range of alternative treatments and prospective outcomes of treatment alternatives. Furthermore, consumers lack basic information about the cost of care that is required to make informed decisions about health care providers and procedures.

To address patient-centered care and increase consumer information and participation, my bill requires that institutional health care providers receiving payment for services provided under the Medicare and Medicaid Programs make an annual report available to the beneficiaries. The annual report would include: First, mortality rates relating to services provided to individuals, including incidence and outcomes of surgical and other invasive procedures; second, hospital-originated infection rates; third, a list of routine preoperative tests and other frequently performed medical tests and the cost of such tests; and fourth, the number and types of malpractice claims filed, decided or settled against the institution.

Each noninstitutional provider receiving Medicare and Medicaid payments is also required to make an annual report available to the beneficiaries. The annual report would include: First, provider's education, experience, qualifications, board certification, and a license to provide health care services; second, disciplinary actions taken against the provider by any health care facility, State medical agency, or medical organization which result in a finding of improper conduct; third, malpractice action taken against the provider resulting in verdict, judgment, or settlement; and fourth, a disclosure of any provider health care ownership.

Finally, all health care providers receiving payment under Medicare and Medicaid will be required to make certain information available to the patient prior to the performance of a procedure. The following information is required: First, the nature of the procedure or treatment; second, a description of the procedure or treatment; third, the risk and benefits associated with the procedure; fourth, the success rate for the procedure or treatment generally, and for the provider; fifth, the provider's cost range for the procedure; sixth, any alternative treatment which may be available; seventh, any know side effects of any medications required in connection with the procedure; and eighth, the interactive effect of the complete regimen of medications associated with the procedure.

TITLE IV

PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

It has become increasingly apparent that, despite the enactment of landmark legislation by the Congress in November 1990, added safeguards

should be enacted in order to assure that patients are not needlessly and unlawfully treated against their will.

In 1990, the Congress enacted the Patient Self-Determination Act [PSDA] as part of the Omnibus Budget Reconciliation Act of 1990. This legislation states, in summary, that health care providers must adopt written policies concerning adult patients' rights, under State law, to consent to, or to refuse, treatment. The statute states further that providers must adopt written policies concerning adult patients' rights under State law to formulate so-called advance directives—written instruments by which incapacitated patients may speak, despite incapacity, concerning their treatment wishes. Finally and most important, the Patient Self-Determination Act requires that health care providers inform patients of these rights in writing. Thus, the PSDA enlists the assistance of health care providers in educating patients concerning their rights under State law.

The Patient Self-Determination Act's reliance entirely on State law in defining the scope and extent of patients' rights appears to have given rise to at least two problems. First, in many States the full scope of patients' rights has not yet been clearly articulated by the legislatures or by the courts. A recent white paper issued by The Annenberg Washington Program of Northwestern University entitled "The Patient Self-Determination Act—Implementation Issues and Opportunities" supports this conclusion, stating:

> The Act relies on state law governing withdrawal and withholding of life-support, yet the status of such law in most states is confused and conflicting. * * * By pragmatically avoiding an effort to declare a uniform, national law regarding end-of-life decisions, the Act relies instead on vague and widely varying interpretations of the law in 51 separate jurisdictions.

As a result, health care providers are placed in an uncertain position with respect to their duty to notify patients, in writing, of their rights under the Patient Self-Determination Act. In short, in too many States, health care providers face great difficulty in informing patients of their rights since the precise scope of those rights has not yet been defined by State law.

A second problem which continues to surface is a product of the degree to which our society is mobile. In many States, the law on patient self-determination is relatively clear. For example, many States have adopted model "living will" and/or "Durable Power of Attorney for Health Care" forms which are recognized by health care providers throughout the State. Forms however, vary from State to State; there is no uniform national form.

As a result, there is, in the words of the Annenberg white paper, a portability problem. That is, patients continue to present in local hospitals out-of-State forms to document their treatment wishes. In cases where the patient is competent, such an out-of-State form may not present an insurmountable obstacle since such patients may always sign the in-State form provided to them when they are admitted to the health care facility. In many cases, however, patients who have signed out-of-State forms have lost the capacity to sign new forms.

In such cases, the health care provider again is placed in a highly tenuous position. Should the unfamiliar form be honored even though it differs from the form sanctioned by local law? Or should the patient's written wishes be disregarded due to legal technicality? If the patient's wishes are to be disregarded, who, then, is to make critical decisions concerning care? Such problems—which are not uncommon—could be avoided entirely by the creation of nationally recognized advance directive and "Durable Power of Attorney for Health Care" forms.

Title IV addresses these problems by first stating that the patient's right to self-determination, including the patient's personal right to decline treatment, shall be recognized in all States. This is a fundamental right of self-determination which has been sustained by the U.S. Supreme Court in its 1990 landmark decision in the Cruzan case. Second, it directs that the Secretary of Health and Human Services, in conjunction with the U.S. Attorney General, develop nationally recognized forms for advanced directives and "Durable Powers of Attorney for Health Care."

Uniformity and portability, however, are not the only issues left unresolved with the enactment of the Patient Self Determination Act. For example, the Annenberg white paper notes that despite the Patient Self Determination Act, patients still are reluctant to exercise their rights, and health care providers still are hesitant to honor those rights. Reinforcing the point, a special report in the New England Journal of Medicine, authored by a panel of distinguished physicians, nurses, ethicists, attorneys, and educators, concluded that despite "widespread agreement that (written) directives can have many benefits * * * few Americans have executed advance directives." Another recent study by the National Center for Health Statistics of the Public Health Service found that only 8.9 percent of decedents in 1986 had executed living wills.

This of course points out the need for educating both providers and patients on the need for, and use of, advanced directives and durable powers of attorney for health care and related end-of-life decisions. To improve the education of patients and providers, my bill directs the Secretary to examine a number of other issues related to the PSDA, such as, education and training of health care professionals and patients, ethical considerations, and the timing for initiating discussions with patients regarding their rights to determine their course of treatment. The bill requires that the Secretary report to the Congress within 180 days from enactment on these subjects. To educate patients, the bill also requires the periodic dissemination of information to Social Security beneficiaries when they receive their checks and to Medicare and Medicaid beneficiaries on the utility of such forms and related end-of-life decisions. Consideration has been given to distributing the forms to recipients; however, no provision has been included in this legislation awaiting hearings on this issue.

There has been no definitive study of the fraction of end-of-life care dollars which are spent on treatments which have been declined either verbally or by advance directives. A frequently cited 1978 health care financing review study reported that Medicare expenditures were 6.2 times higher per enrollee for people who died than for survivors. The 1.1 million Medicare beneficiaries who died that year consumed 27.9 percent of all Medicare expenditures. About 30 percent of expenditures for people who died were spent in the last 30 days of life and constituted 8 percent of total Medicare expenditures that year. In a 1985 update of the 1978 study, few changes were found. In 1985, 5.3 percent of the Medicare population died which accounted for 26.7 percent of expenditures. Assuming a conservative estimate that 5 to 10 percent of these costs are for unwanted care, nearly $3.5 billion could be saved from the projected costs of the Medicare Program in 1993.

Nonetheless, I believe that the conclusion of the Annenberg white paper, which states that greater respect for the patient's right to decline treatment could result in reduced health care costs, is valid.

Nothing in my bill mandates the use of uniform forms—their use would be completely voluntary. The point, however, is that terminal patients should have the option—uniformly recognized in each State—to decline unwanted care. A legitimate basis for action by the Federal Government would be to prohibit the expenditure of Federal funds under Medicare and Medicaid to providers who knowingly deliver care to patients contrary to written directive.

I believe unnecessary and unwanted expenses amount to billions of health care expenditures each year. It is crucial that reliable data be developed to evidence the magnitude of expense being incurred unnecessarily for unwanted treatment. This bill directs the Secretary to take steps necessary to develop these data.

TITLE V

PRIMARY CARE PROVIDERS

During my tenure on the Appropriations Subcommittee on Labor, Health and Human Services, and Education, I have met with many nurses and nurses' organizations and discussed with them our Nation's health care crisis and requested their recommendations for alleviating the problems of access and for reducing health care costs. Central to their recommendations is the provision of improved access to nurses as a means of advancing the Nation's health, increasing consumers' satisfaction with their care, and reducing health care costs.

Nurses have innovative solutions to some of health care's most pressing problems. Indeed, current health care trends, such as an aging population, increasing prevalence of chronic diseases, the AIDS epidemic, increased reliance on medical technologies, and the resultant problems from substance abuse, are increasing the strain on our national health resources, which demand new solutions.

I believe that effective utilization of nurse practitioners [NP's] and physician assistants [PA's] has the potential to increase access to health care, to increase efficiency in health care, and to provide cost savings. In a 1983 review of the literature on the impact of nurse practitioners, the American Nurses' Association [ANA] found consistently good conclusions about their cost effectiveness. Subsequent studies support ANA's report.

For example, in a report comparing direct-care providers, the Office of Technology Assessment recommends extending reimbursement to NP's, PA's, and certified-nurse midwives [CNM's] and believes that in some settings this "could benefit the health status of segments of the population currently not receiving appropriate care and that the long term effect could be a decrease in total costs." Although OTA did not stipulate the exact savings for the United States, they reported on the potential health care savings for Canada. OTA cites findings in 1980 by Canadian researchers that the utilization of NP's and PA's could result in 10–15 percent savings for all medical costs—or from $300 to $450 million. While no comparative studies are available in the United States, it is clear that the savings from utilization of these providers could amount to billions of dollars.

A more specific example of cost-effective quality nursing care is a study conducted by a group of University of Pennsylvania School of Nursing researchers, dealing with early discharge of very low birth-weight infants, with home followup by nurse specialists.[10] In this study, very low birth-weight infants were discharged from the hospital early and received home followup services from a master's prepared perinatal nurse specialist.

The group of infants was discharged a mean of 11 days earlier, 200 grams less in weight, and 2 weeks younger than those babies that remained in the hospital. There was also a mean savings of $18,560 per infant over conventional care.

In an era in which cost, quality, and access present increasingly difficult problems, NP's, PA's, and CNM's are an extremely valuable and untapped resource. In their 1992 report to Congress, the Physician Payment Review Commission stressed the importance of NP's, PA's, and CNM's in meeting the primary health care needs of underserved communities. Primary health care is a vital component in the delivery of health care. It includes identification, management, and referral of health problems, as well as promotion of health-maintaining behavior and prevention of illness.

These nonphysician providers evolved in response to shortages of primary health care providers in certain parts of the country. To encourage retention of these health care professionals and potentially attract more of them to shortage areas, the Commission recommended in their 1991 report to Congress that the Medicare bonus payment or approximately 10 percent over the established reimbursement amount be applied to the services of these providers in underserved urban and rural health care settings. This recommendation has been incorporated into my legislation. As high-quality, cost-effective health care providers these professionals are prepared to make a vital contribution to addressing our Nation's access and cost problems. Accordingly, the bill provides consumers access to services by nurse practitioners, clinical nurse specialists, certified nurse midwives, and physician assistants. These nonphysician providers would receive direct reimbursement through the Medicare and Medicaid Programs.

GENERALISTS PHYSICIANS

This subtitle also provides incentives to improve the supply of general physicians. There is a critical need for Congress not only to increase access to affordable health care services, but to assure that this Nation's citizens have an adequate supply of generalists physicians—primary care providers—family physicians, general internists, and general pediatricians. In testifying before Congress, Dr. Koop has stated that "if we are to control the skyrocketing cost of health care, we need to get a handle on the partition of generalists versus specialist." Dr. Koop maintains that "generalists seem able to function adequately as diagnosticians and therapists without resorting to overuse of resources now rather common among specialists."

The number of generalists physicians practicing in the United States has declined significantly over the last several years even though the need for their services has increased. According to a recent report issued by the Council on Graduate Medical Education, created by Congress in 1986 to advise the Department of Health and Human Services on improving the Nation's physician work force, only about one-third of all doctors today are family physicians, general internists, and pediatricians. The Federal advisory panel reported that only one-sixth of all medical school graduates are choosing to become generalists. This is a dramatic change from 1961, when the ratio was 50–50. The ratio began to shift in 1962 when health professionals began increasingly choosing to specialize.

The number of generalists physicians versus specialist physicians in other countries is far different than in our country. For example, in England, 73 percent of the physicians are generalists. In Germany and Belgium, the figures are 54 percent and 53 percent respectively. In Canada, where the Government funds universal health insurance, 47 percent of the physicians are generalists.

Despite a doubling of the physician population in the last 30 years, from 300,009 to 600,000, inner-city and rural areas continue to suffer from a critical shortage of physicians, making access to care extremely difficult. Today, 99 of the Nation's 126 medical schools have departments of family medicine. But this hasn't reversed the continuing trend toward specialization. In my home State of Pennsylvania, 1990 data for family practice graduates reflects the national average: University of Pennsylvania 3.3 percent, Pittsburgh's Medical School 8.2 percent, Medical College of Pennsylvania 10 percent, Pennsylvania State 3.8 percent, Temple University 8.6 percent, Hahnemann Medical College 2.6 percent, and Jefferson Medical School 14.4 percent.

Given the critical improvement of the generalists physician to the health and welfare of our country, this legislation would enact several important reforms to encourage medical students to pursue training as general physicians.

First, the bill realigns the Federal financial support for graduate medical education [GME] under the Medicare Program in order to encourage residency training of generalists physicians. Currently, the Medicare Program provides payments only to hospitals and hospital-owned clinics for the direct and indirect cost of training medical residents. Under my bill, eligibility to receive payment for approved direct medical education costs is expanded to include all hospital and nonhospital public and nonprofit private entities that sponsor approved medical residency training programs. Thus, health maintenance organizations,

[10] D. Brooten, S. Kumar, et al., "A randomized clinical trial of early hospital discharge and home follow up of very low birth-weight infants," New England Journal of Medicine, 1986.

clinics, and physicians practices who train generalists physicians would now be eligible to receive Medicare GME payments.

Direct GME support payments would be limited to residents in the first three years of postgraduate training. Medicare support for the indirect costs of GME would also be extended to qualified noninpatient services provided in all sites affiliated with approved medical residency programs in family medicine, general medicine, and general pediatrics. Expanding these payments will create more avenues for the training of residents as generalist physicians.

Second, the bill authorizes a new Federal health professions grant program in the area of the generalists physician. The program is designed to increase medical students' involvement in the community to encourage them to continue in general medicine, increase the profile of family practice, pediatrics, and general internal medicine among undergraduate and high-school-age students considering the medical profession as a career through mentor relationships, and demonstrate effective means of increasing the percentage of medical school students graduating as generalists physicians. The program authorizes grants to accredited schools of medicine to pay medical students, specializing in primary care, to tutor public high school students in the areas of math and science. The funds also would support medical students involved in health promotion and disease prevention activities in community settings. This interaction is crucial if we are to elevate the status of the generalists within the community and to increase the future supply of primary care physicians. This interaction will also serve to heighten the medical students' comprehension of the real problems of children and their families, and the challenge of teaching health as opposed to just treating disease.

The new program also authorizes the Secretary to award grants to eligible medical schools, hospitals, and nonprofit entities to demonstrate effective strategies for increasing the number of medical school students graduating as generalists physicians. It is essential that effective strategies be developed to overcome the growing trend toward specialty medicine.

Finally, in the 102d Congress, we enacted the Health Professions Education Extension Amendments of 1992—Public Law 102-408. The act authorizes the Secretary to develop a direct medical student loan program which provides low interest loans to encourage medical students and residents to enter primary health care; for example, family medicine, general internal medicine, general pediatrics, preventive medicine, or osteopathic general practice. The act authorizes appropriations of $15 million to capitalize the fund. As the ranking member of the Labor, HHS, and Education Appropriations Subcommittee, I intend to press for the maximum appropriation to get this program under way in the next fiscal year.

TITLE VI

MEDICARE PREFERRED PROVIDER DEMONSTRATION PROJECTS

In October of 1990, I visited a Pennsylvania health care company. After touring the facility, I discussed with company officials their methods of containing costs. They reported that in their experience the key to improving quality and controlling health care costs is the management of specialty care. Such services are expensive, are associated with significant complications, show considerable small area variation, and frequently fail to meet the appropriateness of care criteria.

Successful management of these costs have yielded savings of an estimated 20 percent. Furthermore, they reported their cost savings strategy could be replicated and applied to federally supported programs, such as Medicare and Medicaid. A suggestion was made to initiate a Medicare demonstration program to test the efficacy of a coordinated care network for Medicare beneficiaries which manages the use of specialty care.

I subsequently have met with other providers from Pennsylvania who have adopted and found success in managed care approaches to containing health care costs and improving the quality of care. On several occasions, I raised this matter with former Secretary Sullivan with the view that the Department undertake a pilot program to test this approach with Medicare beneficiaries. On October 31, 1990, I sent a letter to the Secretary suggesting this approach be tested as a pilot program. Again, on April 8, 1991, I wrote the Secretary raising the matter of undertaking a model Medicare coordinated care demonstration program. I also raised the pilot program with the Secretary during a January 23, 1992, meeting regarding health care reform, and during the Secretary's appearance before the Labor, HHS, and Education Appropriations Subcommittee on May 12 of last year. While the Secretary expressed support for the concept, no demonstration has yet been undertaken by the Department.

In the meantime, Medicare expenditures have increased at an alarming rate. Despite the introduction of the hospital prospective payment system, Medicare spending will have grown from $34 billion in 1980 to an estimated $131 billion by 1993. Without reform, Medicare will grow at an average rate of 12 percent per year. It is estimated that Medicare will exceed 27 percent of the Federal budget by the year 2025.

Coordinated care plans have shown promise for providing the management necessary to control the volume and intensity of specialty services. A number of studies have reported cost savings of up to 30 percent with the use of managed care contrasted with fee-for-service plans. Assuming cost reductions of just 10 percent, it would yield a decrease in the projected expenditures for the Medicare Program in 1993 of $13 billion. A 20-percent reduction would yield savings of twice the amount, or $26 billion.

The Medicare Program, however, has not seen the rapid expansion of managed care found in the private sector. Only 7 percent, or 2.1 million, of Medicare beneficiaries participate in Medicare HMO's; this is contrasted with a participation of 27 percent in the private sector.

The reasons for the low participation rate are not clear. What is needed is a series of projects to demonstrate a Medicare managed care program which effectively recruits participants and provides cost effective quality care. These demonstration projects would combine the new Medicare part B fee schedule with a specialty provider network with three managed care components: The monitoring of physician and nonphysician provider performance; the provision of individual incentives for quality improvement and the coordination patient care; and health promotion activities.

Accordingly, title VI directs the Secretary of Health and Human Services to institute up to 10 pilot projects within 1 year after enactment to test the efficacy of establishing these coordinated networks of primary and specialty care providers. The network of providers would be selected and monitored based on quality and appropriateness of care measures.

This approach has successfully been implemented in the private sector. I am convinced these management principles can be applied to Medicare beneficiaries, and can both control Medicare costs and improve the quality of care delivered to Medicare patients.

TITLE VII

COST CONTAINMENT

In fiscal year 1990, the National Institutes of Health had approved, but was not able to fund, over $110 million in major new clinical trials. This underfunding of clinical trials occurred in spite of the social and economic costs of the leading diseases. For example, Alzheimer's disease has societal costs of $88 billion compared to $290 million in federally funded research; heart disease has societal costs of $94 billion compared to $704 million in federally funded research; cancer, including breast, cervical, ovarian, and prostate cancers, has societal costs of $72 billion compared to $2 billion in federally funded research; AIDS societal costs $66 billion compared to $1.1 billion in federally funded research.

Title VII specifically authorizes a program at the National Institutes of

Health to expand support for clinical trials on promising new drugs and disease treatments. Priority will be given to the most costly diseases and those impacting the most number of people.

Rapid development and diffusion of technologies is a component of our high-technology health care system. Our ability to produce more health care devices and procedures is going beyond our knowledge of when and how they should be used. There is also extensive variation in our physician's practice patterns as well as the resultant health care outcomes. The problem of increasing technology and proliferation of high-technology services within our health care system contributes to the high, and rapidly rising, health care costs. There exists a potential that medical practice research may address these concerns and reduce health care costs and improve quality.

In an article which appeared in the Washington Post last year regarding the need for fundamental reform of the health care system, Dr. Koop stated:

The scientific basis of medicine is much weaker than most patients or even physicians realize, and this leads to treatment based on uncertainty.* * * We need to undertake a systematic well-funded program of outcomes research to enable patients and physicians to know the outcomes of all medical treatments. If we allocated about one-fourth of a cent of each insurance dollar to fund outcomes research, we would achieve lower costs and higher quality health care for everyone.

In this context the Rand Corporation has looked at several major, expensive health care procedures. Their study convened panels of physicians to examine their colleagues' decisions on procedures, such as coronary artery bypass, upper GI tract endoscopy, and coronary angiography. The panels found rates of inappropriate care ranging from 14 to 32 percent. A former editor-in-chief of the New England Journal of Medicine, Dr. Marcia Angell, has stated that at least 20 to 30 percent of all care delivered by well-meaning physicians in good hospitals is either inappropriate, ineffective, or unnecessary.

No one knows with any degree of certainty the cost of waste in the health care system; however, based on the above-mentioned items, estimates range from 10 to 30 percent. It is reasonable to expect that accelerating the development and implementation of medical practice guidelines will help eliminate much of these unnecessary costs. Furthermore, while no precise savings can be projected, it seems reasonable to assume they will achieve savings of at least 10 to 20 percent, or between $8 to $16 billion, as discussed in the summary.

Accordingly, title VII establishes a trust fund for medical effectiveness research. The trust fund will be financed by implementing a .001 percent—one-tenth of 1 cent—surcharge on all health insurance premiums. Based on the Congressional Budget Office's estimate that in 1992 private health insurance premiums totaled $254 billion, this surcharge would result in a $254 million outcome research fund—compared to the approximately $70 million appropriated for fiscal year 1993. This would dramatically increase the level of effort in this country to define effective medical treatment, including establishing medical practice guidelines on the conditions for which there is found to be a wide variation in current medical practice. These systematically developed guidelines will assist the practitioner and the patient in decisions about appropriate health care.

Finally, title VII establishes the Health Care Cost Control Advisory Committee to make recommendations to the Congress regarding the development of national spending targets for health care and health care services. In November 1991, I participated in a joint hearing of the Special Committee on Aging and the Government Affairs Committee regarding strategies of cutting the cost of health care. Witnesses at the hearing testified concerning the fact that health care expenditures in the United States continue to increase at a rate well above inflation. The percent of our country's gross domestic product devoted to health care grew from 7.3 percent in 1970 to 14 percent in 1992. The Congressional Budget Office projects that for the year 2000 health care costs will consume 18 percent of the Nation's economic output.

In contrast, other industrialized nations have had some success at limiting the growth in health care expenditures by establishing caps and targets for health care spending and for the payment of services. A General Accounting Office report, released on November 15, 1991, found that France, Germany, and Japan have implemented health care spending targets and caps and have successfully lowered the rate of increase in health care costs. In Germany, for example, the report found that spending caps had reduced expenditures by as much as 17 percent below what would have been spent on physician care without the caps.

While I am opposed to capping health care spending, my bill would create an advisory committee to explore the feasibility of implementing national spending targets. The bill directs the Secretary of Health and Human Services to issue a report to the Congress regarding establishing national spending targets for health care and health care services as a means of controlling health care costs. The report is to be prepared after the Secretary's consideration of the recommendations of the Health Care Cost Control Advisory Committee. The committee is to be comprised of representatives from the provider communities, organized labor, business, academia, and private insurers.

TITLE VIII

HOME NURSING CARE

Addressing the growing need for, and the high cost of, long-term care is essential for achieving meaningful health care reform. According to the Congressional Research Service [CRS], in 1988, the country spent $43 billion on nursing home care. The Health Care Financing Administration [HCFA] estimates that total spending for nursing home care will grow from almost $36 billion in 1985 to $129 billion by the year 2000. Only 1 percent of these costs were paid for by private insurance while 48 percent were paid for out of pocket. With both the population over age 65 rapidly rising and the average life expectancy increasing, our country faces an ever-growing need for appropriate and cost-effective long-term care which the present system is ill equipped to handle.

Unfortunately, few but the wealthiest of Americans can afford the exorbitant costs of extended nursing home stays. In my travels throughout my home State of Pennsylvania, I have visited with residents of long-term care facilities and their families, and have heard about their personal tragedies in having their homes and all of their savings depleted by nursing home stays. I responded by introducing legislation in 1991, which is being incorporated as title III of this bill, to help Americans plan for, and afford, their families' long-term care needs. The legislation also assists individuals dependent on medical assistance for their health care to get appropriate long-term care.

Title VIII includes: First, creating tax credits for the purchase of long-term care insurance and tax deductions for amounts paid toward long-term care services of family members; second, excluding life insurance and IRA savings used to pay for long-term care from income tax; third, implementing an "extraordinary cost protection provision" by expanding Medicaid to include coverage of any individual, excluding the wealthiest Americans, who has been confined to a nursing home for at least 30 months; and fourth, setting standards that require long-term care insurance and State Medicaid Programs to provide home and community-based care benefits as alternatives to nursing home care to eliminate the current bias that favors institutional care over other, often less costly, alternatives.

This plan sets a starting point for addressing this important issue confronting millions of families. I support comprehensive long-term care which provides access to services based on need rather than age, cause of disability or income level; covers social and medical services aimed at maximizing functional independence; provides support—financial and other—to assist rather than supplant home and community caregivers; and offers a range of

choices for long-term care that are culturally appropriate.

CONCLUSION

The provisions which I have outlined today contain the framework for providing affordable health care for all Americans. I am opposed to rationing health care. I do not want it for myself, for my family, or for America. The question is whether we have essential resources—doctors and other health care providers, hospitals, pharmaceutical products, et cetera—to provide medical care for all Americans. I am confident that we do.

I welcome comments and suggestions on the provisions of this bill. I am fully prepared to consider modifications warranted by the facts, and I look forward to hearings and debate on the concepts and proposals herein which will lead to final legislation.

In my judgment, we should not scrap, but build on our current health delivery system. I believe that we can provide care for the 37 million Americans who are now not covered and reduce the cost of health care for those who are now covered within the $838 billion a year which is now being expended for health coverage.

With the savings projected in this bill, I believe we can provide comprehensive affordable health care to all Americans. If experience shows that cannot be done, I am prepared to extend Medicare and Medicaid and to provide tax credits and deductions for the purchase of health insurance to those who cannot be covered within these initiatives and the projected savings.

It is obvious that the total answer to the health care issue will not be achieved immediately or easily but time has come—if not already passed—for concerted action on this subject.

I understand and acknowledge that there are many controversial issues presented in this bill and I am open to suggestions on possible modifications. I urge the congressional leadership, including the appropriate committee chairmen, to move this legislation and other health care bills forward promptly.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 18

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Health Care Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—HEALTH CARE INSURANCE REFORM PROVISIONS

Subtitle A—Model Health Care Insurance Benefits Plan

Sec. 101. Model health care insurance benefits plan.
Sec. 102. Definitions.

Subtitle B—Managed Care

Sec. 111. Development of standards for managed care plans.
Sec. 112. Preemption of provisions relating to managed care.

Subtitle C—Small Employer Purchasing Groups

Sec. 121. Qualified small employer purchasing groups.
Sec. 122. Preemption from insurance mandates for small employer purchasing groups.

Subtitle D—Insurance Market Reform

Sec. 131. Failure to satisfy certain standards for health care insurance provided to small employers.

Subtitle E—Deduction for Health Insurance Costs of Self-Employed Individuals

Sec. 141. Increase in deductible health insurance costs for self-employed individuals.

TITLE II—PRIMARY AND PREVENTIVE CARE SERVICES

Sec. 201. Maternal and infant care coordination.
Sec. 202. Reauthorization of certain programs providing primary and preventive care.
Sec. 203. Comprehensive school health education program.
Sec. 204. Comprehensive early childhood health education program.

TITLE III—DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS

Sec. 301. Regulations requiring disclosure of certain information to beneficiaries under the medicare and medicaid programs.
Sec. 302. Outreach activities.

TITLE IV—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

Sec. 401. Right to decline medical treatment.
Sec. 402. Federal right enforceable in Federal courts.
Sec. 403. Suicide and homicide.
Sec. 404. Rights granted by States.
Sec. 405. Effect on other laws.
Sec. 406. Information provided to certain individuals.
Sec. 407. Recommendations to the Congress on issues relating to a patient's right of self-determination.
Sec. 408. Effective date.

TITLE V—PRIMARY AND PREVENTIVE CARE PROVIDERS

Sec. 501. Increasing payments to certain nonphysician providers under the Medicare program.
Sec. 502. Requiring coverage of certain nonphysician providers under the Medicaid program.
Sec. 503. Medical student tutorial program grants.
Sec. 504. General medical practice grants.
Sec. 505. Payments for direct and indirect graduate medical education costs.

TITLE VI—MEDICARE PREFERRED PROVIDER DEMONSTRATION PROJECTS

Sec. 601. Establishment of Medicare primary and specialty preferred provider organization demonstration projects.

TITLE VII—COST CONTAINMENT

Sec. 701. New drug clinical trials program.
Sec. 702. Medical treatment effectiveness.
Sec. 703. Health care cost control—expenditure targets.

TITLE VIII—LONG-TERM CARE

Subtitle A—Tax Treatment of Qualified Long-Term Care Insurance Policies

Sec. 801. Amendment of 1986 Code.
Sec. 802. Definitions of qualified long-term care insurance and premiums.
Sec. 803. Treatment of qualified long-term care insurance as accident and health insurance for purposes of taxation of insurance companies.
Sec. 804. Treatment of accelerated death benefits under life insurance contracts.

Subtitle B—Tax Incentives for Purchase of Qualified Long-Term Care Insurance

Sec. 811. Credit for qualified long-term care premiums.
Sec. 812. Deduction for expenses relating to qualified long-term care.
Sec. 813. Exclusion from gross income of benefits received under qualified long-term care insurance.
Sec. 814. Employer deduction for contributions made for long-term care insurance.
Sec. 815. Inclusion of qualified long-term care insurance in cafeteria plans.
Sec. 816. Exclusion from gross income for amounts withdrawn from individual retirement plans and section 401(k) plans for qualified long-term care premiums and expenses.
Sec. 817. Exclusion from gross income for amounts received on cancellation of life insurance policies and used for qualified long-term care insurance.
Sec. 818. Use of gain from sale of principal residence for purchase of qualified long-term health care insurance.

Subtitle C—Medicaid Amendments

Sec. 821. Expansion of Medicaid eligibility for long-term care benefits.
Sec. 822. Effective date.

TITLE I—HEALTH CARE INSURANCE REFORM PROVISIONS

Subtitle A—Model Health Care Insurance Benefits Plan

SEC. 101. MODEL HEALTH CARE INSURANCE BENEFITS PLAN.

(a) IN GENERAL.—The Secretary shall request that the NAIC—

(1) develop a model health care insurance benefits plan that shall contain standards that entities offering health care insurance policies should meet with respect to the benefits and coverage provided under such policies, and

(2) report to the Secretary on such standards, not later than 1 year after the date of the enactment of this Act.

If the NAIC develops such a plan by such date and the Secretary finds that such plan implements the requirements of subsection (c), such plan shall be the model health care insurance benefits plan under this Act.

(b) ROLE OF THE SECRETARY IN ABSENCE OF NAIC PLAN.—If the NAIC fails to develop and report a model health care insurance benefits plan by the date specified in subsection (a) or the Secretary finds that such plan does not implement the requirements of subsection (c), the Secretary shall develop and publish such a plan, by not later than 18 months after the date of the enactment of this Act. Such plan shall then be the plan under this Act.

(c) CONTENTS.—The standards under the model benefits plan should require—

(1) that coverage be provided under health care insurance policies for basic hospital, medical and surgical services, including preventive care services, mental health services, and other ancillary services determined appropriate by the Secretary;

(2) reasonable cost sharing by the beneficiaries under such policies; and

(3) appropriate copayments and deductibles.

SEC. 102. DEFINITIONS.

As used in this title:

(1) HEALTH CARE INSURANCE.—The term "health care insurance" means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, multiple employer welfare arrangement, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1974), or any other health insurance arrangement, and includes an employment-related reinsurance plan, but does not include—

(A) a self-insured health care insurance plan; or

(B) any of the following offered by an insurer—

(i) accident only, dental only, or disability income only insurance,

(ii) coverage issued as a supplement to liability insurance,

(iii) worker's compensation or similar insurance, or

(iv) automobile medical-payment insurance.

(2) MANAGED CARE PLAN.—The term "managed care plan" means a health care insurance plan in which the insurer offering such plan utilizes the recommended standards developed under section 111 concerning the benefits and coverage under such plan.

(3) MODEL BENEFITS PLAN.—The term "model benefits plan" means the model health care insurance benefits plan developed under section 101(a).

(4) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(6) SMALL EMPLOYER.—

(A) IN GENERAL.—The term "small employer" means any employer which, on an average business day during the preceding taxable year, had more than 2 but less than 100 employees.

(B) EMPLOYEE.—The term "employee" shall not include—

(i) a self-employed individual as defined in section 401(c)(1) of the Internal Revenue Code of 1986, or

(ii) an employee who works less than 20 hours per week.

Subtitle B—Managed Care

SEC. 111. DEVELOPMENT OF STANDARDS FOR MANAGED CARE PLANS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary, taking into account recommendations of the Managed Care Advisory Committee, shall develop recommended standards that insurers offering managed care plans should meet with respect to the benefits, coverage, and delivery systems provided under such plans. Such standards shall encompass the standards by which managed care entities operate.

(b) MANAGED CARE ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There shall be established a Managed Care Advisory Committee (hereinafter referred to as the "Committee").

(2) MEMBERSHIP.—The Committee shall be composed of individuals appointed by the Secretary, representing the following:

(A) Consumers.

(B) Physicians.

(C) Nurses.

(D) Hospitals.

(E) Community-based providers.

(F) Organizations delivering managed care services.

(G) Academia (with specific expertise in managed care plans).

(H) Business management.

(I) Organized labor.

(3) COMPENSATION.—

(A) IN GENERAL.—Members of the Committee shall serve without compensation.

(B) EXPENSES, ETC., REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the 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 Government service.

(C) APPLICATION OF ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

SEC. 112. PREEMPTION OF PROVISIONS RELATING TO MANAGED CARE.

In the case of a managed care plan meeting the recommended standards developed under section 111 that is offered by an insurer, the following provisions of State law are preempted and may not be enforced against the managed care plan with respect to an insurer offering such plan:

(1) RESTRICTIONS ON REIMBURSEMENT RATES OR SELECTIVE CONTRACTING.—Any law that restricts the ability of the insurer to negotiate reimbursement rates with health care providers or to contract selectively with one provider or a limited number of providers.

(2) RESTRICTIONS ON DIFFERENTIAL FINANCIAL INCENTIVES.—Any law that limits the financial incentives that the managed care plan may require a beneficiary to pay when a nonplan provider is used on a nonemergency basis.

(3) RESTRICTIONS ON UTILIZATION REVIEW METHODS.—

(A) IN GENERAL.—Any law that—

(i) prohibits utilization review of any or all treatments and conditions;

(ii) requires that such review be made by a resident of the State in which the treatment is to be offered or by an individual licensed in such State, or by a physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered;

(iii) requires the use of specified standards of health care practice in such review or requires the disclosure of the specific criteria used in such review;

(iv) requires payments to providers for the expenses of responding to utilization review requests; or

(v) imposes liability for delays in performing such review.

(B) CONSTRUCTION.—Nothing in subparagraph (A)(ii) shall be construed as prohibiting a State from requiring that utilization review be conducted by a licensed health care professional, or requiring that any appeal from such a review be made by a licensed physician or by a licensed physician in any particular specialty or with any board certified specialty of the same medical specialty as the provider whose services are being rendered.

(4) RESTRICTIONS ON BENEFITS.—Any law that mandates benefits under the managed care plan that are greater than the benefits recommended under the standards developed under section 111.

Subtitle C—Small Employer Purchasing Groups

SEC. 121. QUALIFIED SMALL EMPLOYER PURCHASING GROUPS.

(a) DEFINED.—For purposes of this title, an entity is a qualified small employer purchasing group if—

(1) the entity submits an application to the Secretary at such time, in such form and containing such information as the Secretary may require; and

(2) on the basis of information contained in the application and any other information the Secretary may require, the Secretary determines that—

(A) the entity is administered solely under the authority and control of its member employers;

(B) the membership of the entity consists solely of small employers (except that an employer member of the group may retain its membership in the group if, after the Secretary determines that the entity meets the requirements of this subsection, the number of employees of the employer member increases to more than 100);

(C) with respect to each State in which its members are located, the entity consists of not fewer than 100 employers;

(D) at the time the entity submits its application, the health care insurance plans with respect to the employer members of the entity are in compliance with applicable State laws and the model benefits plan relating to such plans;

(E) the health care insurance plans of the entity and the employer members of the entity are not self-insured plans;

(F) each enrollee in the program of the entity may enroll with any participating carrier that offers health care insurance coverage in the geographic area in which the enrollee resides; and

(G) such entity will be a nonprofit entity; and

(3) such entity has a board of directors as described in subsection (b) with authority to act as described in subsection (c).

(b) OPERATIONS.—A small employer purchasing group shall be administered by a board of directors. The members of such board shall be elected by the employers that are members of the group, and such board members shall serve at the pleasure of the majority of such employers.

(c) DUTIES OF BOARD.—

(1) IN GENERAL.—The board shall have the authority to—

(A) enter into contracts with carriers to provide health care insurance coverage to eligible employees and their dependents;

(B) enter into other contracts as are necessary or proper to carry out the provisions of this subtitle;

(C) employ necessary staff;

(D) appoint committees as necessary to provide technical assistance in the operation of the entity's program;

(E) assess participating employers a reasonable fee for necessary costs in connection with the program;

(F) undertake activities necessary to administer the program including marketing and publicizing the program and assuring carrier, employer, and enrollee compliance with program requirements;

(G) issue rules and regulations necessary to carry out the purpose of this subtitle; and

(H) accept and expend funds received through fees, grants, appropriations, or other appropriate and lawful means.

(2) PROGRAM MANAGEMENT.—

(A) GEOGRAPHIC AREAS OF COVERAGE.—The board shall establish geographic areas within which participating carriers may offer health care insurance coverage to eligible employees and dependents. The board shall contract with sufficient numbers and types of carriers in an area to assure that employees have a choice from among a reasonable number and type of competing health care insurance carriers.

(B) CONTRACT REQUIREMENTS.—

(i) IN GENERAL.—The board shall enter into contracts with qualified carriers for the purpose of providing health care insurance coverage to eligible employees and dependents, and shall pay qualified carriers on at least a monthly basis at the contracted rates.

(ii) GENERAL QUALIFICATIONS OF CARRIERS.—Participating carriers shall be qualified if such carriers have—

(I) adequate administrative management,

(II) financial solvency, and

(III) the ability to assume the risk of providing and paying for covered services.

A participating carrier may utilize reinsurance, provider risk sharing, and other appropriate mechanisms to share a portion of the risk described in subclause (III). The board may establish risk adjustment mechanisms that can be utilized to address circumstances where a participating carrier has a significantly disproportionate share of high risk or low risk enrollees based upon valid data provided by the carrier. Any such risk adjustment mechanism may be developed and applied only after consultation with the participating carriers.

(C) PROGRAM STANDARDS.—The board shall require that participating carriers that contract with or employ health care providers shall have mechanisms to accomplish at least the following, satisfactory to the program:

(i) Review the quality of care covered.

(ii) Review the appropriateness of care covered.

(iii) Provide accessible health services.

(D) UNIFORMITY OF BENEFITS.—The board shall assure that participating carriers—

(i) shall offer substantially similar benefits to enrollees in the program, except that enrollees cost sharing required by participating carriers may vary according to the basic method of operation of the carrier, and

(ii) shall not vary rates to small employers or enrollees in the program on account of claim experience, health status, or duration from issue.

(E) PAYMENT MECHANISM.—The board shall establish a mechanism to collect premiums from small employers, including remittance of the enrollee's share of the premium.

(3) NOTIFICATION OF PROGRAM BENEFITS.—The board shall use appropriate and efficient means to notify employers of the availability of sponsored health care insurance coverage under the program. The board shall make available marketing materials which accurately summarize the carriers' insurance plans and rates which are offered through the program. A participating carrier may contract with an agent or broker to provide marketing, advertising, or presentation proposals or otherwise disseminate information regarding coverage or services or rates offered in connection with the program.

(4) CONDITIONS OF PARTICIPATION.—

(A) IN GENERAL.—The board shall establish conditions of participation for small employers and enrollees that—

(i) assure that the entity is a valid small employer purchasing group and is not formed for the purpose of securing health care insurance coverage;

(ii) assure that individuals in the group are not added for the purpose of securing such coverage;

(iii) require that a specified percentage of employees and dependents obtain health care insurance coverage;

(iv) require minimum employer contributions; and

(v) require prepayment of premiums or other mechanisms to assure that payment will be made for coverage.

(B) MINIMUM PARTICIPATION.—The board may require participating employers to agree to participate in the program for a specified minimum period of time and may include in any participation agreements with employers a requirement for a financial deposit or provision for a financial penalty, which would be invoked in the event the employer violates the participation agreement.

(d) GRANTS.—

(1) AUTHORITY.—The Secretary may award grants to qualified small employer purchasing groups to assist such groups in paying the expenditures associated with the formation and initial operations of such groups.

(2) APPLICATION.—To be eligible to receive a grant under this subsection, a qualified small employer purchasing group shall request such a grant as part of the application submitted by such group under subsection (a)(1).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for awarding grants under this subsection such sums as may be necessary.

(e) FREEDOM OF CONTRACT.—Nothing in this subtitle shall be construed to prohibit a participating carrier from offering health care insurance coverage to small employers that are not participating in the program of a small employer purchasing group.

SEC. 122. PREEMPTION FROM INSURANCE MANDATES FOR SMALL EMPLOYER PURCHASING GROUPS.

(a) FINDING.—The Congress finds that qualified small employer purchasing groups organized for the purpose of obtaining health insurance for the employer members of such groups affect interstate commerce.

(b) PREEMPTION OF STATE MANDATES.—In the case of a qualified small employer purchasing group, no provision of State law shall apply that requires the offering, as part of the health care insurance plan with respect to an employer member of such a group, of any services, category of care, or services of any class or type of provider that is in excess of that recommended under the model benefit plan.

Subtitle D—Insurance Market Reform

SEC. 131. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH CARE INSURANCE PROVIDED TO SMALL EMPLOYERS.

(a) IN GENERAL.—Subchapter L of chapter 1 of the Internal Revenue Code of 1986 (relating to insurance companies) is amended by adding at the end thereof the following new part:

"PART IV—HEALTH CARE INSURANCE PROVIDED TO SMALL EMPLOYERS

"Sec. 850. Failure to satisfy standards for health care insurance of small employers.

"Sec. 850A. General issuance requirements.

"Sec. 850B. Specific contractual requirements.

"Sec. 850C. State compliance agreements.

"Sec. 850D. Definitions and other rules.

"SEC. 850. FAILURE TO SATISFY CERTAIN STANDARDS FOR HEALTH CARE INSURANCE OF SMALL EMPLOYERS.

"(a) GENERAL RULE.—No health insurance contract issued to an eligible small employer shall be treated as a contract for purposes of section 807 or 832 if the issuer of such a contract fails to meet at any time during any taxable year—

"(1) the general issuance requirements of section 850A, or

"(2) the specific contractual requirements of section 850B.

"(b) LIMITATION.—

"(1) SECTION NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—Subsection (a) shall not apply with respect to any failure for which it is established to the satisfaction of the Secretary that the person described in such subsection did not know, or exercising reasonable diligence would not have known, that such failure existed.

"(2) SECTION NOT TO APPLY WHERE FAILURES CORRECTED WITHIN 30 DAYS.—Subsection (a) shall not apply with respect to any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons described in such subsection knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive the application of subsection (a).

"SEC. 850A. GENERAL ISSUANCE REQUIREMENTS.

"(a) GENERAL RULE.—The requirements of this section are met if a person meets—

"(1) the mandatory policy requirements of subsection (b),

"(2) the guaranteed issue requirements of subsection (c), and

"(3) the mandatory registration and disclosure requirements of subsection (d).

"(b) MANDATORY POLICY REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if any person issuing a health care insurance contract to any eligible small employer makes available to such employer a health care insurance contract which—

"(A) provides benefits and coverage consistent with the model health care insurance benefits plan developed under section 101 of the Comprehensive Health Care Act of 1993, and

"(B) is for a term of not less than 12 months.

"(2) PRICING AND MARKETING REQUIREMENTS.—The requirements of paragraph (1) are not met unless—

"(A) the price at which the contract described in paragraph (1) is made available is not greater than the price for such contract determined on the same basis as prices for other health care insurance contracts within the same class of business made available by the person to eligible small employers, and

"(B) such contract is made available to eligible small employers using at least the marketing methods and other sales practices which are used in selling such other contracts.

"(c) GUARANTEED ISSUE.—

"(1) IN GENERAL.—The requirements of this subsection are met if the person offering health care insurance contracts to eligible small employers issues such a contract to any eligible small employer seeking to enter into such a contract.

"(2) FINANCIAL CAPACITY EXCEPTION.—Paragraph (1) shall not require any person to issue a health care insurance contract to the extent that the issuance of such contract would result in such person violating the financial solvency standards (if any) established by the State in which such contract is to be issued.

"(3) DELIVERY CAPACITY EXCEPTION.—Paragraph (1) shall not require any person to issue a health care insurance contract to the extent that the issuance of such contract would result, upon demonstration to the Secretary, in such person exceeding such person's administrative capacity to serve previously enrolled groups and individuals (and additional individuals who will be expected to enroll because of affiliation with such previously enrolled groups).

"(4) EXCEPTION FOR CERTAIN EMPLOYERS.—Paragraph (1) shall not apply to a failure to issue a health care insurance contract to an eligible small employer if—

"(A) such employer is unable to pay the premium for such contract, or

"(B) in the case of an eligible small employer with fewer than 15 employees, such employer fails to enroll a minimum percentage of the employer's eligible employees for coverage under such contract, so long as such percentage is enforced uniformly for all eligible small employers of comparable size.

"(5) EXCEPTION FOR ALTERNATIVE STATE PROGRAMS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply if the State in which the health care insurance contract is issued—

"(i) has a program which—

"(I) assures the availability of health care insurance contracts to eligible small employers through the equitable distribution of high risk groups among all persons offering such contracts to such employers, and

"(II) is consistent with a model program developed by the NAIC;

"(ii) has a qualified State-run reinsurance program, or

"(iii) has a program which the Secretary of Health and Human Services has determined assures all eligible small employers in the State an opportunity to purchase a health care insurance contract without regard to any risk characteristic.

"(B) REINSURANCE PROGRAM.—

"(i) PROGRAM REQUIREMENTS.—For purposes of subparagraph (A)(ii), a State-run reinsurance program is qualified if such program is one of the NAIC reinsurance program models developed under clause (ii) or is a variation of one of such models, as approved by the Secretary of Health and Human Services.

"(ii) MODELS.—Not later than 120 days after the date of the enactment of the Comprehensive Health Care Act of 1993, the NAIC shall develop several models for a reinsurance program, including options for program funding.

"(d) MANDATORY REGISTRATION AND DISCLOSURE REQUIREMENTS.—The requirements of this subsection are met if the person offering health care insurance contracts to eligible small employers in any State—

"(1) registers with the State commissioner or superintendent of insurance or other State authority responsible for regulation of health insurance,

"(2) fully discloses the rating practices for small employer health care insurance contracts at the time such person offers a health care insurance contract to an eligible small employer, and

"(3) fully discloses the terms for renewal of the contract at the time of the offering of such contract and at least 90 days before the expiration of such contract.

"SEC. 850B. SPECIFIC CONTRACTUAL REQUIREMENTS.

"(a) GENERAL RULE.—The requirements of this section are met if the following requirements are met:

"(1) The coverage requirements of subsection (b).

"(2) The rating requirements of subsection (c).

"(b) COVERAGE REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met with respect to any health care insurance contract if, under the terms and operation of the contract, the following requirements are met:

"(A) GUARANTEED ELIGIBILITY.—No eligible employee (and the spouse or any dependent child of the employee eligible for coverage) may be excluded from coverage under the contract.

"(B) LIMITATIONS ON COVERAGE OF PREEXISTING CONDITIONS.—Any limitation under the contract on any preexisting condition—

"(i) may not extend beyond the 6-month period beginning with the date an insured is first covered by the contract, and

"(ii) may only apply to preexisting conditions which manifested themselves, or for which medical care or advice was sought or recommended, during the 3-month period preceding the date an insured is first covered by the contract.

"(C) GUARANTEED RENEWABILITY.—

"(i) IN GENERAL.—The contract must be renewed at the election of the eligible small employer unless the contract is terminated for cause.

"(ii) CAUSE.—For purposes of this subparagraph, the term 'cause' means—

"(I) nonpayment of the required premiums;

"(II) fraud or misrepresentation of the employer or, with respect to coverage of individual insureds, the insureds or their representatives;

"(III) noncompliance with the contract's minimum participation requirements;

"(IV) noncompliance with the contract's employer contribution requirements; or

"(V) repeated misuse of a provider network provision in the contract.

"(2) WAITING PERIODS.—Paragraph (1)(A) shall not apply to any period an employee is excluded from coverage under the contract solely by reason of a requirement applicable to all employees that a minimum period of service with the employer is required before the employee is eligible for such coverage.

"(3) DETERMINATION OF PERIODS FOR RULES RELATING TO PREEXISTING CONDITIONS.—For purposes of paragraph (1)(B), the date on which an insured is first covered by a contract shall be the earlier of—

"(A) the date on which coverage under such contract begins, or

"(B) the first day of any continuous period—

"(i) during which the insured was covered under one or more other health insurance arrangements, and

"(ii) which does not end more than 120 days before the date employment with the employer begins.

"(4) CESSATION OF SMALL EMPLOYER HEALTH INSURANCE BUSINESS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a person shall not be treated as failing to meet the requirements of paragraph (1)(C) if such person terminates the class of business which includes the health care insurance contract.

"(B) NOTICE REQUIREMENT.—Subparagraph (A) shall apply only if the person gives notice of the decision to terminate at least 90 days before the expiration of the contract.

"(C) 5-YEAR MORATORIUM.—If, within 5 years of the year in which a person terminates a class of business under subparagraph (A), such person establishes a new class of business, the issuance of such contracts in that year shall be treated as a failure to which this section applies.

"(D) TRANSFERS.—If, upon a failure to renew a contract to which subparagraph (A) applies, a person offers to transfer such contract to another class of business, such transfer must be made without regard to risk characteristics.

"(c) RATING REQUIREMENTS.—

"(1) IN GENERAL.—The requirements of this subsection are met if—

"(A) the requirements of paragraphs (2) and (3) are met, and

"(B) any increase in any premium rate under the renewal contract over the corresponding rate under the health care insurance contract being renewed does not exceed the applicable annual adjusted increase.

"(2) LIMIT ON VARIATION OF PREMIUMS BETWEEN CLASSES OF BUSINESS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the index rate for a rating period for any class of business of the insurer does not exceed the index rate for any other class of business by more than 20 percent.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to a class of business if—

"(i) the class is one for which the insurer does not reject, and never has rejected, eligible small employers included within the class of business or otherwise eligible employees and dependents who enroll on a timely basis, based upon risk characteristics,

"(ii) the insurer does not transfer, and never has transferred, a health care insurance contract involuntarily into or out of the class of business, and

"(iii) the class of business is currently available for purchase.

"(3) LIMIT ON VARIATION IN PREMIUM RATES WITHIN A CLASS OF BUSINESS.—The requirements of this paragraph are met if the premium rates charged during a rating period to eligible small employers with similar case characteristics (other than risk characteristics) for the same or similar coverage, or the rates which could be charged to such employers under the rating system for that class of business, do not vary from the index rate by more than 20 percent of the index rate.

"(4) APPLICABLE ANNUAL ADJUSTED INCREASE.—For purposes of paragraph (1)(B)—

"(A) IN GENERAL.—The applicable annual adjusted increase is an amount equal to the sum of—

"(i) the applicable percentage of the premium rate under the health care insurance contract being renewed, plus

"(ii) any increase in the rate under the renewal contract due to any change in coverage or to any change of case characteristics (other than risk characteristics), plus

"(iii) 5 percentage points.

"(B) APPLICABLE PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the applicable percentage is the percentage (if any) by which—

"(I) the premium rate for newly issued contracts for substantially similar coverage for an employer with similar case characteristics (other than risk characteristics) as the employer under the health care insurance contract (determined on the 1st day of the rating period applicable to such contracts), exceeds

"(II) such rate on the 1st day of the rating period applicable to the contract being renewed.

"(ii) CASES WHERE NO NEW BUSINESS.—If no new contracts are being issued for a class of business during any rating period, the applicable percentage shall be the percentage (if any) by which the base premium rate determined under paragraph (5)(B) with respect to the renewal contract exceeds such rate for the contract to be renewed.

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

"(A) INDEX RATE.—The term 'index rate' means, with respect to a class of business, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate for that class.

"(B) BASE PREMIUM RATE.—The term 'base premium rate' means, for each class of business for each rating period, the lowest premium rate which could have been charged under a rating system for that class of business by the insurer to eligible small employers with similar case characteristics (other than risk characteristics) for health care insurance contracts with the same or similar coverage.

"SEC. 850C. STATE COMPLIANCE AGREEMENTS.

"(a) AGREEMENTS.—The Secretary of Health and Human Services may enter into an agreement with any State—

"(1) to apply the standards set by the NAIC for health care insurance contracts in lieu of the requirements of this subchapter, and

"(2) to provide for the State to make the initial determination as to whether a person is in compliance with such standards for purposes of applying the sanctions under section 850.

"(b) STANDARDS.—An agreement may be entered into under subsection (a)(1) only if—

"(1) the chief executive officer of the State requests that such agreement be entered into,

"(2) the Secretary of Health and Human Services determines that the NAIC standards to be applied under the agreement will carry out the purposes of this subchapter, and

"(3) the Secretary determines that the NAIC standards to be applied under the agreement will apply to substantially all health care insurance contracts issued in such State to eligible small employers.

"(c) TERMINATION.—The Secretary of Health and Human Services shall terminate any agreement if the Secretary determines that the application of NAIC standards by the State ceases to carry out the purposes of this subchapter.

"(d) NAIC STANDARDS.—Not later than 270 days after the date of the enactment of the Comprehensive Health Care Act of 1993, the NAIC shall develop standards which provide for requirements substantially similar to the requirements of this subchapter.

"SEC. 850D. DEFINITIONS AND OTHER RULES.

"For purposes of this part—

"(1) HEALTH CARE INSURANCE.—The term 'health care insurance' means any hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, health maintenance subscriber contract, multiple employer welfare arrangement, other employee welfare plan (as defined in the Employee Retirement Income Security Act of 1974), or any other health insurance arrangement, and includes an employment-related reinsurance plan, but does not include—

"(A) a self-insured health care insurance plan; or

"(B) any of the following offered by an insurer—

"(i) accident only, dental only, or disability income only insurance,

"(ii) coverage issued as a supplement to liability insurance,

"(iii) worker's compensation or similar insurance, or

"(iv) automobile medical-payment insurance.

"(2) CLASS OF BUSINESS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'class of business' means, with respect to health care insurance provided to eligible small employers, all health care insurance provided to such employers.

"(B) ESTABLISHMENT OF GROUPINGS.—

"(i) IN GENERAL.—An issuer may establish separate classes of business with respect to health care insurance provided to eligible small employers but only if such classes are based on one or more of the following:

"(I) Business marketed and sold through persons not participating in the marketing and sale of such insurance to other eligible small employers.

"(II) Business acquired from other insurers as a distinct grouping.

"(III) Business provided through an association of not less than 20 eligible small employers which was established for purposes other than obtaining insurance.

"(IV) Business related to managed care plans (as defined in section 102(2) of the Comprehensive Health Care Act of 1993.

"(V) Any other business which the Secretary of Health and Human Services determines needs to be separately grouped to prevent a substantial threat to the solvency of the insurer.

"(ii) EXCEPTION ALLOWED.—Except as provided in subparagraph (C), an insurer may not establish more than one distinct group of eligible small employers for each category specified in clause (i).

"(C) SPECIAL RULE.—An insurer may establish up to 2 groups under each category in subparagraph (A) or (B) to account for differences in characteristics (other than differences in plan benefits) of health insurance plans that are expected to produce substantial variation in health care costs.

"(3) CHARACTERISTICS.—

"(A) IN GENERAL.—The term 'characteristics' means, with respect to any insurance rating system, the factors used in determining rates.

"(B) RISK CHARACTERISTICS.—The term 'risk characteristics' means factors related to the health risks of individuals, including health status, prior claims experience, the duration since the date of issue of a health insurance plan or arrangement, industry, and occupation.

"(C) GEOGRAPHIC FACTORS.—

"(i) IN GENERAL.—In applying geographic location as a characteristic, an insurer may not use for purposes of this subchapter areas smaller than 3-digit postal zip code areas.

"(ii) STUDY AND REPORT.—Not later than 120 days after the date of the enactment of the Comprehensive Health Care Act of 1993, the Comptroller General of the United States shall study and report to the Congress concerning—

"(I) insurance industry practices in determining the geographic boundaries of communities used for setting rates,

"(II) the feasibility and desirability of establishing standardized geographic communities for setting rates, and

"(III) the effect such standardized geographic communities would have on rates charged small employers.

"(4) ELIGIBLE SMALL EMPLOYER.—

"(A) IN GENERAL.—The term 'eligible small employer' means any person which, on an average business day during the preceding taxable year, had more than 2 but less than 50 employees.

"(B) AGGREGATION RULES.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person.

"(C) EMPLOYEE.—The term 'employee' shall not include—

"(i) a self-employed individual as defined in section 401(c)(1), or

"(ii) an employee who works less than 20 hours per week.

"(5) NAIC.—The term 'NAIC' means the National Association of Insurance Commissioners.".

(b) CONFORMING AMENDMENT.—Subchapter L of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"Part IV. Health Care Insurance Provided to Small Employers."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to contracts issued, or renewed, after the date of the enactment of this Act.

(2) GUARANTEED ISSUE.—The provisions of section 850A(c) of the Internal Revenue Code of 1986, as added by this section, shall apply to contracts which are issued, or renewed, after the date which is 18 months after the date of the enactment of this Act.

(3) PREMIUM RANGE.—In the case of any contract in effect on the date of the enactment of this Act, the provisions of section 850B(c)(1)(A) of such Code, as added by this section, shall not apply to the premiums under such contract or any renewal contract for benefits provided during the period beginning on such date and ending on the last day of the 2nd plan year beginning after such date.

Subtitle E—Deduction for Health Insurance Costs of Self-Employed Individuals

SEC. 141. INCREASE IN DEDUCTIBLE HEALTH INSURANCE COSTS FOR SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (1) of section 162(l) of the Internal Revenue Code of 1986 (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "25 percent" and inserting "100 percent".

(b) REPEAL OF TERMINATION PROVISION.—Paragraph (6) of section 162(l) of such Code (relating to termination) is repealed.

(c) CONFORMING AMENDMENT.—Section 110(a) of the Tax Extension Act of 1991 is amended by striking paragraph (2).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1992.

TITLE II—PRIMARY AND PREVENTIVE CARE SERVICES

SEC. 201. MATERNAL AND INFANT CARE COORDINATION.

(a) PURPOSE.—It is the purpose of this section to assist States in the development and

implementation of coordinated, multidisciplinary, and comprehensive primary health care and social services, and health and nutrition education programs, designed to improve maternal and child health.

(b) GRANTS FOR IMPLEMENTATION OF PROGRAMS.—

(1) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") is authorized to award grants to States to enable such States to plan and implement coordinated, multidisciplinary, and comprehensive primary health care and social service programs targeted to pregnant women and infants.

(2) ELIGIBILITY.—To be eligible to receive a grant under this section, a State shall—

(A) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

(B) provide assurances that under the program established with amounts received under a grant, individuals will have access (without any barriers) to comprehensive family planning counseling, pregnancy testing, prenatal care, delivery, intrapartum and postpartum care, pediatric care for infants, and social services as appropriate, including outreach activities, home visits, child care, transportation, risk assessment, nutrition counseling, dental care, mental health services, substance abuse services, services relating to HIV infection, and prevention counseling;

(C) provide assurances that under the program individuals will have access, without any barriers, to the full range of pediatric services provided by pediatric nurse practitioners and clinical nurse specialists, including in-home services for low birth weight babies;

(D) as part of the State application, submit a plan for providing incentive payments of up to $500 to pregnant women who—

(i) have not attained age 20;

(ii) are at risk of having low birth weight babies;

(iii) agree to attend not less than 5 prenatal visits and 1 postnatal visit; and

(iv) agree to attend a requisite number of prenatal care and parenting classes, as determined by the State;

(E) as part of the State application, submit a plan for the coordination and maximization of existing and proposed Federal and State resources, including amounts provided under the medicaid program under title XIX of the Social Security Act, the special supplemental food program under section 17 of the Child Nutrition Act of 1966, family planning programs, substance abuse programs, State maternal and child health programs funded under title V of the Social Security Act, community and migrant health center programs under the Public Health Service Act, and other publicly, or where practicable, privately supported programs;

(F) demonstrate that the major service providers to be involved, including private nonprofit entities committed to improving maternal and infant health, are committed to and involved in the program to be funded with amounts received under the grant;

(G) with respect to States with high infant mortality rates among minority populations, demonstrate the involvement of major health, multiservice, professional, or civic group representatives of such minority groups in the planning and implementation of the State program; and

(H) demonstrate that health promotion and outreach activities under the State program are targeted to women of childbearing age, particularly those at risk for having low birth weight babies.

(3) TERM OF GRANT.—A grant awarded under this subsection shall be for a period of 5 years.

(4) USE OF AMOUNTS.—Amounts received by a State under a grant awarded under this subsection shall be used to establish a State program to provide coordinated, multidisciplinary, and comprehensive primary health care and social services, and health and nutrition education program services, that are designed to improve maternal and child health.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $100,000,000 for fiscal year 1994, $300,000,000 for fiscal year 1995, and $500,000,000 for each of the fiscal years 1996 through 1998.

(c) MODEL HEALTH AND NUTRITION EDUCATION CURRICULA.—

(1) AUTHORITY.—The Secretary, in conjunction with the Secretary of Education and the Secretary of Agriculture, is authorized to award grants, on a competitive basis, to public or nonprofit private entities to enable such entities to develop model health and nutrition education curricula for children in grades kindergarten through twelfth.

(2) APPLICATION.—To be eligible to receive a grant under paragraph (1), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(3) CURRICULA.—Curricula developed under paragraph (1) should be consistent with the goals of "Healthy People 2000: National Health Promotion and Disease Prevention Objectives", published by the Department of Health and Human Services in September 1990, and shall address the cultural and lifestyle realities of racial and ethnic minority populations.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $10,000,000 for fiscal year 1994.

SEC. 202. REAUTHORIZATION OF CERTAIN PROGRAMS PROVIDING PRIMARY AND PREVENTIVE CARE.

(a) IMMUNIZATION PROGRAMS.—Section 317(j)(1)(A) of the Public Health Service Act (42 U.S.C. 247b(j)(1)(A)) is amended—

(1) by striking "and such sums" and inserting "such sums"; and

(2) by striking "each of the fiscal years 1992 through 1995" and inserting "each of the fiscal years 1992 and 1993, $380,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

(b) TUBERCULOSIS PREVENTION GRANTS.—Section 317(j)(2) of the Public Health Service Act (42 U.S.C. 247b(j)(2)) is amended—

(1) by striking "and such sums" and inserting "such sums"; and

(2) by striking "each of the fiscal years 1992 through 1995" and inserting "each of the fiscal years 1992 and 1993, $30,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

(c) SEXUALLY TRANSMITTED DISEASES.—Section 318(d)(1) of the Public Health Service Act (42 U.S.C. 247c(d)(1)) is amended—

(1) by striking "and such sums" and inserting "such sums"; and

(2) by inserting before the first period the following: "$125,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

(d) MIGRANT HEALTH CENTERS.—Section 329(h)(1)(A) of the Public Health Service Act (42 U.S.C. 254b(h)(1)(A)) is amended by striking "and 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994" and inserting "through 1993, $80,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

(e) COMMUNITY HEALTH CENTERS.—Section 330(g)(1)(A) of the Public Health Service Act (42 U.S.C. 254c(g)(1)(A)) is amended by striking "and 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994" and inserting "through 1993, $700,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

(f) HEALTH CARE SERVICES FOR THE HOMELESS.—Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended by striking "and such sums" and all that follows through the period and inserting "$90,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.".

(g) FAMILY PLANNING PROJECT GRANTS.—Section 1001(d) of the Public Health Service Act (42 U.S.C. 300(d)) is amended—

(1) by striking "and $158,400,000" and inserting "$158,400,000"; and

(2) by inserting before the period the following: ", $200,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

(h) BREAST AND CERVICAL CANCER PREVENTION.—Section 1509(a) of the Public Health Service Act (42 U.S.C. 300n–5(a)) is amended—

(1) by striking "and such sums" and inserting "such sums"; and

(2) by striking "for each of the fiscal years 1992 and 1993" and inserting "for each of the fiscal years 1992 and 1993, $100,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

(i) PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "$205,000,000" and inserting "$235,000,000".

(j) HIV EARLY INTERVENTION.—Section 2655 of the Public Health Service Act (42 U.S.C. 300ff–55) is amended—

(1) by striking "and such sums" and inserting "such sums"; and

(2) by striking "each of the fiscal years 1992 through 1995" and inserting "each of fiscal years 1992 and 1993, $310,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998".

(k) MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking "$686,000,000 for fiscal year 1990 and each fiscal year thereafter" and inserting "$800,000,000 for fiscal year 1994, and such sums as may be necessary in each of the fiscal years 1995 through 1998".

SEC. 203. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAM.

Section 4605 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3155) is amended to read as follows:

"SEC. 4605. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

"(a) PURPOSE.—It is the purpose of this section to establish a comprehensive school health education and prevention program for elementary and secondary school students.

"(b) PROGRAM AUTHORIZED.—The Secretary, through the Office of Comprehensive School Health Education established in sub-

section (d), shall award grants to States to enable such States to—

"(1) award grants to local or intermediate educational agencies, and consortia thereof, to enable such agencies or consortia to establish, operate and improve local programs of comprehensive health education and prevention, early health intervention, and health education, in elementary and secondary schools (including preschool, kindergarten, intermediate, and junior high schools); and

"(2) develop training, technical assistance and coordination activities for the programs assisted pursuant to paragraph (1).

"(c) USE OF FUNDS.—Grant funds under this section may be used to improve elementary and secondary education in the areas of—

"(1) personal health and fitness;

"(2) prevention of chronic diseases;

"(3) prevention and control of communicable diseases;

"(4) nutrition;

"(5) substance use and abuse;

"(6) accident prevention and safety;

"(7) community and environmental health;

"(8) mental and emotional health;

"(9) parenting and the challenges of raising children; and

"(10) the effective use of the health services delivery system.

"(d) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary shall establish within the Office of the Secretary an Office of Comprehensive School Health Education which shall have the following responsibilities:

"(1) To recommend mechanisms for the coordination of school health education programs conducted by the various departments and agencies of the Federal Government.

"(2) To advise the Secretary on formulation of school health education policy within the Department of Education.

"(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

(e) Reservations and State Allotments.

(a) RESERVATIONS.—Except as provided in subsection (c), from the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs;

(2) 1 percent for programs for Indian youth under section 5133;

(3) 0.2 percent for programs for Hawaiian natives under section 5134;

(4) 8 percent for programs with institutions of higher education under section 5131;

(5) 3.5 percent for Federal activities under section 5132; and

(6) 4.5 percent for regional centers under section 5135.

(b) STATE ALLOTMENTS.—(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

(3) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 and 1996 to carry out this section.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) in any fiscal year shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.".

SEC. 204. COMPREHENSIVE EARLY CHILDHOOD HEALTH EDUCATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to establish a comprehensive early childhood health education program.

(b) PROGRAM.—The Secretary of Health and Human Services shall conduct a program of awarding grants to agencies conducting Head Start training to enable such agencies to provide training and technical assistance to Head Start teachers and other child care providers. Such program shall—

(1) establish a training system through the Head Start agencies and organizations conducting Head Start training for the purpose of enhancing teacher skills and providing comprehensive early childhood health education curriculum;

(2) enable such agencies and organizations to provide training to day care providers in order to strengthen the skills of the early childhood workforce in providing health education;

(3) provide technical support for health education programs and curricula; and

(4) provide cooperation with other early childhood providers to ensure coordination of such programs and the transition of students into the public school environment.

(c) USE OF FUNDS.—Grant funds under this section may be used to provide training and technical assistance in the areas of—

(1) personal health and fitness;

(2) prevention of chronic diseases;

(3) prevention and control of communicable diseases;

(4) dental health;

(5) nutrition;

(6) substance use and abuse;

(7) accident prevention and safety;

(8) community and environmental health;

(9) mental and emotional health; and

(10) strengthening the role of parent involvement.

(d) RESERVATION FOR INNOVATIVE PROGRAMS.—The Secretary shall reserve 5 percent of the funds appropriated pursuant to the authority of subsection (e) in each fiscal year for the development of innovative model health education programs or curricula.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $40,000,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 and 1996 to carry out this section.

TITLE III—DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS

SEC. 301. REGULATIONS REQUIRING DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"DISCLOSURE OF CERTAIN INFORMATION TO BENEFICIARIES UNDER THE MEDICARE AND MEDICAID PROGRAMS

"SEC. 1144. (a) ANNUAL REPORTS.—

"(1) INSTITUTIONAL HEALTH CARE PROVIDERS.—

"(A) IN GENERAL.—The Secretary shall issue regulations requiring that each institutional health care provider receiving payment for services provided under title XVIII or XIX shall make an annual report available to the recipients of services under such title.

"(B) CONTENTS OF REPORT.—The annual report referred to in subparagraph (A) shall include—

"(i) mortality rates relating to services provided to individuals, including incidence and outcomes of surgical and other invasive procedures;

"(ii) nosocomial infection rates;

"(iii) a list of routine preoperative tests and other frequently performed medical tests, including blood tests, chest x-rays, magnetic resonance imaging, computerized axial tomography, urinalysis, and heart catherizations, and the cost of such tests;

"(iv) the number and types of malpractice claims against the provider decided or settled for the year; and

"(v) such other information as the Secretary shall require.

"(2) NONINSTTITUTIONAL HEALTH CARE PROVIDERS.—

"(A) IN GENERAL.—The Secretary shall issue regulations requiring that each noninstitutional provider receiving payment for services provided under title XVIII or XIX shall make an annual report available to the recipients of services under such title.

"(B) CONTENTS OF REPORT.—The report referred to in subparagraph (A) shall include—

"(i) information regarding the provider's education, experience, qualifications, board certification, and license to provide health care services, including a list of the States in which such provider is licensed and any limitations on such provider's license;

"(ii) any disciplinary actions taken against the provider by any health care facility, State medical agency, or medical organization which result in a finding of improper conduct;

"(iii) any malpractice action against the provider decided or settled;

"(iv) a disclosure of any ownership interest the provider may have in any health care facility, laboratory, or health care supply company; and

"(v) such other information as the Secretary shall require.

"(b) DISCLOSURE OF INFORMATION REGARDING HEALTH CARE PROCEDURES AND FORMS.—

"(1) INFORMATION REGARDING HEALTH CARE PROCEDURES AND FORMS.—The Secretary shall issue regulations requiring that each institutional and noninstitutional health care provider receiving payment for services under title XVIII or XIX shall make available any forms required in connection with the receipt of services under such title which consist of any diagnostic, surgical, or other invasive procedure, prior to the performance of such procedure.

"(2) INFORMATION PROVIDED BEFORE PERFORMANCE OF PROCEDURE.—The Secretary shall issue regulations requiring each institutional and noninstitutional health care provider receiving payment for services provided under title XVIII or XIX to disclose to any individual receiving any surgical, palliative, or other health care procedure or any drug therapy or other treatment, the following information prior to the performance of such procedure or treatment:

"(A) The nature of the procedure or treatment.

"(B) A description of the procedure or treatment.

"(C) The risk and benefits associated with the procedure or treatment.

"(D) The success rate for the procedure or treatment generally, and for the provider.

"(E) The provider's cost range for the procedure or treatment.

"(F) Any alternative treatment which may be available to such individual.

"(G) Any known side effects of any medications required in connection with the procedure or treatment.

"(H) The interactive effect of the complete regimen of medications associated with the procedure.

"(I) The availability of the information under this subsection and under subsections (a) and (c).

"(J) Such other information as the Secretary shall require.

"(3) EMERGENCIES.—The Secretary shall issue regulations with respect to the waiver of any requirement established under paragraphs (1) and (2) in a case where emergency health care is needed.

"(c) PATIENT'S RIGHT TO REFUSE INFORMATION AND TREATMENT.—The Secretary shall issue regulations requiring each institutional and noninstitutional health care provider receiving payment for services provided under title XVIII or XIX to inform any individual receiving services under such title of such individual's right—

"(1) to refuse any information which is available to such individual under the regulations described in subsections (a) and (b);

"(2) to refuse any procedure or treatment;

"(3) to refuse attendance by any such provider; or

"(4) to leave the premises of any such provider.

"(d) DEFINITIONS.—As used in this section—

"(1) INSTITUTIONAL HEALTH CARE PROVIDER.—The term 'institutional health care provider' means any hospital, clinic, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, hospice program, or other facility receiving payment for services provided under title XVIII or XIX, as determined by the Secretary.

"(2) NONINSTITUTIONAL HEALTH CARE PROVIDER.—The term 'noninstitutional health care provider' means any physician, physician assistant, nurse practitioner, certified nurse midwife, certified registered nurse anesthetist, or other individual receiving payment for services provided under title XVIII or XIX, as determined by the Secretary.

"(e) COMPLIANCE.—

"(1) PENALTIES FOR FAILURE TO COMPLY.—The Secretary shall issue regulations establishing appropriate penalties for any failure to comply with the regulations issued under this section.

"(2) WAIVER OF COMPLIANCE.—The Secretary may waive any of the requirements under the regulations issued under this section if a health care provider demonstrates that such requirements will result in an undue burden on such provider.".

SEC. 302. OUTREACH ACTIVITIES.

(a) MEDICARE PROGRAM.—

(1) GRANTS TO NONPROFIT PRIVATE ENTITIES FOR OUTREACH ACTIVITIES.—

(A) AUTHORITY.—The Secretary of Health and Human Services (hereafter referred to in this paragraph as the "Secretary"), is authorized to award grants, on a competitive basis, to nonprofit private entities to enable such entities to develop outreach activities to inform beneficiaries under title XVIII of the Social Security Act of the information available to such beneficiaries pursuant to regulations issued by the Secretary under section 1144 of the Social Security Act as added by section 311 of this Act.

(B) APPLICATION.—To be eligible to receive a grant under subparagraph (A), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1994, $5,000,000 for fiscal year 1995, and $5,000,000 for fiscal year 1996.

(2) OUTREACH THROUGH NOTICE OF MEDICARE BENEFITS.—Section 1804 of the Social Security Act (42 U.S.C. 1395b–2) is amended—

(A) in paragraph (2), by striking ", and" and inserting a comma,

(B) in paragraph (3), by striking the period and inserting ", and", and

(C) by inserting after paragraph (3), the following new paragraph:

"(4) a description of the information available to beneficiaries under this title pursuant to regulations issued by the Secretary under section 1144.".

(b) MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), is amended—

(A) by striking "and" at the end of paragraph (54),

(B) by striking the period at the end of paragraph (58) (as added by section 4751(a)(1)(C) of the Omnibus Budget Reconciliation Act of 1990) and inserting a semicolon,

(C) by redesignating the second paragraph (58) (as added by section 4752(c)(1)(C) of the Omnibus Budget Reconciliation Act of 1990) as paragraph (59) and by striking the period at the end and inserting "; and", and

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

"(60) provide for an outreach program informing individuals who receive medical assistance under this title of the information available to such individuals pursuant to regulations issued by the Secretary under section 1144.".

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Paragraph (1) shall apply to calendar quarters beginning on or after January 1, 1994.

(B) GENERAL RULE.—In the case of a State which the Secretary determines requires State legislation (other than legislation authorizing or appropriating funds) in order to comply with paragraph (1), the State shall not be regarded as failing to comply with such paragraph solely on the basis of its failure to meet the requirements of such paragraph before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

TITLE IV—PATIENT'S RIGHT TO DECLINE MEDICAL TREATMENT

SEC. 401. RIGHT TO DECLINE MEDICAL TREATMENT.

(a) RIGHTS OF COMPETENT ADULTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State may not restrict the right of a competent adult to consent to, or to decline, medical treatment.

(2) LIMITATIONS.—

(A) AFFECT ON THIRD PARTIES.—A State may impose limitations on the right of a competent adult to decline treatment if such limitations protect third parties (including minor children) from harm.

(B) TREATMENT WHICH IS NOT MEDICALLY INDICATED.—Nothing in this section shall be construed to require that any individual be offered, or that any individual may demand, medical treatment which the health care provider does not have available, or which is futile, or which is otherwise not medically indicated.

(b) RIGHTS OF INCAPACITATED ADULTS.—

(1) IN GENERAL.—Notwithstanding incapacity, each adult has a right to consent to, or to decline, medical treatment. Except as provided in subsection (a)(2)(A), States may not restrict the right to consent to, or to decline, medical treatment as exercised by an adult through the documents specified in this subsection, or through similar documents or other written methods of directive which clearly and convincingly evidence the adult's treatment choices.

(2) ADVANCE DIRECTIVES AND POWERS OF ATTORNEY.—

(A) IN GENERAL.—In order to facilitate the communication, despite incapacity, of an adult's treatment choices, the Secretary of Health and Human Services (hereafter in this title referred to as the "Secretary"), in consultation with the Attorney General, shall develop a national advance directive form that—

(i) shall not limit or otherwise restrict, except as provided in subsection (a)(2)(A), an adult's right to consent to, or to decline, medical treatment; and

(ii) shall, at a minimum—

(I) provide the means for an adult to declare such adult's own treatment choices in the event of a terminal condition;

(II) provide the means for an adult to declare, at such adult's option, treatment choices in the event of other conditions (such as persistent vegetative state) which are chronic and debilitating, which are medically incurable, and from which such adult likely will not recover; and

(III) provide the means by which an adult may, at such adult's option, declare such adult's wishes with respect to all forms of medical treatment, including forms of medical treatment such as the provision of nutrition and hydration by artificial means which may be, in some circumstances, relatively nonburdensome.

(B) NATIONAL DURABLE POWER OF ATTORNEY FORM.—The Secretary, in consultation with the Attorney General, shall develop a national durable power of attorney form for health care decisionmaking. The form shall provide a means for any adult to designate another adult or adults to exercise the same decisionmaking powers which would, under State law, otherwise be exercised by next of kin.

(C) HONORED BY ALL HEALTH CARE PROVIDERS.—The national advance directive and durable power of attorney forms developed by the Secretary shall be honored by all health care providers.

(D) LIMITATIONS.—No individual shall be required to execute an advance directive.

This title makes no presumption concerning the intention of an individual who has not executed an advance directive. An advance directive shall be sufficient, but not necessary, proof of an adult's treatment choices with respect to the circumstances addressed in the advance directive.

(3) DEFINITION.—For purposes of this subsection, the term "incapacity" means the inability to understand the nature and consequences of health care decisions (including the intended benefits and foreseeable risks of, and alternatives to, proposed treatment options), and to reach informed decisions concerning health care. Individuals who are incapacitated include adjudicated incompetents and individuals who have not been adjudicated incompetent but who, nonetheless, lack the capacity to formulate or communicate decisions concerning health care.

(c) HEALTH CARE PROVIDERS.—

(1) IN GENERAL.—No health care provider may provide treatment to an adult contrary to the adult's wishes as expressed personally, by an advance directive as provided for in subsection (b)(2), or by a similar written advance directive form or another written method of directive which clearly and convincingly evidence the adult's treatment choices. A health provider who acts in good faith pursuant to the preceding sentence shall be immune from criminal or civil liability or discipline for professional misconduct.

(2) HEALTH CARE PROVIDERS UNDER THE MEDICARE AND MEDICAID PROGRAMS.—Any health care provider who knowingly provides services to an adult contrary to the adult's wishes as expressed personally, by an advance directive as provided for in subsection (b)(2), or by a similar written advance directive form or another written method of directive which clearly and convincingly evidence the adult's treatment choices, shall be denied payment for such services under titles XVIII and XIX of the Social Security Act.

(3) TRANSFERS.—Health care providers who object to the provision of medical care in accordance with an adult's wishes shall transfer the adult to the care of another health care provider.

(d) DEFINITION.—For purposes of this section, the term "adult" means an individual who is 18 years of age or older.

SEC. 402. FEDERAL RIGHTS ENFORCEABLE IN FEDERAL COURTS.

The rights recognized in this title may be enforced by filing a civil action in an appropriate district court of the United States.

SEC. 403. SUICIDE AND HOMICIDE.

Nothing in this title shall be construed to permit, condone, authorize, or approve suicide or mercy killing, or any affirmative act to end a human life.

SEC. 404. RIGHTS GRANTED BY STATES.

Nothing in this title shall impair or supersede rights granted by State law which exceed the rights recognized by this title.

SEC. 405. EFFECT ON OTHER LAWS.

(a) IN GENERAL.—Except as specified in subsection (b), written policies and written information adopted by health care providers pursuant to sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), shall be modified within 6 months of enactment of this title to conform to the provisions of this title.

(b) DELAY PERIOD FOR UNIFORM FORMS.—Health care providers shall modify any written forms distributed as written information under sections 4206 and 4751 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) not later than 6 months after promulgation of the forms referred to in subparagraphs (A) and (B) of section 401(b)(2) by the Secretary.

SEC. 406. INFORMATION PROVIDED TO CERTAIN INDIVIDUALS.

The Secretary shall provide on a periodic basis written information regarding an individual's right to consent to, or to decline, medical treatment as provided in this title to individual's who are beneficiaries under titles II, XVI, XVIII, and XIX of the Social Security Act.

SEC. 407. RECOMMENDATIONS TO THE CONGRESS ON ISSUES RELATING TO A PATIENT'S RIGHT OF SELF-DETERMINATION.

Not later than 180 days after the date of the enactment of this Act the Secretary shall provide recommendations to the Congress concerning the medical, legal, ethical, social, and educational issues related to this title. In developing recommendations under this section the Secretary shall address the following issues:

(1) the contents of the forms referred to in subparagraphs (A) and (B) of section 401(b)(2);

(2) issues pertaining to the education and training of health care professionals concerning patients' self-determination rights;

(3) issues pertaining to health care professionals' duties with respect to patients' rights, and health care professionals' roles in identifying, assessing, and presenting for patient consideration medically indicated treatment options; and

(4) such other issues as the Secretary may identify.

SEC. 408. EFFECTIVE DATE.

This title shall take effect on the date that is 6 months after the date of enactment of this Act.

TITLE V—PRIMARY AND PREVENTIVE CARE PROVIDERS

SEC. 501. INCREASING PAYMENTS TO CERTAIN NONPHYSICIAN PROVIDERS UNDER THE MEDICARE PROGRAM.

(a) INCREASE IN PAYMENTS TO NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, CERTIFIED NURSE MIDWIVES, AND PHYSICIAN ASSISTANTS.—

(1) IN GENERAL.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 13951(a)(1)) is amended—

(A) in subparagraph (K), by striking "80 percent" and all that follows through "physician)" and inserting "97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician";

(B) by redesignating subparagraph (M) the second place it appears and subparagraph (N), as subparagraphs (N) and (O), respectively; and

(C) by amending subparagraph (N), as redesignated, to read as follows: "(N) with respect to services described in section 1861(s)(2)(K) (relating to services provided by a nurse practitioner, clinical nurse specialist, or physician assistant) the amounts paid shall be 97 percent of the fee schedule amount provided under section 1848 for the same service performed by a physician,".

(2) NURSE PRACTITIONERS AND PHYSICIAN ASSISTANTS.—Section 1842(b)(12) of such Act (42 U.S.C. 1395u(b)(12)) is amended to read as follows:

"(12) With respect to services described in clauses (i), (ii), or (iv) of section 1861(s)(2)(K) (relating to physician assistants and nurse practitioners)—

"(A) payment under this part may only be made on an assignment-related basis; and

"(B) the prevailing charges determined under paragraph (3) shall not exceed—

"(i) in the case of services performed as an assistant at surgery, 97 percent of the amount that would otherwise be recognized if performed by a physician who is serving as an assistant at surgery, or

"(ii) in other cases, 97 percent of the fee schedule amount specified in section 1848 for such services performed by physicians who are not specialists.".

(3) DIRECT PAYMENT FOR ALL NURSE PRACTITIONERS OR CLINICAL NURSE SPECIALISTS.—Section 1832(a)(2)(B)(iv) of such Act (42 U.S.C. 1395k(a)(2)(B)(iv)) is amended by striking "provided in a rural area (as defined in section 1886(d)(2)(D))".

(4) REMOVAL OF RESTRICTIONS ON SETTINGS.—Section 1861(s)(2)(K) of such Act (42 U.S.C. 1395x(s)(2)(K)) is amended—

(A) in clause (i), by striking "(I) in a hospital" and all that follows through "professional shortage area,";

(B) in clause (ii), by striking "in a skilled" and all that follows through "1919(a)"; and

(C) in clause (iii), by striking "in a rural" and all that follows through "(d)(2)(D))".

(b) BONUS PAYMENT FOR SERVICES PROVIDED IN HEALTH PROFESSIONAL SHORTAGE AREAS.—Section 1833(m) of the Social Security Act (42 U.S.C. 1395l(m)) is amended—

(1) by inserting "(1)" after "(m)"; and

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

"(2) In the case of services of a nurse practitioner, clinical nurse specialist, physician assistant, certified nurse midwife, or certified registered nurse anesthetist furnished to an individual described in paragraph (1) in an area that is a health professional shortage area as described in such paragraph, in addition to the amount otherwise paid under this part, there shall also be paid to such service provider (or to an employer in the cases described in subparagraph (C) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Trust Fund an amount equal to 10 percent of the payment amount for such services under this part.".

SEC. 502. REQUIRING COVERAGE OF CERTAIN NONPHYSICIAN PROVIDERS UNDER THE MEDICAID PROGRAM.

Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended—

(1) in paragraph (21), by striking "; and" and inserting a semicolon;

(2) in paragraph (24), by striking the period at the end and inserting a semicolon;

(3) by redesignating paragraphs (22), (23), and (24) as paragraphs (25), (22), and (23), respectively;

(4) by inserting after paragraph (23) the following new paragraph:

"(24) services furnished by a physician assistant, nurse practitioner, clinical nurse specialist (as defined in section 1861(aa)(5)), and certified registered nurse anesthetist (as defined in section 1861(bb)(2)); and";

(5) by striking the semicolon at the end of paragraph (25), as redesignated, and inserting a period; and

(6) by transferring and inserting paragraph (25), as redesignated, after paragraph (24).

SEC. 503. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

Part C of title VII of the Public Health Service Act is amended by adding at the end thereof the following new section:

"SEC. 753. MEDICAL STUDENT TUTORIAL PROGRAM GRANTS.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible schools of medicine or osteopathic medicine to enable such schools to provide medical students for tutorial programs or as par-

ticipants in clinics designed to interest high school or college students in careers in general medical practice.

"(b) APPLICATION.—To be eligible to receive a grant under this section, a school of medicine or osteopathic medicine shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the school will use amounts received under the grant in accordance with subsection (c).

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Amounts received under a grant awarded under this section shall be used to—

"(A) fund programs under which students of the grantee are provided as tutors for high school and college students in the areas of math, science, health promotion and prevention, first aide, nutrition and prenatal care;

"(B) fund programs under which students of the grantee are provided as participants in clinics and seminars in the areas described in paragraph (1); and

"(C) conduct summer institutes for high school and college students to promote careers in medicine.

"(2) DESIGN OF PROGRAMS.—The programs, institutes and other activities conducted by grantees under paragraph (1) shall be designed to—

"(A) give medical students desiring to practice general medicine access to the local community;

"(B) provide information to high school and college students concerning medical school and the general practice of medicine; and

"(C) promote careers in general medicine.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal year 1995.".

SEC. 504. GENERAL MEDICAL PRACTICE GRANTS.

Part C of title VII of the Public Health Service Act (as amended by section 503) is further amended by adding at the end thereof the following new section:

"SEC. 754. GENERAL MEDICAL PRACTICE GRANTS.

"(a) ESTABLISHMENT.—The Secretary shall establish a program to award grants to eligible public or private nonprofit schools of medicine or osteopathic medicine, hospitals, residency programs in family medicine or pediatrics, or to a consortium of such entities, to enable such entities to develop effective strategies for recruiting medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation.

"(b) APPLICATION.—To be eligible to receive a grant under this section, an entity of the type described in subsection (a) shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including assurances that the entity will use amounts received under the grant in accordance with subsection (c).

"(c) USE OF FUNDS.—Amounts received under a grant awarded under this section shall be used to fund programs under which effective strategies are developed and implemented for recruiting medical students interested in the practice of general medicine and placing such students into general practice positions upon graduation.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $25,000,000 for each of the fiscal years 1994 through 1998, and such sums as may be necessary for fiscal years thereafter.".

SEC. 505. PAYMENTS FOR DIRECT AND INDIRECT GRADUATE MEDICAL EDUCATION COSTS.

(a) DIRECT MEDICAL EDUCATION COSTS.—Section 1886(h) of the Social Security Act (42 U.S.C. 1395ww(h)) is amended—

(1) in paragraph (1)—

(A) by striking "hospitals for direct medical education costs" and inserting "hospitals and public and private nonprofit entities with approved medical residency training programs for direct medical education costs"; and

(B) by striking "hospitals associated" and inserting "hospitals and public and private nonprofit entities with approved medical residency training programs associated";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A) by striking "each hospital" and inserting "each hospital or public or private nonprofit entity";

(B) in subparagraph (A)—

(i) in the heading, by striking "HOSPITAL'S ";

(ii) by striking "the hospital's" and inserting "the hospital's or entity's"; and

(iii) by striking "the hospital" and inserting "the hospital or entity";

(C) in clause (ii) of subparagraph (B), by striking "a hospital if the hospital's" and inserting "a hospital or entity if the hospital's or entity's";

(D) in subparagraph (C), by striking "the hospital" each place it appears and inserting "the hospital or the entity";

(E) in subparagraph (D), by striking "the hospital" and inserting "the hospital or the entity"; and

(F) in subparagraph (E), by striking "a hospital" and inserting "a hospital or entity";

(3) in paragraph (3)—

(A) in the heading, by striking "HOSPITAL";

(B) in subparagraph (A),

(i) in the matter preceding clause (i), by striking "hospital cost reporting period" and inserting "cost reporting period of a hospital or a public or private nonprofit entity"; and

(ii) in clause (ii), by striking "the hospital's" and inserting "the hospital's or entity's";

(C) in subparagraph (B),

(i) in the matter preceding clause (i), by striking "hospital cost reporting period" and inserting "cost reporting period of a hospital or a public or private nonprofit entity"; and

(ii) in clauses (i) and (ii), by striking "hospital's" each place it appears and inserting "hospital's or entity's"; and

(D) in subparagraph (C), by striking "hospital's cost reporting period" and inserting "cost reporting period of a hospital or a public or private nonprofit entity"; and

(4) in paragraph (4)—

(A) in subparagraph (B), by striking "hospital" each place it appears and inserting "hospital or public or private nonprofit entity"; and

(B) in subparagraph (E), by striking "hospital" and inserting "hospital or public or private nonprofit entity".

(b) INDIRECT MEDICAL EDUCATION COSTS.—

(1) IN GENERAL.—Section 1848 of such Act (42 U.S.C. 1395w-4) is amended—

(A) by redesignating subsection (j) as subsection (k); and

(B) by inserting after subsection (i) the following new subsection:

"(j) PAYMENTS FOR INDIRECT GRADUATE MEDICAL EDUCATION COSTS.—

"(1) IN GENERAL.—The Secretary shall provide for an additional payment for indirect costs of medical education in an amount equal to the product of—

"(A) the amount determined under subsection (a)(1) for qualified physician's services (as defined in paragraph (2)), and

"(B) the indirect teaching adjustment factor determined in accordance with section 1886(d)(5)(B)(ii) with 'r' equal to .2.

"(2) QUALIFIED PHYSICIAN'S SERVICES.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified physician's services' means physician's services (as defined in subsection (k)(3)) that are—

"(i) provided during the course of clinical training by medical residents in the initial 3 years of postgraduate medical training in approved medical residency training programs in the fields of family medicine (as defined by the Secretary), general internal medicine (as defined by the Secretary), and general pediatrics (as defined by the Secretary), and

"(ii) provided at clinical training sites affiliated with approved medical residency training programs in family medicine, general internal medicine, and general pediatrics.

"(B) CERTAIN SERVICES EXCLUDED.—For purposes of paragraph (1), the term 'qualified physician's services' shall not include services provided during an inpatient hospital stay for which payment is made under part A of this title.".

(2) CONFORMING AMENDMENTS.—Section 1848 of such Act (42 U.S.C. 1395w-4) is amended—

(A) in subsection (a)(1), by striking "subsection (j)(3)" and inserting "subsection (k)(3)";

(B) in subsection (b)(1), by striking "subsection (j)(2)" and inserting "(k)(2)"; and

(C) in subparagraphs (C) and (D) of subsection (d)(2), by striking "subsection (j)(1)" and inserting "subsection (k)(1)".

(c) SUBSECTION (d) HOSPITALS.—Section 1886(d)(5)(B) of such Act (42 U.S.C. 1395ww(d)(5)(B)) is amended by adding at the end the following new clause:

"(v) In determining such adjustment the Secretary shall count only those interns and residents who are in the initial 3 years of postgraduate medical training.".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective for cost reporting periods beginning on or after October 1, 1993.

TITLE VI—MEDICARE PREFERRED PROVIDER DEMONSTRATION PROJECTS

SEC. 601. ESTABLISHMENT OF MEDICARE PRIMARY AND SPECIALTY PREFERRED PROVIDER ORGANIZATION DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act the Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary") shall provide for up to 10 demonstration projects to test the effectiveness of providing payment under the medicare program under title XVIII of the Social Security Act for primary and specialty procedures and services (as determined appropriate by the Secretary) furnished by preferred provider organizations. The demonstration projects provided for under this section by the Secretary shall—

(1) test the cost-effectiveness of preferred provider organizations furnishing primary and specialty services in controlling the volume of such services performed or ordered by physicians, and nonphysician providers such as nurse practitioners, clinical nurse specialists, certified nurse midwives, certified registered nurse anesthetists, and physician as-

sistants, for which payment is made under title XVIII of the Social Security Act;

(2) gather information on factors which may encourage medicare beneficiaries to participate in a preferred provider organizational network;

(3) examine the efficacy of permanently establishing managed care networks of primary and specialty service providers; and

(4) examine the factors necessary to increase the quality and efficiency of primary and specialty services furnished by preferred provider networks in order to realize increased savings under the medicare program and to increase medicare beneficiary participation in such networks.

(b) WAIVER OF MEDICARE REQUIREMENTS.—The Secretary may waive such requirements of title XVIII of the Social Security Act as the Secretary determines necessary in conducting demonstration programs under this section, including—

(1) coinsurance requirements;

(2) provider payment arrangements;

(3) beneficiary deductibles; and

(4) reimbursement for nonphysician providers.

(c) DURATION OF PROJECTS.—The demonstration projects provided for under this section shall be conducted for a period not to exceed 3 years from the date of the enactment of this Act.

(d) REPORT.—Not later than 180 days after the date of expiration of the demonstration projects conducted under this section the Secretary shall report to the Congress on the results of the demonstration projects including recommendations for modifications in the medicare program to increase the utilization of preferred provider organizations in providing primary and specialty services under such program.

TITLE VII—COST CONTAINMENT

SEC. 701. NEW DRUG CLINICAL TRIALS PROGRAM.

Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end the following new section:

"SEC. 409A. NEW DRUG CLINICAL TRIALS PROGRAM.

"(a) IN GENERAL.—The Director of the National Institutes of Health (hereafter referred to in this section as the 'Director') is authorized to establish and implement a program for the conduct of clinical trials with respect to new drugs and disease treatments determined to be promising by the Director. In determining the drugs and disease treatments that are to be the subject of such clinical trials, the Director shall give priority to those drugs and disease treatments targeted toward the diseases determined—

"(1) to be the most costly to treat;

"(2) to have the highest mortality; or

"(3) to affect the greatest number of individuals.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $120,000,000 for fiscal year 1994, and such sums as may be necessary in each of the fiscal years 1995 through 1998.".

SEC. 702. MEDICAL TREATMENT EFFECTIVENESS.

(a) RESEARCH ON COST-EFFECTIVE METHODS OF HEALTH CARE.—Section 926 of the Public Health Service Act (42 U.S.C. 299c-5) is amended—

(1) in subsection (a), by striking "and $115,000,000 for fiscal year 1993" and inserting "$115,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997"; and

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

"(f) USE OF ADDITIONAL APPROPRIATIONS.—Within amounts appropriated under subsection (a) for each of the fiscal years 1993 through 1996 that are in excess of the amounts appropriated under such subsection for fiscal year 1992, the Secretary shall give priority to expanding research conducted to determine the most cost-effective methods of health care and for developing and disseminating new practice guidelines related to such methods. In utilizing such amounts, the Secretary shall give priority to diseases and disorders that the Secretary determines are the most costly to the United States and evidence a wide variation in current medical practice.".

(b) RESEARCH ON MEDICAL TREATMENT OUTCOMES.—

(1) IMPOSITION OF TAX ON HEALTH INSURANCE POLICIES.—

(A) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter G—Tax on Health Insurance Policies

"Sec. 4501. Imposition of tax.

"Sec. 4502. Liability for tax.

"SEC. 4501. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax equal to .001 cent on each dollar, or fractional part thereof, of the premium paid on a policy of health insurance.

"(b) DEFINITION.—For purposes of subsection (a), the term 'policy of health insurance' means any policy or other instrument by whatever name called whereby a contract of insurance is made, continued, or renewed with respect to the health of an individual or group of individuals.

"SEC. 4502. LIABILITY FOR TAX.

"The tax imposed by this subchapter shall be paid, on the basis of a return, by any person who makes, signs, issues, or sells any of the documents and instruments subject to the tax, or for whose use or benefit the same are made, signed, issued or sold. The United States or any agency or instrumentality thereof shall not be liable for the tax.".

(B) CONFORMING AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"SUBCHAPTER G. TAX ON HEALTH INSURANCE POLICIES.".

(2) ESTABLISHMENT OF TRUST FUND.—

(A) IN GENERAL.—Subchapter A of chapter 98 of such Code (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9512. TRUST FUND FOR MEDICAL TREATMENT OUTCOMES RESEARCH.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Trust Fund for Medical Treatment Outcomes Research' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There is hereby appropriated to the Trust Fund an amount equivalent to the taxes received in the Treasury under section 4501 (relating to tax on health insurance policies).

"(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—On an annual basis the Secretary shall distribute the amounts in the Trust Fund to the Secretary of Health and Human Services. Such amounts shall be available to the Secretary of Health and Human Services to pay for research activities related to medical treatment outcomes.".

(B) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end thereof the following new item:

"Sec. 9512. Trust Fund for Medical Treatment Outcomes Research.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to policies issued after December 31, 1993.

SEC. 703. HEALTH CARE COST CONTROL—EXPENDITURE TARGETS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter referred to in this section as the "Secretary"), after considering the recommendations of the Health Care Cost Control Advisory Committee established under subsection (b), shall prepare and submit to the appropriate committees of the Congress a report concerning the establishment of national spending targets for health care and health care services. Such report shall contain the recommendations of the Secretary concerning the feasibility—

(1) for controlling the cost of health care, reducing cost shifting and maintaining the quality of care;

(2) of establishing national targets for health expenditures;

(3) of establishing national reimbursement targets for hospital services;

(4) of establishing national reimbursement targets for physicians' services; and

(5) of establishing national reimbursement targets for prescription drug services.

(b) HEALTH CARE COST CONTROL ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—There shall be established a Health Care Cost Control Advisory Committee (hereafter referred to in this subsection as the "Committee").

(2) MEMBERSHIP.—The Committee shall be composed of 8 individuals appointed by the Secretary, representing—

(A) physicians;

(B) hospitals;

(C) pharmacies;

(D) private insurers;

(E) State and local governments;

(F) employers;

(G) organized labor; and

(H) academia with expertise as a health economist.

(3) COMPENSATION.—

(A) IN GENERAL.—Members of the Committee shall serve without compensation.

(B) EXPENSES REIMBURSED.—While away from their homes or regular places of business on the business of the Committee, the members of the Committee 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 Government service.

(C) APPLICATION OF THE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Committee.

(D) SUPPORT.—The Secretary shall supply such necessary office facilities, office supplies, support services, and related expenses as necessary to carry out the functions of the Committee.

TITLE VIII—LONG-TERM CARE

Subtitle A—Tax Treatment of Qualified Long-Term Care Insurance Policies

SEC. 801. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or re-

peal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 802. DEFINITIONS OF QUALIFIED LONG-TERM CARE INSURANCE AND PREMIUMS.

(a) IN GENERAL.—Chapter 79 (relating to definitions) is amended by adding at the end the following new section:

"SEC. 7705. QUALIFIED LONG-TERM CARE INSURANCE AND PREMIUMS.

"(a) QUALIFIED LONG-TERM CARE INSURANCE.—

"(1) IN GENERAL.—For purposes of this title, the term 'qualified long-term care insurance' means insurance under a policy or rider, issued by a qualified issuer, which—

"(A) provides coverage for not less than 12 consecutive months for each covered person,

"(B) provides benefits on an expense incurred, indemnity, disability, prepaid, capitation, or other basis,

"(C) provides benefits for—

"(i) medically necessary diagnostic, preventive, therapeutic, rehabilitation, or maintenance services,

"(ii) personal care services necessitated by physical disability, or

"(iii) preventive, therapeutic, rehabilitation, maintenance, or personal care services necessitated by cognitive impairment or the loss of functional capacity,

when provided in a nursing home, a respite care facility, the home of the covered individual, or any other setting which is not an acute care unit of a hospital or a medical clinic, and

"(D) provides coverage for care described in subparagraph (C) (other than nursing home care) equal to not less than 47.5 percent of the national median cost of nursing care coverage, as determined by the Secretary.

"(2) QUALIFIED ISSUER.—For purposes of paragraph (1), the term 'qualified issuer' means any of the following, if subject to the jurisdiction and regulation of at least 1 State insurance department:

"(A) Private insurance company.

"(B) Fraternal benefit society.

"(C) Nonprofit health corporation.

"(D) Nonprofit hospital corporation.

"(E) Nonprofit medical service corporation.

"(F) Prepaid health plan.

"(b) QUALIFIED LONG-TERM CARE PREMIUMS.—

"(1) IN GENERAL.—For purposes of this title, the term 'qualified long-term care premiums' means the amount paid during a taxable year for qualified long-term care insurance covering an individual, to the extent such amount does not exceed the limitation determined under the following table:

"In the case of an individual with an attained age before the close of the taxable year of:	**The limitation is:**
40 or less	$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	1,500
More than 70	2,000.

"(2) INDEXING.—

"(A) IN GENERAL.—In the case of any taxable year beginning after December 31, 1993, each dollar amount contained in paragraph (1) shall be increased by the medical care cost adjustment for such taxable year. If any increase determined under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10.

"(B) MEDICAL CARE COST ADJUSTMENT.—For purposes of subparagraph (A), the medical care cost adjustment for any taxable year is the percentage (if any) by which—

"(i) the medical care component of the Consumer Price Index (as defined in section 1(f)(5)) for August of the calendar year preceding the calendar year in which the taxable year begins, exceeds

"(ii) such component for August of 1992.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 79 is amended by inserting after the item relating to section 7704 the following new item:

"Sec. 7705. Qualified long-term care insurance and premiums.".

SEC. 803. TREATMENT OF QUALIFIED LONG-TERM CARE INSURANCE AS ACCIDENT AND HEALTH INSURANCE FOR PURPOSES OF TAXATION OF INSURANCE COMPANIES.

(a) IN GENERAL.—Section 818 (relating to other definitions and special rules) is amended by adding at the end the following new subsection:

"(g) QUALIFIED LONG-TERM CARE INSURANCE TREATED AS ACCIDENT OR HEALTH INSURANCE.—For purposes of this subchapter, any reference to noncancellable accident or health insurance contracts shall be treated as including a reference to qualified long-term care insurance.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 804. TREATMENT OF ACCELERATED DEATH BENEFITS UNDER LIFE INSURANCE CONTRACTS.

(a) EXCLUSION OF AMOUNTS RECEIVED.—Section 101 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(g) TREATMENT OF CERTAIN ACCELERATED DEATH BENEFITS.—

"(1) IN GENERAL.—For purposes of this section, any amount paid to an individual under a life insurance contract on the life of an insured who is a terminally ill individual, who has a dread disease, or who has been permanently confined to a nursing home shall be treated as an amount paid by reason of the death of such insured.

"(2) TERMINALLY ILL INDIVIDUAL.—For purposes of this subsection, the term 'terminally ill individual' means an individual who has been certified by a physician, licensed under State law, as having an illness or physical condition which can reasonably be expected to result in death in 12 months or less.

"(3) DREAD DISEASE.—For purposes of this subsection, the term 'dread disease' means a medical condition which has required or requires extraordinary medical intervention without which the insured would die, or a medical condition which would, in the absence of extensive or extraordinary medical treatment, result in a drastically limited life span.

"(4) PERMANENTLY CONFINED TO A NURSING HOME.—For purposes of this subsection, an individual has been permanently confined to a nursing home if the individual is presently confined to a nursing home and has been certified by a physician, licensed under State law, as having an illness or physical condition which can reasonably be expected to result in the individual remaining in a nursing home for the rest of the individual's life.".

(b) TREATMENT OF QUALIFIED ACCELERATED DEATH BENEFIT RIDERS AS LIFE INSURANCE.—

(1) IN GENERAL.—Section 818 (relating to other definitions and special rules), as amended by section 803, is amended by adding at the end the following new subsection:

"(h) QUALIFIED ACCELERATED DEATH BENEFIT RIDERS TREATED AS LIFE INSURANCE.—For purposes of this part—

"(1) IN GENERAL.—Any reference to a life insurance contract shall be treated as including a reference to a qualified accelerated death benefit rider on such contract.

"(2) QUALIFIED ACCELERATED DEATH BENEFIT RIDER.—For purposes of this subsection, the term 'qualified accelerated death benefit rider' means any rider or addendum on, or other provision of, a life insurance contract which provides for payments to an individual on the life of an insured upon such insured becoming a terminally ill individual (as defined in section 101(g)(2)), incurring a dread disease (as defined in section 101(g)(3)), or being permanently confined to a nursing home (as defined in section 101(g)(4)).".

(2) DEFINITIONS OF LIFE INSURANCE AND MODIFIED ENDOWMENT CONTRACTS.—

(A) RIDER TREATED AS QUALIFIED ADDITIONAL BENEFIT.—Subparagraph (A) of section 7702(f)(5) (relating to definition of life insurance contract) is amended by striking "or" at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

"(v) any qualified accelerated death benefit rider (as defined in section 818(h)(2)), or any qualified long-term care insurance which reduces the death benefit, or".

(B) TRANSITIONAL RULE.—For purposes of applying section 7702 or 7702A of the Internal Revenue Code of 1986 to any contract (or determining whether either such section applies to such contract), the issuance of a rider or addendum on, or other provision of, a life insurance contract permitting the acceleration of death benefits (as described in section 101(g)) or for qualified long-term care insurance shall not be treated as a modification or material change of such contract.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

Subtitle B—Tax Incentives for Purchase of Qualified Long-Term Care Insurance

SEC. 811. CREDIT FOR QUALIFIED LONG-TERM CARE PREMIUMS.

(a) GENERAL RULE.—Subpart C of part IV of subchapter A of chapter 1 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

"SEC. 35. LONG-TERM CARE INSURANCE CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable percentage of the qualified long-term care premiums (as defined in section 7705(b)) paid during such taxable year for such individual or the spouse of such individual.

"(b) APPLICABLE PERCENTAGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'applicable percentage' means 28 percent reduced (but not below zero) by 1 percentage point for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds the base amount.

"(2) BASE AMOUNT.—For purposes of paragraph (1) the term 'base amount' means—

"(A) except as otherwise provided in this paragraph, $25,000,

"(B) $40,000 in the case of a joint return, and

"(C) zero in the case of a taxpayer who—

"(i) is married at the close of the taxable year (within the meaning of section 7703) but does not file a joint return for such taxable year, and

"(ii) does not live apart from his or her spouse at all times during the taxable year.

"(c) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—Any amount allowed as a credit under this section shall not be taken into account under section 213.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 35 and inserting the following:

"Sec. 35. Long-term care insurance credit.

"Sec. 36. Overpayments of tax.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 812. DEDUCTION FOR EXPENSES RELATING TO QUALIFIED LONG-TERM CARE.

(a) DEDUCTION FOR QUALIFIED LONG-TERM CARE PREMIUMS.—Subparagraph (C) of section 213(d)(1) (relating to the definition of medical care) is amended by striking "aged)" and inserting the following: "aged, and amounts paid as qualified long-term care premiums (as defined in section 7705(b))".

(b) DEDUCTION FOR LONG-TERM CARE EXPENSES FOR PARENT OR GRANDPARENT.—Section 213 (relating to deduction for medical expenses) is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN LONG-TERM CARE EXPENSES.—For purposes of subsection (a), the term 'dependent' shall include any parent or grandparent of the taxpayer for whom the taxpayer has long-term care expenses described in section 7705(a)(1)(C), but only to the extent of such expenses.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 813. EXCLUSION FROM GROSS INCOME OF BENEFITS RECEIVED UNDER QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Section 105 (relating to amounts received under accident and health plans) is amended by adding at the end the following new subsection:

"(j) SPECIAL RULES RELATING TO QUALIFIED LONG-TERM CARE INSURANCE.—For purposes of section 104, this section, and section 106—

"(1) BENEFITS TREATED AS PAYABLE FOR SICKNESS, ETC.—Any benefit received through qualified long-term care insurance shall be treated as amounts received through accident or health insurance for personal injuries or sickness.

"(2) EXPENSES FOR WHICH REIMBURSEMENT PROVIDED UNDER QUALIFIED LONG-TERM CARE INSURANCE TREATED AS INCURRED FOR MEDICAL CARE OR FUNCTIONAL LOSS.—

"(A) EXPENSES.—Expenses incurred by the taxpayer or spouse, or by the dependent, parent, or grandparent of either, to the extent of benefits paid under qualified long-term care insurance shall be treated for purposes of subsection (b) as incurred for medical care (as defined in section 213(d)).

"(B) BENEFITS.—Benefits received under qualified long-term care insurance shall be treated for purposes of subsection (c) as payment for the permanent loss or loss of use of a member or function of the body or the permanent disfigurement of the taxpayer or spouse, or the dependent, parent, or grandparent of either.

"(3) REFERENCES TO ACCIDENT AND HEALTH PLANS.—

"(A) IN GENERAL.—Any reference to an accident or health plan shall be treated as including a reference to a plan providing qualified long-term care insurance.

"(B) LIMITATION.—Subparagraph (A) shall apply for purposes of section 106 only to the extent of qualified long-term care premiums (as defined in section 7705(b)).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 814. EMPLOYER DEDUCTION FOR CONTRIBUTIONS MADE FOR LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Subparagraph (B) of section 404(b)(2) (relating to plans providing certain deferred benefits) is amended to read as follows:

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

"(i) any benefit provided through a welfare benefit fund (as defined in section 419(e)), or

"(ii) any benefit provided under qualified long-term care insurance through the payment (in whole or in part) of qualified long-term care premiums (as defined in section 7705(b)) by an employer pursuant to a plan for its active or retired employees, but only if any refund or premium is applied to reduce the future costs of the plan or increase benefits under the plan.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 815. INCLUSION OF QUALIFIED LONG-TERM CARE INSURANCE IN CAFETERIA PLANS.

(a) IN GENERAL.—Paragraph (2) of section 125(d) (relating to the exclusion of deferred compensation) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTION FOR LONG-TERM CARE INSURANCE CONTRACTS.—For purposes of subparagraph (A), amounts paid or incurred for any long-term care insurance contract shall not be treated as deferred compensation to the extent section 404(b)(2)(A) does not apply to such amounts by reason of section 404(b)(2)(B)(ii).".

(b) CONFORMING AMENDMENT.—Subsection (f) of section 125 (relating to qualified benefits) is amended by striking "and such term includes" and inserting the following: ", qualified long-term care insurance, and".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 816. EXCLUSION FROM GROSS INCOME FOR AMOUNTS WITHDRAWN FROM INDIVIDUAL RETIREMENT PLANS AND SECTION 401(k) PLANS FOR QUALIFIED LONG-TERM CARE PREMIUMS AND EXPENSES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS AND SECTION 401(k) PLANS FOR QUALIFIED LONG-TERM CARE PREMIUMS AND EXPENSES.

"(a) GENERAL RULE.—In the case of an individual, gross income shall not include any qualified distribution.

"(b) QUALIFIED DISTRIBUTION.—For purposes of this section, the term 'qualified distribution' means any amount distributed from an individual retirement plan or a section 401(k) plan during the taxable year if such amount is used during such year—

"(1) to pay qualified long-term care premiums (as defined in section 7705(b)) for the benefit of the payee or distributee or the spouse of the payee or distributee, if such policy may not be surrendered for cash, or

"(2) to pay long-term care expenses (as described in section 7705(a)(1)(C)) of such an individual.

"(c) SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED DISTRIBUTIONS FROM IRA DEEMED MADE FIRST FROM DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of section 72, qualified distributions from an individual retirement plan shall be treated as made from designated nondeductible contributions to the extent thereof and then from other amounts.

"(2) SPECIAL RULES FOR SECTION 401(k) PLANS.—

"(A) QUALIFIED DISTRIBUTIONS FROM SECTION 401(k) PLAN MAY NOT EXCEED ELECTIVE DEFERRALS.—This section shall not apply to any distribution from a section 401(k) plan to the extent the aggregate amount of such distributions for the use described in subsection (a) exceeds the aggregate employer contributions made pursuant to the employee's election under section 401(k)(2) (and the income thereon).

"(B) WITHDRAWALS NOT TO CAUSE DISQUALIFICATION.—A plan shall not be treated as failing to satisfy the requirements of section 401, and an arrangement shall not be treated as failing to be a qualified cash or deferred arrangement (as defined in section 401(k)(2)), merely because under the plan or arrangement distributions are permitted which are excludable from gross income by reason of this section.

"(d) SECTION 401(k) PLAN.—For purposes of this section, the term 'section 401(k) plan' means any employer plan which meets the requirements of section 401(a) and which includes a qualified cash or deferred arrangement (as defined in section 401(k)).".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (k) of section 401 is amended by adding at the end the following new paragraph:

"(11) CROSS REFERENCE.—

"For provision permitting tax-free withdrawals for qualified long-term care premiums and expenses, see section 136.".

(2) Subsection (d) of section 408 is amended by adding at the end the following new paragraph:

"(8) CROSS REFERENCE.—

"For provision permitting tax-free withdrawals for qualified long-term care premiums and expenses, see section 136.".

(3) The table of sections for such part III is amended by striking the item relating to section 136 and inserting the following new items:

"Sec. 136. Distributions from individual retirement plans and section 401(k) plans for qualified long-term care premiums and expenses.

"Sec. 137. Cross references to other Acts.".

(c) INCREASE IN AMOUNT OF DEDUCTIBLE CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.—

(1) IN GENERAL.—Subparagraph (A) of section 219(b)(1) (relating to maximum amount of deduction) is amended by striking "$2,000" and inserting "$4,000".

(2) SPOUSAL IRA.—Paragraph (2) of section 219(c) (relating to special rules for certain married individuals) is amended by striking "$2,250" and "$2,000" and inserting "$4,500" and "$4,000", respectively.

(3) CONFORMING AMENDMENTS.—

(A) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individ-

ual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(B) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(C) Section 408(j) is amended by striking "$2,000".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 817. EXCLUSION FROM GROSS INCOME FOR AMOUNTS RECEIVED ON CANCELLATION OF LIFE INSURANCE POLICIES AND USED FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—

(1) EXCLUSION FROM GROSS INCOME.—

(A) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), as amended by section 216, is further amended by redesignating section 137 as section 138 and by inserting after section 136 the following new section:

"SEC. 137. AMOUNTS RECEIVED ON CANCELLATION, ETC. OF LIFE INSURANCE CONTRACTS AND USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE.

"No amount (which but for this section would be includible in the gross income of an individual) shall be included in gross income on the whole or partial surrender, cancellation, or exchange of any life insurance contract during the taxable year if—

"(1) such individual has attained age 59½ on or before the date of the transaction, and

"(2) the amount otherwise includible in gross income is used during such year to pay for any policy of qualified long-term care insurance which—

"(A) is for the benefit of such individual or the spouse of such individual if such spouse has attained age 59½ on or before the date of the transaction, and

"(B) may not be surrendered for cash.".

(B) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the last item and inserting the following new items:

"Sec. 137. Amounts received on cancellation, etc. of life insurance contracts and used to pay premiums for qualified long-term care insurance.

"Sec. 138. Cross references to other Acts.".

(2) CERTAIN EXCHANGES NOT TAXABLE.—Subsection (a) of section 1035 (relating to certain exchanges of insurance contracts) is amended by striking the period at the end of paragraph (3) and inserting "; or", and by adding at the end the following new paragraph:

"(4) in the case of an individual who has attained age 59½, a contract of life insurance or an endowment or annuity contract for a policy of qualified long-term care insurance, if such policy may not be surrendered for cash.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 818. USE OF GAIN FROM SALE OF PRINCIPAL RESIDENCE FOR PURCHASE OF QUALIFIED LONG-TERM HEALTH CARE INSURANCE.

(a) IN GENERAL.—Subsection (d) of section 121 (relating to 1-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end the following new paragraph:

"(10) ELIGIBILITY OF HOME EQUITY CONVERSION SALE-LEASEBACK TRANSACTION FOR EXCLUSION.—

"(A) IN GENERAL.—For purposes of this section, the term 'sale or exchange' includes a home equity conversion sale-leaseback transaction.

"(B) HOME EQUITY CONVERSION SALE-LEASEBACK TRANSACTION.—For purposes of subparagraph (A), the term 'home equity conversion sale-leaseback' means a transaction in which—

"(i) the seller-lessee—

"(I) has attained the age of 55 before the date of the transaction,

"(II) sells property which during the 5-year period ending on the date of the transaction has been owned and used as a principal residence by such seller-lessee for periods aggregating 3 years or more,

"(III) uses a portion of the proceeds from such sale to purchase a policy of qualified long-term care insurance, which policy may not be surrendered for cash,

"(IV) obtains occupancy rights in such property pursuant to a written lease requiring a fair rental, and

"(V) receives no option to repurchase the property at a price less than the fair market price of the property unencumbered by any leaseback at the time such option is exercised, and

"(ii) the purchaser-lessor—

"(I) is a person,

"(II) is contractually responsible for the risks and burdens of ownership and receives the benefits of ownership (other than the seller-lessee's occupancy rights) after the date of such transaction, and

"(III) pays a purchase price for the property that is not less than the fair market price of such property encumbered by a leaseback, and taking into account the terms of the lease.

"(C) ADDITIONAL DEFINITIONS.—For purposes of subparagraph (B)—

"(i) OCCUPANCY RIGHTS.—The term 'occupancy rights' means the right to occupy the property for any period of time, including a period of time measured by the life of the seller-lessee on the date of the sale-leaseback transaction (or the life of the surviving seller-lessee, in the case of jointly held occupancy rights), or a periodic term subject to a continuing right of renewal by the seller-lessee (or by the surviving seller-lessee, in the case of jointly held occupancy rights).

"(ii) FAIR RENTAL.—The term 'fair rental' means a rental for any subsequent year which equals or exceeds the rental for the first year of a sale-leaseback transaction.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to sales after December 31, 1992, in taxable years beginning after such date.

Subtitle C—Medicaid Amendments

SEC. 821. EXPANSION OF MEDICAID ELIGIBILITY FOR LONG-TERM CARE BENEFITS.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by adding at the end the following new section:

"ELIGIBILITY FOR LONG-TERM CARE BENEFITS

"SEC. 1931. (a) ELIGIBILITY FOR NURSING FACILITY SERVICES.—Any individual—

"(1) who is 65 years of age or older,

"(2) who has resources (including resources of the individual's spouse) which do not exceed the resource limitation specified in subsection (c)(1),

"(3) who is not otherwise eligible for medical assistance for nursing facility services under this title, and

"(4) who has been provided 30 months of nursing facility services (during a period in which the individual required the level of care provided in a nursing facility) during the previous 48 months (or, with respect to the application of subsection (e), 72 months),

is eligible, notwithstanding any other provisions of this title, for medical assistance under this title for nursing facility services so long as the individual continues to meet the requirements of this subsection (other than paragraph (4)) and is confined to a nursing facility or otherwise requires the same level of care as is provided in a nursing facility.

(b) ELIGIBILITY FOR HOME AND COMMUNITY-BASED CARE.—Any individual—

"(1) who is 65 years of age or older,

"(2) who has resources (including resources of the individual's spouse) which do not exceed the resource limitation specified in subsection (c)(1), and

"(3) who is not otherwise eligible for medical assistance for home and community-based long-term care under this title,

is eligible, notwithstanding any other provisions of this title, for medical assistance under this title for home and community-based long-term care so long as the individual continues to meet the requirements of this subsection and requires the same level of care as is provided in a nursing facility.

"(c) RESOURCE LIMITATION.—

"(1) IN GENERAL.—For purposes of this section, the resource limitation specified in this subsection is $500,000, increased, for each year after 1993, by the percentage increase in the Consumer Price Index for All Urban Consumers (all items; U.S. city average) from July 1992 to July of the previous year, rounded (if not a multiple of $1,000) to the nearest $1,000.

"(2) CERTAIN PERSONAL PROPERTY NOT INCLUDED.—Personal property items with a fair market value less than $5,000 in the aggregate shall not be included in any calculation of resources under subsections (a) and (b) which are subject to the resource limitation specified in paragraph (1).

"(d) TREATMENT OF LEVEL OF CARE.—

"(1) IN GENERAL.—For purposes of subsections (a) and (b), an individual is considered to require the level of care provided in a nursing facility if the individual cannot perform (without substantial human assistance) at least 3 activities of daily living or needs substantial human assistance because of cognitive or other mental impairment (including Alzheimer's disease).

"(2) ACTIVITIES OF DAILY LIVING DEFINED.—The 'activities of daily living' referred to in paragraph (1) are the following: eating, bathing, dressing, toileting, and transferring in and out of a bed or in and out of a chair.

"(e) SUBSTITUTION OF EXPENSES INCURRED FOR QUALIFIED HOME CARE FOR MONTHS IN NURSING FACILITY.—

"(1) IN GENERAL.—In determining whether an individual has been provided 30 months of nursing facility services under subsection (a)(4), expenses incurred (whether paid for by insurance, themselves, or relatives but not including expenses for which payment is made under this title, by the Department of Veterans Affairs, the Department of Defense, or other Federal programs) for qualified home care (as defined in paragraph (3)) shall be taken into account in the manner specified in paragraph (2).

"(2) CONVERTING EXPENSES TO MONTHS.—Expenses described in paragraph (1) shall be converted to months of nursing facility services by dividing such expenses by the national median monthly cost (as determined by the Secretary, and using a weighted average for both public and private nursing facilities) for nursing facility services in the month in which the expenses are incurred.

"(3) QUALIFIED HOME CARE DEFINED.—In this subsection, the term 'qualified home care'

means home and community-based services described in section 1915(d).".

(b) CONFORMING AMENDMENTS.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 302, is further amended—

(1) in paragraph (10)—

(A) in clause (i) of subparagraph (A), by striking "or" at the end of subclause (VI), by striking the semicolon at the end of subclause (VII) and inserting ", or", and by adding at the end the following:

"(VIII) who are described in subsections (a) and (b) of section 1931;"; and

(B) in the matter following subparagraph (F)—

(i) by striking "; and (XI)"; and inserting ", (XI);

(ii) by striking ", and (XI)" and inserting ", (XII); and

(iii) by inserting before the semicolon at the end the following: ", and (XIII) the making available of medical assistance for certain nursing facility services and home and community-based long-term care in accordance with section 1931 shall not, by reason of this paragraph, require such assistance to be made available to other individuals";

(2) in paragraph (59), by striking "; and" and inserting a semicolon,

(3) in paragraph (60), by striking the period at the end and inserting "; and", and

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

"(61) provides for medical assistance for certain nursing facility services and home and community-based long-term care in accordance with section 1931.".

SEC. 822. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle apply (except as provided under subsection (b)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after 1 year after the date of the enactment of this Act, without regard to whether regulations to implement such amendments are promulgated by such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(c) TRANSITION.—In applying the amendments made by this subtitle, only months beginning after the date of the enactment of this Act may be counted toward meeting the 30-month deductible described in section 1931(a)(4) of the Social Security Act, as added by this subtitle.

By Mr. SPECTER (for himself and Mr. DOMENICI):

S. 19. A bill to amend the Internal Revenue Code of 1986 to provide economic growth incentives in 1993 and for no other purpose; to the Committee on Finance.

ECONOMIC RECOVERY ACT

Mr. SPECTER. Mr. President, I am today introducing legislation intended to assure strong and sustained growth in our economy. The legislation includes the common elements of the economic recovery proposals made by President Bush and the economic recovery program passed by the Senate during the 102d Congress. Unfortunately, they did not become law. Notwithstanding recent optimistic reports about the state of our economy, I believe this plan remains very necessary for a solid economy; hence its reintroduction.

Recent reports suggests an upturn in our economy—consumers made significant expenditures during the holiday season, inventories are thinning, and orders for goods and factory output seem to be picking up. In fact, the National Bureau of Economic Research reported on December 22, 1992, its determination that the recession is over, having ended in March 1991.

However, sustained consumer spending of the type just experienced over the holidays is not expected. And the economic strength of some of our major trading partners remains in question. This could jeopardize the strength and sustainability of U.S. economic growth. Moreover, in view of the continuing lack of new job growth, I remain concerned that the recent signs of strength in our economy will remain just that—signs.

In order to move ahead with as far-reaching a program as possible, I urge enactment of the portions of the economic recovery proposals advanced by the President and the Senate. While it is not a perfect approach to take the commonly agreed upon provisions from the last Congress, it is, I believe, vastly preferable to no action at all.

In my judgment, we should enact a reduction in the capital gains tax. Unfortunately, that is not possible given the present opposition. As my colleagues will recall, during the 101st Congress the House of Representatives passed a capital gains tax cut, and in 1991 there were 56 votes in the Senate for that tax cut, which was insufficient for cloture.

In the immediate term, however, we must work to avoid the on-again, off-again economic recovery we have experienced during the last year. That is why I am introducing legislation comprised largely of the provisions that both sides agree will sustain a recovery.

The principal components of this legislation include: First, a $5,000 first-time homebuyer tax credit, which is estimated to stimulate approximately 215,000 housing starts and 415,000 new jobs; second, penalty-free IRA withdrawal for middle-income purchasers of homes and new automobiles, which last year was estimated to create between $40 billion and $120 billion in increased spending; third, a 15-percent investment tax allowance proposal, which would promote capita investment, modernization, and more rapid cost recovery; fourth, passive loss liberalization for real estate professionals intended to help stabilize the real estate market; and fifth, liberalization of the debt-financed income rules to facilitate investment in real estate by pension funds, also intended to stabilize real estate market values.

The first two provisions of this legislation, the $5,000 first-time homebuyers tax credit and penalty-free IRA withdrawals, would assist tremendously the homebuilding and automobile industries, the two industries that traditionally have led this country out of recessions. Under the credit for first-time homebuyers, a taxpayer would be entitled to a credit equal to 10 percent of the purchase price of the home up to a maximum of $5,000. The provision would also be available to first-time homebuyers buying older homes. According to the National Association of Home Builders, this provision would stimulate 215,000 housing starts and 415,000 additional jobs.

Similarly, the penalty-free IRA withdrawal provisions would assist the homebuilding industry. It would also assist the automobile industry. This provision would permit individuals with incomes under $75,000—$100,000 for married couples filing jointly—to withdraw penalty-free up to $10,000 from an IRA, 401(k), or Keogh plan, provided that the funds are expended on new automobiles or first-time home purchases within 6 months from withdrawal. The tax on such withdrawal would be due over the succeeding 4 years. However, in each year that the tax is due, taxpayers would have the option to either pay the tax on one-fourth of the withdrawal or recontribute to their account one-fourth of the withdrawal and avoid such tax.

There are more than $800 billion in assets currently existing in IRA, 401(k), and Keogh retirement plans. This is a big pool of money, a modest amount of which could be accessed for the purpose of consumers making big ticket or capital expenditures—homes and cars. This is not a frivolous use of funds especially when it will strengthen our apparent economic recovery. Moreover, it would not be inconsistent with the saving purpose of IRA's because of the provision's short-term duration and because of the incentive to recontribute the funds back to these accounts—namely, avoiding the tax due on the withdrawal.

Mr. President, when Senator DOMENICI and I offered this provision as an amendment to the first Senate tax bill in the last Congress, the Joint Committee on Taxation had estimated the cost of this measure as negligible; that is costing less than $1 million, over 5 years. The country's return on this in-

vestment would be great. I have received consumer spending estimates based on its provision ranging from approximately $40 billion—from the Board of Governors of the Federal Reserve System Chairman Alan Greenspan—to well over $120 billion according to the results of a consumer poll conducted by Interpublic Group of Companies, Inc., in New York. This poll was conducted back in December 1991, shortly after our predecessor bill, S. 1984, was introduced. Ninety days later, March 1992, Interpublic conducted a second poll refining its questions on S. 1984, and the results were even more encouraging. As stated by Mr. Philip Geier, chairman and CEO of Interpublic, in a letter to me dated April 3, 1992—which letter, I am informed, was also mailed to each member of the Senate Finance Committee and House Ways and Means Committee:

Bottom line is that [this] proposal would free up $32 billion from retirement plan savings to help get our economy moving. When multipliers are included the money Americans would use to complete their purchases results in a total of $153 billion—home purchase $116 billion; new car purchase $29 billion; home improvement $8 billion dollars that would move into our economy. * * *

Findings in the March 1992 survey make it very conclusive. This is a plan which Americans believe in. A plan from which they and our nation's economy will benefit. Clearly this proposal has a powerful triggering effect. It comes at a time when the effect of lowered interest rates is being blunted by the more restrictive consumer lending policies of our financial institutions. This proposal allows responsible access to funds. These will go to responsible investment. Economic activity will be triggered, jobs ensured and created. It provides a stimulus we need right now.

Mr. President, I ask unanimous consent that the Interpublic Group letters dated December 24, 1991, and April 3, 1992, describing its poll results be printed in the RECORD at the conclusion of my remarks, as well as a copy of the full page ad Interpublic placed in the March 6, 1992, edition of USA Today describing this proposal. I also ask unanimous consent that the Federal Reserve Board memorandum to me dated February 12, 1992, also detailing the consumer spending impact of my proposal also be printed in the RECORD at the conclusion of my remarks.

The investment tax allowance is another provision on which there is much agreement between the political parties as well as Congress and the President on its utility and benefit to the economy. I have taken note of recent reports suggesting that President Clinton may be proposing an investment tax credit. While I support investment tax credits, I am concerned that in view of our budget constraints such legislation may be too costly. Hence, I am making a more modest proposal.

Under this proposal, productivity enhancing equipment such as machinery, computers, and machine tools, purchased on or after January 1, 1993, and before January 1, 1994, and placed in service before June 1, 1994, would be eligible for a 15-percent additional depreciation allowance in the first year after the property was placed in service. Many believe, and I do not disagree, that this temporary acceleration of depreciation would promote capital investments by businesses, and when coupled with the consumer investments I have already mentioned, would have a very positive effect on our economy.

Passive loss reform and facilitating pension fund investment in real estate, will further this effect. Again Mr. President, Republicans and Democrats agree that these reforms will help our economy. Congress adopted these proposals at the end of the last Congress. Regrettably, they did not become law.

The passive loss provision of the bill I have introduced repeals the irrebuttable presumption that real estate rental activities are per se passive activities regardless of the taxpayer's participation. Thus, it allows real estate activities to be treated like other trade or business activities. The present passive loss rules prevent real estate professionals from deducting necessary business expenses. This, in turn, exacerbates cash flow problems they may have with their properties, and is a significant contributing factor in their losing their properties to lenders who hold mortgages on those properties. Reforming the passive loss rules as I propose will encourage these property owners to hold and maintain their property rather than default and relinquish it to their lenders. Fewer defaults will also facilitate the availability of credit and, in turn, strengthen the economic expansion.

That expansion will also be bolstered by better enabling pension funds to invest in real estate. Pension funds are a major source of investment capital for real estate. Making these funds available for investment will assist in the stabilization of real estate values, which is necessary for economic growth.

Mr. President, the Congress and President Clinton should act to stave off another economic downturn. The bill I have introduced avoids the intensely partisan issues that have prevented the enactment and signing of economic recovery legislation to date. It is a bill that we all agree will help our Nation. Therefore, I call on my colleagues to join me in supporting this legislation.

I ask unanimous consent a bill and other material be printed in the RECORD.

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

S. 19

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Economic Recovery Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents; amendment of 1986 Code.

TITLE I—ECONOMIC GROWTH INCENTIVES

Sec. 101. Credit for first-time homebuyers.
Sec. 102. Special depreciation allowance for certain equipment acquired in 1992.
Sec. 103. Penalty-free withdrawals from pension plans through 1992.
Sec. 104. Passive loss equity for real estate professionals.
Sec. 105. Real property acquired by a qualified organization.
Sec. 106. Special rules for investments in partnerships.

TITLE II—REVENUE OFFSETS

Subtitle A—General Provisions

Sec. 201. Elimination of the statute of limitations on collection of guaranteed student loans.
Sec. 202. Increase tax on ozone depleting chemicals.
Sec. 203. Mark to market inventory method for securities dealers.
Sec. 204. Disallowance of interest on certain overpayments of tax.

Subtitle B—Electromagnetic Spectrum Function

Sec. 211. Short title.
Sec. 212. Findings.
Sec. 213. National spectrum planning.
Sec. 214. Identification of reallocable frequencies.
Sec. 215. Withdrawal of assignment to United States Government stations.
Sec. 216. Distribution of frequencies by the Commission.
Sec. 217. Authority to reclaim reassigned frequencies.
Sec. 218. Competitive bidding.
Sec. 219. Definitions.

Subtitle C—Other Provisions

Sec. 221. Extension of current law regarding lump-sum withdrawal of retirement.
Sec. 222. Extension of the patent and trademark office user fee surcharge through 1996.
Sec. 223. One-year extension of customs user fees.
Sec. 224. Disclosures of information for veterans benefits.
Sec. 225. Revision of procedure relating to certain loan defaults.
Sec. 226. Application of medicare part B limits to FEHBP enrollee age 65 or older.

(c) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—ECONOMIC GROWTH INCENTIVES

SEC. 101. CREDIT FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—Subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new section:

"SEC. 23. PURCHASE OF PRINCIPAL RESIDENCE BY FIRST-TIME HOMEBUYER.

"(a) ALLOWANCE OF CREDIT.—If an individual who is a first-time homebuyer purchases

a principal residence (within the meaning of section 1034), there shall be allowed to such individual as a credit against the tax imposed by this subtitle an amount equal to 10 percent of the purchase price of the principal residence.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed $5,000.

"(2) LIMITATION TO ONE RESIDENCE.—The credit under this section shall be allowed with respect to only one residence of the taxpayer.

"(3) MARRIED INDIVIDUALS FILING JOINTLY.—In the case of a husband and wife who file a joint return under section 6013, the credit under this section is allowable only if both the husband and wife are first-time homebuyers, and the amount specified under paragraph (1) shall apply to the joint return.

"(4) OTHER TAXPAYERS.—In the case of individuals to whom paragraph (3) does not apply who together purchase the same new principal residence for use as their principal residence, the credit under this section is allowable only if each of the individuals is a first-time homebuyer, and the sum of the amount of credit allowed to such individuals shall not exceed the lesser of $5,000 or 10 percent of the total purchase price of the residence. The amount of any credit allowable under this section shall be apportioned among such individuals under regulations to be prescribed by the Secretary.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the amount of the tax imposed by this chapter for the taxable year, reduced by the sum of any other credits allowable under this chapter.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PURCHASE PRICE.—The term 'purchase price' means the adjusted basis of the principal residence on the date of the acquisition thereof.

"(2) FIRST-TIME HOMEBUYER.—

"(A) IN GENERAL.—The term 'first-time homebuyer' means any individual if such individual has not had a present ownership interest in any residence (including an interest in a housing cooperative) at any time within the 36-month period ending on the date of acquisition of the residence on which the credit allowed under subsection (a) is to be claimed. An interest in a partnership, S corporation, or trust that owns an interest in a residence is not considered an interest in a residence for purposes of this paragraph except as may be provided in regulations.

"(B) CERTAIN INDIVIDUALS.—Notwithstanding subparagraph (A), an individual is not a first-time homebuyer on the date of purchase of a residence if on that date the running of any period of time specified in section 1034 is suspended under subsection (h) or (k) of section 1034 with respect to that individual.

"(3) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—No credit is allowable under this section if—

"(A) the residence is acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under section 267 or 707(b), or

"(B) the basis of the residence in the hands of the person acquiring it is determined—

"(i) in whole or in part by reference to the adjusted basis of such residence in the hands of the person from whom it is acquired, or

"(ii) under section 1014(a) (relating to property acquired from a decedent).

"(d) RECAPTURE FOR CERTAIN DISPOSITIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), if the taxpayer disposes of property with respect to the purchase of which a credit was allowed under subsection (a) at any time within 36 months after the date the taxpayer acquired the property as his principal residence, then the tax imposed under this chapter for the taxable year in which the disposition occurs is increased by an amount equal to the amount allowed as a credit for the purchase of such property.

"(2) ACQUISITION OF NEW RESIDENCE.—If, in connection with a disposition described in paragraph (1) and within the applicable period prescribed in section 1034, the taxpayer purchases a new principal residence, then the provisions of paragraph (1) shall not apply and the tax imposed by this chapter for the taxable year in which the new principal residence is purchased is increased to the extent the amount of the credit that could be claimed under this section on the purchase of the new residence (determined without regard to subsection (e)) is less than the amount of credit claimed by the taxpayer under this section.

"(3) DEATH OF OWNER; CASUALTY LOSS; INVOLUNTARY CONVERSION; ETC.—The provisions of paragraph (1) do not apply to—

"(A) a disposition of a residence made on account of the death of any individual having a legal or equitable interest therein occurring during the 36-month period to which reference is made under paragraph (1),

"(B) a disposition of the old residence if it is substantially or completely destroyed by a casualty described in section 165(c)(3) or compulsorily or involuntarily converted (within the meaning of section 1033(a)), or

"(C) a disposition pursuant to a settlement in a divorce or legal separation proceeding where the residence is sold or the other spouse retains the residence as a principal residence.

"(e) PROPERTY TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—The provisions of this section apply to a principal residence if—

"(A) the taxpayer acquires the residence on or after February 1, 1993, and before January 1, 1994, or

"(B) the taxpayer enters into, on or after February 1, 1993, and before January 1, 1994, a binding contract to acquire the residence, and acquires and occupies the residence before July 1, 1994."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of chapter 1 is amended by inserting after section 22 the following new item:

"Sec. 23. Purchase of principal residence by first-time homebuyer."

(c) EFFECTIVE DATE.—The amendments made by this section are effective on August 1, 1993.

SEC. 102. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1993.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) SPECIAL ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1993.—

"(1) ADDITIONAL ALLOWANCE.—Except as provided in paragraph (2), in the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 15 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction (without regard to paragraph (2)) before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(2) MAXIMUM FIRST-YEAR DEDUCTION.—Of the aggregate deduction allowable under paragraph (1)—

"(A) 0 percent shall be allowed for the taxable year in which the property is placed in service, and

"(B) 100 percent shall be allowed for the succeeding taxable year.

"(3) QUALIFIED EQUIPMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1993,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1993, and before January 1, 1994, but only if no written binding contract for the acquisition was in effect before February 1, 1993, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1993, and before January 1, 1994, and

"(iv) which is placed in service by the taxpayer before July 1, 1994.

"(B) EXCEPTIONS.—

"(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(C) SPECIAL RULES RELATING TO ORIGINAL USE.—

"(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1993, and before January 1, 1994.

"(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1993, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

"(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appro-

priately reflect the amount of the deduction allowable under paragraph (1).

"(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) ADDITIONAL ALLOWANCE FOR EQUIPMENT ACQUIRED IN 1993.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1993, in taxable years ending on or after such date.

SEC. 103. PENALTY-FREE WITHDRAWALS FROM PENSION PLANS THROUGH 1993.

(a) IN GENERAL.—In the case of any qualified withdrawal—

(1) no additional tax shall be imposed under section 72(t)(1) of the Internal Revenue Code of 1986 with respect to such qualified withdrawal, and

(2) except as provided in subsection (b), any amount includible in gross income by reason of such qualified withdrawal (determined without regard to this section) shall be includible ratably over the 4-taxable year period beginning with the taxable year in which such qualified withdrawal occurs.

(b) ELECTION TO RECONTRIBUTE TO PLAN.—

(1) IN GENERAL.—The amount required to be included in gross income for any taxable year under subsection (a)(2) shall be reduced by any designated recontribution.

(2) DESIGNATED RECONTRIBUTION.—For purposes of paragraph (1), a designated recontribution is any contribution to any plan described in subsection (c)(1)(B)—

(A) which the taxpayer designates (in such manner as the Secretary of the Treasury may prescribe) as in lieu of all (or any portion of) any amount required to be included in gross income under subsection (a)(2) for a taxable year, and

(B) which is made not later than the due date (without extensions) for such taxable year.

(3) NO DEDUCTION ALLOWED FOR RECONTRIBUTION, ETC.—For purposes of the Internal Revenue Code of 1986, a designated recontribution shall not be treated as a contribution for any taxable year.

(c) QUALIFIED WITHDRAWAL.—For purposes of this section—

(1) IN GENERAL.—The term "qualified withdrawal" means any payment or distribution—

(A) which is made to an individual during 1992,

(B) which is made from—

(i) an individual retirement plan (as defined in section 7701(a)(37) of the Internal Revenue Code of 1986) established for the benefit of the individual, or

(ii) amounts attributable to employer contributions made on behalf of the individual pursuant to elective deferrals described in section 402(g)(3) (A) or (C) or 501(c)(18)(D)(iii) of such Code, and

(C) which is used by the individual for a qualified acquisition not later than the earlier of—

(i) the date which is 6 months after the date of such payment or distribution, or

(ii) the date on which the individual files the individual's income tax return for the taxable year in which such payment or distribution occurs.

(2) QUALIFIED ACQUISITION.—The term "qualified acquisition" means—

(A) the payment of qualified acquisition costs with respect to a principal residence of a first-time homebuyer who is the taxpayer or the child or grandchild of the taxpayer, or

(B) the purchase of a new passenger automobile.

(3) DOLLAR LIMITATION.—The aggregate amount which may be treated as qualified withdrawals under paragraph (1) with respect to all plans and amounts of an individual described in paragraph (1)(B) shall not exceed $10,000.

(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

(A) QUALIFIED ACQUISITION COSTS.—The term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs associated with such qualified acquisition costs.

(B) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—

(i) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means any individual if such individual (and if married, such individual's spouse) had no present ownership interest in a principal residence during the 2-year period ending on the date of acquisition of the principal residence to which this paragraph applies.

(ii) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 1034.

(iii) DATE OF ACQUISITION.—The term "date of acquisition" means the date—

(I) on which a binding contract to acquire the principal residence to which this subsection applies is entered into, or

(II) on which construction or reconstruction of such a principal residence is commenced.

(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If—

(i) any amount is paid or distributed from an individual retirement plan to an individual for purposes of being used as provided in paragraph (1), and

(ii) by reason of a delay in the acquisition of the residence, the requirements of paragraph (1) cannot be met,

the amount so paid or distributed may be paid into an individual retirement plan as provided in section 408(d)(3)(A)(i) of the Internal Revenue Code of 1986 without regard to section 408(d)(3)(B) of such Code, and, if so paid into such other plan, such amount shall not be taken into account in determining whether section 408(d)(3)(A)(i) of such Code applies to any other amount.

(D) DISTRIBUTION RULES.—Any qualified withdrawal shall not be treated as failing to meet the requirements of sections 401(k)(2)(B)(i) or 403(b)(11) of such Code.

(d) ORDERING RULES FOR INCOME TAX PURPOSES.—For purposes of the Internal Revenue Code of 1986—

(1) all plans and amounts described in subsection (c)(1)(B) with respect to an individual shall be treated as one plan, and

(2) qualified withdrawals from such plan shall be treated as made—

(A) first from amounts which are includible in gross income of the individual when distributed to such individual, and

(B) then from amounts not so includible.

SEC. 104. PASSIVE LOSS EQUITY FOR REAL ESTATE PROFESSIONALS.

(a) RENTAL REAL ESTATE ACTIVITIES OF PERSONS IN REAL PROPERTY BUSINESS NOT AUTOMATICALLY TREATED AS PASSIVE ACTIVITIES.—Section 469(c) (defining passive activity) is amended by adding at the end thereof the following new paragraph:

"(7) RULES FOR TAXPAYERS IN REAL PROPERTY BUSINESS TO END DISCRIMINATION.—

"(A) IN GENERAL.—If this paragraph applies to any taxpayer for a taxable year—

"(i) paragraph (2) shall not apply to any rental real estate activity of such taxpayer for such taxable year, and

"(ii) this section shall be applied as if each interest of the taxpayer in rental real estate were a separate activity.

Notwithstanding clause (ii), a taxpayer may elect to treat all interests in rental real estate as one activity.

"(B) TAXPAYERS TO WHOM PARAGRAPH APPLIES.—This paragraph shall apply to a taxpayer for a taxable year if more than one-half of the personal services performed in trades or businesses by the taxpayer during such taxable year are performed in real property trades or businesses in which the taxpayer materially participates.

"(C) SPECIAL RULES FOR SUBPARAGRAPH (B).—

"(i) CLOSELY HELD C CORPORATIONS.—In the case of a closely held C corporation, the requirements of subparagraph (B) shall be treated as met for any taxable year if more than 50 percent of the gross receipts of such corporation for such taxable year are derived from real property trades or businesses in which the corporation materially participates.

"(ii) PERSONAL SERVICES AS AN EMPLOYEE.—For purposes of subparagraph (B), personal services performed as an employee (other than as an owner-employee) shall not be treated as performed in real property trades or businesses."

(b) CONFORMING AMENDMENT.—Section 469(c)(2) is amended by striking "The" and inserting "Except as provided in paragraph (7), the".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after February 1, 1993.

SEC. 105. REAL PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) INTERESTS IN MORTGAGES.—The last sentence of subparagraph (B) of section 514(c)(9) is hereby transferred to subparagraph (A) of section 514(c)(9) and added at the end thereof.

(b) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—For purposes of subparagraph (B), except as otherwise provided by regulations, the following additional rules apply—

"(i) IN GENERAL.—

"(I) For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in clause (iii) or (iv) shall be disregarded if no more than 10 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(II) Clause (v) of subparagraph (B) shall not apply to the extent the financing is commercially reasonable and is on substantially the same terms as loans involving unrelated persons; for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary.

"(ii) QUALIFYING SALES OUT OF FORECLOSURE BY FINANCIAL INSTITUTIONS.—In the case of a qualifying sale out of foreclosure by a financial institution, clauses (i) and (ii) of subparagraph (B) shall not apply. For this

purpose, a 'qualifying sale out of foreclosure by a financial institution' exists where—

"(I) a qualified organization acquires real property from a person (a 'financial institution') described in section 581 or 591(a) (including a person in receivership) and the financial institution acquired the property pursuant to a bid at foreclosure or by operation of an agreement or of process of law after a default on indebtedness which the property secured ('foreclosure'), and the financial institution treats any income realized from the sale or exchange of the property as ordinary income,

"(II) the amount of the financing provided by the financial institution does not exceed the amount of the financial institution's outstanding indebtedness (determined without regard to accrued but unpaid interest) with respect to the property at the time of foreclosure,

"(III) the financing provided by the financial institution is commercially reasonable and is on substantially the same terms as loans between unrelated persons for sales of foreclosed property (for this purpose, standards for determining a commercially reasonable interest rate shall be provided by the Secretary), and

"(IV) the amount payable pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property ('participation feature') does not exceed 25 percent of the principal amount of the financing provided by the financial institution, and the participation feature is payable no later than the earlier of satisfaction of the financing or disposition of the property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to debt-financed acquisitions of real estate made on or after February 1, 1993.

SEC. 106. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 131 of this Act) is amended by adding at the end thereof the following new subparagraph:

"(H) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) investments in the partnership are organized into units that are marketed primarily to individuals expected to be taxed at the maximum rate prescribed for individuals under section 1,

"(II) at least 50 percent of each class of interests is owned by such individuals,

"(III) the partners that are qualified organizations owning interests in a class participate on substantially the same terms as other partners owning interests in that class, and

"(IV) the principal purpose of partnership allocations is not tax avoidance.

"(ii) EXCEPTION WHERE TAXABLE PERSONS OWN A SIGNIFICANT PERCENTAGE.—In the case of any partnership, other than a partnership to which clause (i) applies, in which persons who are expected (under the regulations to be prescribed by the Secretary), at the time the partnership is formed, to pay tax at the maximum rate prescribed in section 1 or 11 (whichever is applicable) throughout the term of the partnership own at least a 25-percent interest, the provisions of subparagraph (B) shall not apply if the partnership satisfies the requirements of subparagraph (E)."

(b) PUBLICLY TRADED PARTNERSHIPS; UNRELATED BUSINESS INCOME FROM PARTNERSHIPS.—Subsection (c) of section 512 is amended by striking paragraph (2) (relating to publicly traded partnerships), by redesignating paragraph (3) as paragraph (2), and by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

TITLE II—REVENUE OFFSETS

Subtitle A—General Provisions

SEC. 201. ELIMINATION OF THE STATUTE OF LIMITATIONS ON COLLECTION OF GUARANTEED STUDENT LOANS.

Section 3(c) of the Higher Education Technical Amendments of 1991 (Public Law 102-26) is amended by striking out "that are brought before November 15, 1992".

SEC. 202. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS AND EXPANSION OF LIST OF TAXED CHEMICALS.

(a) IN GENERAL.—Paragraph (1) of section 4681(b) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1997 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year:	Base tax amount:
1993	$1.85
1994	$2.75
1995	$3.65
1996	$4.55."

(b) CONFORMING AMENDMENTS.—

(1) Rates retained for chemicals used in rigid foam insulation.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "1993, and 1994" and inserting "1995 and 1996, and July 1, 1993".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or July 1" after "January 1", and

(ii) by inserting "or December 31, respectively," after "June 30".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1993.

SEC. 203. MARK TO MARKET INVENTORY METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET INVENTORY METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position or a liability which is not a security in the hands of the taxpayer.

Subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—Any security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), this section shall apply to such security as of the time such cessation occurs.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) any interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) HEDGE.—The term 'hedge' includes any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CERTAIN RULES NOT TO APPLY.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security or position under subsection (b)(2) as being described in such subsection and such security or position is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify a security or position which is described in such subsection at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security shall be recognized only to the extent of gain previously recognized under this section with respect to such security.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to hedges which do not hedge a specific security, position, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market inventory method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1994.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

SEC. 204. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any payment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1993.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1993 regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1993 regardless of the taxable period to which such refund relates.

Subtitle B—Electromagnetic Spectrum Function

SEC 211. SHORT TITLE.

This subtitle may be cited as the "Emerging Telecommunications Technologies Act of 1993".

SEC. 212. FINDINGS.

The Congress finds that—

(1) spectrum is a valuable natural resource;

(2) it is in the national interest that this resource be used more efficiently;

(3) the spectrum below 6 gigahertz (GHz) is becoming increasingly congested, and, as a result entities that develop innovative new spectrum-based services are finding it difficult to bring these services to the marketplace;

(4) scarcity of assignable frequencies can and will—

(A) impede the development and commercialization of new spectrum-based products and services;

(B) reduce the capacity and efficiency of the United States telecommunications system; and

(C) adversely affect the productive capacity and international competitiveness of the United States economy;

(5) the United States Government presently lacks explicit authority to use excess radiocommunications capacity to satisfy non-United States Government requirements;

(6) more efficient use of the spectrum can provide the resources for increased economic returns;

(7) many commercial users derive significant economic benefits from their spectrum licenses, both through the income they earn from their use of the spectrum and the returns they realize upon transfer of their licenses to third parties; but under current procedures, the United States public does not sufficiently share in their benefits;

(8) many United States Government functions and responsibilities depend heavily on the use of the radio spectrum, involve unique applications, and are performed in the broad national and public interest;

(9) competitive bidding for spectrum can yield significant benefits for the United States economy by increasing the efficiency of spectrum allocations, assignment, and use; and for United States taxpayers by producing substantial revenues for the United States Treasury; and

(10) the Secretary, the President, and the Commission should be directed to take appropriate steps to foster the more efficient use of this valuable national resource, including the reallocation of a target amount of 200 megahertz (MHz) of spectrum from United States Government use under section 305 of the Communications Act to non-United States Government use pursuant to other provisions of the Communications Act and the implementation of competitive bidding procedures by the Commission for some new assignments of the spectrum.

SEC. 213. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Secretary and the Chairman of the Commission shall, at least twice each year, conduct joint spectrum planning meetings with respect to the following issues—

(1) future spectrum needs;

(2) the spectrum allocation actions necessary to accommodate those needs, including consideration of innovation and marketplace developments that may affect the relative efficiencies of different portions of the spectrum; and

(3) actions necessary to promote the efficient use of the spectrum, including proven spectrum management techniques to promote increased shared use of the spectrum as a means of increasing non-United States Government access; and innovation in spectrum utilization including means of providing incentives for spectrum users to develop innovative services and technologies.

(b) REPORTS.—The Secretary and the Chairman of the Commission shall submit a joint annual report to the President on the joint spectrum planning meetings conducted under subsection (a) and any recommendations for action developed in such meetings.

(c) OPEN PROCESS.—The Secretary and the Commission will conduct an open process under this section to ensure the full consideration and exchange of views among any interested entities, including all private, public, commercial, and governmental interests.

SEC. 214. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—The Secretary shall prepare and submit to the President the reports required by subsection (d) to identify bands of frequencies that—

(1) are allocated on a primary basis for United States Government use and eligible for licensing pursuant to section 305(a) of the Communications Act;

(2) are not required for the present or identifiable future needs of the United States Government;

(3) can feasibly be made available during the next 15 years after enactment of this title for use under the provisions of the Communications Act for non-United States Government users;

(4) will not result in costs to the Federal Government that are excessive in relation to the benefits that may be obtained from the potential non-United States Government uses; and

(5) are likely to have significant value for non-United States Government uses under the Communications Act.

(b) AMOUNT OF SPECTRUM RECOMMENDED.—

(1) IN GENERAL.—The Secretary shall recommend as a goal for reallocation, for use by non-United States Government stations, bands of frequencies constituting a target amount of 200 MHz, that are located below 6 GHz, and that meet the criteria specified in paragraphs (1) through (5) of subsection (a). If the Secretary identifies (as meeting such criteria) bands of frequencies totalling more than 200 MHz, the Secretary shall identify and recommend for reallocation those bands (totalling not less than 200 MHz) that are likely to have the greatest potential for non-United States Government uses under the Communications Act.

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary recommends be partially retained for use by United States Government stations, but which are also recommended to be reallocated and made available under the Communications Act for use by non-United States Government stations, may be counted toward the target 200 MHz of spectrum required by paragraph (1) of this subsection, except that—

(A) the bands of frequencies counted under this paragraph may not count toward more than one-half of the amount targeted by paragraph (1) of this subsection;

(B) a band of frequencies may not be counted under this paragraph unless the assignments of the band to United States Government stations under section 305 of the Communications Act are limited by geographic area, by time, or by other means so as to guarantee that the potential use to be made by which United States Government stations is substantially less (as measured by geographic area, time, or otherwise) than the potential United States Government use to be made; and

(C) the operational sharing permitted under this paragraph shall be subject to procedures which the Commission and the Department of Commerce shall establish and implement to ensure against harmful interference.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE UNITED STATES GOVERNMENT.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(2), the Secretary shall—

(A) consider whether the band of frequencies is used to provide a communications service that is or could be available from a commercial provider;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes;

(ii) the sharing of frequencies (as permitted under subsection (b)(2));

(iii) the development and use of new communications technologies; and

(iv) the use of nonradiating communications systems where practicable;

(C) seek to avoid—

(i) serious degradation of United States Government services and operations;

(ii) excessive costs to the United States Government and civilian users of such Government services; and

(iii) identification of any bands for reallocation that are likely to be subject to substitution for the reasons specified in section 405(b)(2)(A) through (C); and

(D) exempt power marketing administrations and the Tennessee Valley Authority from any reallocation procedures.

(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criteria specified in subsection (a)(3), the Secretary shall—

(A) assume such frequencies will be assigned by the Commission under section 303 of the Communications Act over the course of fifteen years after the enactment of this title;

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services;

(C) determine the extent to which the reallocation or reassignment will relieve actual or potential scarcity of frequencies available for non-United States Government use;

(D) seek to include frequencies which can be used to stimulate the development of new technologies; and

(E) consider the cost to reestablish United States Government services displaced by the reallocation of spectrum during the fifteen year period.

(3) COSTS TO THE UNITED STATES GOVERNMENT.—In determining whether a frequency band meets the criteria specified in subsection (a)(4), the Secretary shall consider—

(A) the costs to the United States Government of reaccommodating its services in order to make spectrum available for non-United States Government use, including the incremental costs directly attributable to the loss of the use of the frequency band; and

(B) the benefits that could be obtained from reallocating such spectrum to non-United States Government users, including the value of such spectrum in promoting—

(i) the delivery of improved service to the public;

(ii) the introduction of new services; and

(iii) the development of new communications technologies.

(4) NON-UNITED STATES GOVERNMENT USE.—In determining whether a band of frequencies meets the criteria specified in subsection (a)(5), the Secretary shall consider—

(A) the extent to which equipment is commercially available that is capable of utilizing the band; and

(B) the proximity of frequencies that are already assigned for non-United States Government use.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) SUBMISSION OF REPORTS TO THE PRESIDENT TO IDENTIFY AN INITIAL 50 MHZ TO BE MADE AVAILABLE IMMEDIATELY FOR REALLOCATION, AND TO PROVIDE PRELIMINARY AND FINAL REPORTS ON ADDITIONAL FREQUENCIES TO BE REALLOCATED.—

(A) Within 3 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a report which specifically identifies an initial 50 MHz of spectrum that are located below 3 GHz, to be made available for reallocation to the Federal Communications Commission upon issuance of this report, and to be distributed by the Commission pursuant to competitive bidding procedures.

(B) The Department of Commerce shall make available to the Federal Communications Commission 50 MHz as identified in subparagraph (A) of electromagnetic spectrum for allocation of land-mobile or land-mobile-satellite services. Notwithstanding section 553 of the Administrative Procedure Act and title III of the Communications Act, the Federal Communications Commission shall allocate such spectrum and conduct competitive bidding procedures to complete the assignment of such spectrum in a manner which ensures that the proceeds from such bidding are received by the Federal Government no later than September 30, 1993. From such proceeds, Federal agencies displaced by this transfer of the electromagnetic spectrum to the Federal Communications Commission shall be reimbursed for reasonable costs directly attributable to such displacement. The Department of Commerce shall determine the amount of, and arrange for, such reimbursement. Amounts to agencies shall be available subject to appropriation Acts.

(C) Within 12 months after the date of the enactment of this title, the Secretary shall prepare and submit to the President a preliminary report to identify reallocable bands of frequencies meeting the criteria established by this section.

(D) Within 24 months after the date of enactment of this title, the Secretary shall prepare and submit to the President a final report which identifies the target 200 MHz for reallocation (which shall encompass the initial 50 MHz previously designated under subparagraph (A)).

(E) The President shall publish the reports required by this section in the Federal Register.

(2) CONVENING OF PRIVATE SECTOR ADVISORY COMMITTEE.—Not later than 12 months after the enactment of this title, the Secretary shall convene a private sector advisory committee to—

(A) review the bands of frequencies identified in the preliminary report required by paragraph (1)(C);

(B) advise the Secretary with respect to—

(i) the bands of frequencies which should be included in the final report required by paragraph (1)(D); and

(ii) the effective dates which should be established under subsection (e) with respect to such frequencies;

(C) receives public comment on the Secretary's preliminary and final reports under this subsection; and

(D) prepare and submit the report required by paragraph (4).

The private sector advisory committee shall meet at least quarterly until each of the actions required by section 405(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The private sector adviser committee shall include—

(A) the Chairman of the Commission, and the Secretary, or their designated representatives, and two other representatives from two different United States Government agencies that are spectrum users, other than the Department of Commerce, as such agencies may be designated by the Secretary; and

(B) Persons who are representative of—

(i) manufacturers of spectrum-dependent telecommunications equipment;

(ii) commercial users;

(iii) other users of the electromagnetic spectrum; and

(iv) other interested members of the public who are knowledgeable about the uses of the electromagnetic spectrum to be chosen by the Secretary.

A majority of the members of the committee shall be members described in subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The private sector advisory committee shall, not later than 12 months after its formation, submit to the Secretary, the Commission, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, such recommendations as the committee considers appropriate for the reform of the process of allocating the electromagnetic spectrum between United States Government users and non-United States Government users, and any dissenting views thereon.

(e) TIMETABLE FOR REALLOCATION AND LIMITATION.—The Secretary shall, as part of the final report required by subsection (d)(1)(D), include a timetable for the effective dates by which the President shall, within 15 years after enactment of this title, withdraw or limit assignments on frequencies specified in the report. The recommended effective dates shall—

(1) permit the earliest possible reallocation of the frequency bands, taking into account the requirements of section 406(a);

(2) be based on the useful remaining life of equipment that has been purchased or contracted for to operate on identified frequencies;

(3) be based on the need to coordinate frequency use with other nations; and

(4) avoid the imposition of incremental costs on the United States Government directly attributable to the loss of the use of frequencies or the changing to different frequencies that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequencies.

SEC. 215. WITHDRAWAL OF ASSIGNMENT TO UNITED STATES GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall—

(1) within 3 months after receipt of the Secretary's report under section 404(d)(1)(A), withdraw or limit the assignment to a United States Government station of any frequency on the initial 50 MHz which that report recommends for immediate reallocation;

(2) with respect to other frequencies recommended for reallocation by the Secretary's report in section 404(d)(1)(D), by the effective dates recommended pursuant to section 404(e) (except as provided in subsection (b)(4) of this section), withdraw or limit the assignment to a United States Government station of any frequency which that report recommends be reallocated or available for mixed use on such effective dates;

(3) assign or reassign other frequencies to United States Government stations as necessary to adjust to such withdrawal or limitation of assignments; and

(4) publish in the Federal Register a notice and description of the actions taken under this subsection.

(b) EXCEPTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—If the President determines that a circumstance described in section 405(b)(2) exists, the President—

(A) may, within 1 month after receipt of the Secretary's report under section 404(d)(1)(A), and within 6 months after receipt of the Secretary's report under section 404(d)(1)(D), substitute an alternative frequency or band of frequencies for the frequency or band that is subject to such determination and withdraw (or limit) the assignment of that alternative frequency or band in the manner required by subsection (a); and

(B) shall publish in the Federal Register a statement of the reasons for taking the action described in subparagraph (A).

(2) GROUNDS FOR SUBSTITUTION.—For purposes of paragraph (1), the following circumstances are described in this paragraph:

(A) the reassignment would seriously jeopardize the national security interests of the United States;

(B) the frequency proposed for reassignment is uniquely suited to meeting important United States Governmental needs;

(C) the reassignment would seriously jeopardize public health or safety; or

(D) the reassignment will result in incremental costs to the United States Government that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reassigned frequency.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the final report of the Secretary under section 404(d)(1)(D) unless the substituted frequency also meets each of the criteria specified by section 404(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the effective dates recommended by the Secretary pursuant to section 404(e), or that such an action by such date would result in a frequency being unused as a consequence of the Commission's plan under section 406, the President may—

(A) withdraw or limit the assignment to United States Government stations on a later date that is consistent with such plan, by providing notice to that effect in the Federal Register, including the reason that withdrawal at a later date is required; or

(B) substitute alternative frequencies pursuant to the provisions of this subsection.

(c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE UNITED STATES GOVERNMENT; APPROPRIATIONS AUTHORIZED.—Any United States Government licensee, or non-United States Government entity operating on behalf of a United States Government licensee, that is displaced from a frequency pursuant to this section may be reimbursed not more than the incremental costs it incurs, in such amounts as provided in advance in appropriation Acts, that are directly attributable to the loss of the use of the frequency pursuant to this section. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(d) There are authorized to be appropriated to the affected licensee agencies such sums as may be necessary to carry out the purposes of this section.

SEC. 216. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

(a) PLANS SUBMITTED.—

(1) With respect to the initial 50 MHz to be reallocated from United States Government to non-United States Government use under section 404(d)(1)(A), not later than 6 months after enactment of this title, the Commission shall complete a public notice and comment proceeding regarding the allocation of this spectrum and shall form a plan to assign such spectrum pursuant to competitive bidding procedures, pursuant to section 408, during fiscal years 1994 through 1996.

(2) With respect to the remaining spectrum to be reallocated from United States Government to non-United States Government use under section 404(e), not later than 2 years after issuance of the report required by section 404(d)(1)(D), the Commission shall complete a public notice and comment proceeding; and the Commission shall, after consultation with the Secretary, prepare and submit to the President a plan for the distribution under the Communications Act of the frequency bands reallocated pursuant to the requirements of this title. Such plan shall—

(A) not propose the immediate distribution of all such frequencies, but, taking into account the timetable recommended by the Secretary pursuant to section 404(e), shall propose—

(i) gradually to distribute the frequencies remaining, after making the reservation required by subparagraph (ii), over the course of a 10-year period beginning on the date of submission of such plan; and

(ii) to reserve a significant portion of such frequencies for distribution beginning after the end of such 10-year period;

(B) contain appropriate provisions to ensure—

(i) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Communications Act (47 U.S.C. 157); and

(ii) the availability of frequencies to stimulate the development of such technologies; and

(C) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

(b) AMENDMENT TO THE COMMUNICATIONS ACT.—Section 303 of the Communications Act is amended by adding at the end thereof the following new subsection:

"(u) Have authority to assign the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, except that any such assignment shall expressly be made subject to the right of the President to reclaim such frequencies under the provisions of section 407 of the Emerging Telecommunications Technologies Act of 1991.".

SEC. 217. AUTHORITY TO RECLAIM REASSIGNED FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—The President may reclaim reallocated frequencies for reassignment to United States Government stations in accordance with this section.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—

(1) UNASSIGNED FREQUENCIES.—If the frequencies to be reclaimed have not been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2).

(2) ASSIGNED FREQUENCIES.—If the frequencies to be reclaimed have been assigned by the Commission, the President may reclaim them based on the grounds described in section 405(b)(2), except that the notification required by section 405(b)(1) shall include—

(A) a timetable to accommodate an orderly transition for licensees to obtain new frequencies and equipment necessary for their utilization; and

(B) an estimate of the cost of displacing the licensees.

(c) COSTS OF RECLAIMING FREQUENCIES.—Any non-United States Government licensee that is displaced from a frequency pursuant to this section shall be reimbursed the incremental costs it incurs that are directly attributable to the loss of the use of the frequency pursuant to this section.

(d) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Communications Act (47 U.S.C. 606).

SEC. 218. COMPETITIVE BIDDING.

(a) COMPETITIVE BIDDING AUTHORIZED.—Section 309 of the Communications Act is amended by adding the following new subsection:

"(j)(1)(A) The Commission shall use competitive bidding for awarding all initial licenses or new construction permits, including licenses and permits for spectrum reallocated for non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991, subject to the exclusions listed in paragraph (2).

"(B) The Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to submit a second-stage application. Upon determining that such application is acceptable for filing and that the applicant is qualified pursuant to subparagraph (C), the Commission shall grant a permit or license.

"(C) No construction permit or license shall be granted to an applicant selected pursuant to subparagraph (B) unless the Commission determines that such applicant is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first- and second-stage applications submitted under subparagraph (B).

"(D) Each participant in the competitive bidding process is subject to the schedule of changes contained in section 8 of this Act.

"(E) The Commission shall have the authority in awarding construction permits or licenses under competitive bidding procedures to (i) define the geographic and frequency limitations and technical requirements, if any, of such permits or licenses; (ii) establish minimum acceptable competitive bids; and (iii) establish other appropriate conditions on such permits and licenses that will serve the public interest.

"(F) The Commission, in designing the competitive bidding procedures under this subsection, shall study and include procedures—

"(i) to ensure bidding access for small and rural companies,

"(ii) if appropriate, to extend the holding period for winning bidders awarded permits or licenses, and

"(iii) to expand review and enforcement requirements to ensure that winning bidders continue to meet their obligations under this Act.

"(G) The Commission shall, within 6 months after enactment of the Emerging Telecommunications Technologies Act of 1991, following public notice and comment proceedings, adopt rules establishing competitive bidding procedures under this subsection, including the method of bidding and the basis for payment (such as flat fees, fixed or variable royalties, combinations of flat fees and royalties, or other reasonable forms of payment); and a plan for applying such competitive bidding procedures to the initial 50 MHz reallocated from United States Government to non-United States Government use under section 404(d)(1)(A) of the Emerging Telecommunications Technologies Act of 1991, to be distributed during the fiscal years 1994 through 1996.

"(2) Competitive bidding shall not apply to—

"(A) license renewals;

"(B) the United States Government and State or local government entities;

"(C) amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(D) private radio end-user licenses, such as Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(E) any license grant to a non-United States Government licensee being moved from its current frequency assignment to a different one by the Commission in order to implement the goals and objectives underlying the Emerging Telecommunications Technologies Act of 1991;

"(F) any other service, class of services, or assignments that the Commission determines, after conducting public comment and notice proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption; and

"(G) small businesses, as defined in section 3(a)(1) of the Small Business Act.

"(3) In implementing this subsection, the Commission shall ensure that current and future rural telecommunications needs are met and that existing rural licensees and their subscribers are not adversely affected.

"(4) Monies received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the United States Treasury.".

(b) RANDOM SELECTION NOT TO APPLY WHEN COMPETITIVE BIDDING REQUIRED.—Section 309(i)(1) of the Communications Act is amended by striking the period after the word "selection" and inserting ", except in instances where competitive bidding procedures are required under subsection (j).".

(c) SPECTRUM ALLOCATION DECISIONS.—Section 303 of the Communications Act is amended by adding the following new subsection:

"(v) In making spectrum allocation decisions among services that are subject to competitive bidding, the Commission is authorized to consider as one factor among others taken into account in making its determination, the relative economic values and other public interest benefits of the proposed uses as reflected in the potential revenues that would be collected under its competitive bidding procedures.".

SEC. 219. DEFINITIONS.

As used in this subtitle:

(1) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunications services.

(2) The term "assignment" means an authorization given by the Commission or the United States Government for a radio station to use a radio frequency or radio frequency channel.

(3) The term "Commission" means the Federal Communications Commission.

(4) The term "Communications Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(5) The term "Secretary" means the Secretary of Commerce.

Subtitle C—Other Provisions

SEC. 221. EXTENSION OF CURRENT LAW REGARDING LUMP-SUM WITHDRAWAL OF RETIREMENT CONTRIBUTIONS FOR CIVIL SERVICE RETIREES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8343a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 1, 1996".

(b) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8420a(f)(3) of title 5, United States Code, is amended by striking out "October 1, 1995" and inserting in lieu thereof "October 6, 1996".

SEC. 222. EXTENSION OF THE PATENT AND TRADEMARK OFFICE USER FEE SURCHARGE THROUGH 1996.

Section 10101 of the Omnibus Budget Reconciliation Act of 1990 (35 U.S.C. 41 note) is amended—

(1) in subsection (a) by striking "1995" and inserting "1996";

(2) in subsection (b)(2) by striking "1995" and inserting "1996"; and

(3) in subsection (c)—

(A) by striking "1995" the first place it appears and inserting "1996"; and

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

"(6) $107,000,000 in fiscal year 1996."

SEC. 223. ONE-YEAR EXTENSION OF CUSTOMS USER FEES.

Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1995" and inserting "1996".

SEC. 224. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to programs to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1998".

(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1998".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

SEC. 225. REVISION OF PROCEDURE RELATING TO CERTAIN LOAN DEFAULTS.

(a) REVISION.—Section 3732(c)(1)(C)(ii) of title 38, United States Code, is amended by striking out "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 226. APPLICATION OF MEDICARE PART B LIMITS TO FEHBP ENROLLEE AGE 65 OR OLDER.

(a) FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—Subsection 8904(b) of title 5, United States Code, is amended:

(1) by amending paragraph (1) to read as follows:

"(b)(1)(A) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits under this chapter, in the case of any individual enrolled in the plan who is not an employee and who is age 65 or older, to the extent that—

"(i) a benefit claim involves a charge by a health care provider for a type of service or medical item which is covered for purposes of benefit payments under both this chapter and title XVIII of the Social Security Act (42 U.S.C. 1395–1395ccc) relating to medicare hospital and supplementary medical insurance, and

"(ii) benefits otherwise payable under such provisions of law in the case of such individual would exceed applicable limitations on hospital and physician charges established for medicare purposes under sections 1886 and 1848 of the Social Security Act (42 U.S.C. 1395ww and 1395w–4), respectively.

"(B)(i) For purposes of this subsection, hospitals, physicians, and other suppliers of

medical and health services who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1842(h) and 1866 of the Social Security Act (42 U.S.C. 1395u(h) and 1395cc), whereby the participating provider accepts medicare benefits in full payment of charges for covered items and services after applicable patient copayments under sections 1813, 1833 and 1866(a)(2) of the Social Security Act (42 U.S.C. 1395e, 1395*l*, and 1395cc(a)(2)) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for any item or service described under subparagraph (A) which is furnished to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to such item or service under provisions of title XVIII of the Social Security Act.

"(ii) Physicians and other health care suppliers who are nonparticipating physicians, as defined by section 1842(i)(2) of the Social Security Act (42 U.S.C. 1395u(i)(2)) for purposes of services furnished to medicare beneficiaries, may not bill in excess of the limiting charge prescribed under section 1848(g) of the Social Security Act (42 U.S.C. 1395w-4(g)) when providing services described under subparagraph (A) to an individual who is enrolled under this chapter and is not covered for purposes of benefit payments applicable to those services under provisions of title XVIII of the Social Security Act.

"(iii) The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital, physician, or other supplier of medical services is found to knowingly and willfully violate this subsection and the Secretary shall invoke appropriate sanctions in accordance with subsections 1128A(a)(2), 1848(g)(8), and 1866(b)(2) of the Social Security Act (42 U.S.C. 1320a-7a(a)(2), 1395w-4(g)(8), and 1395cc(b)(2)) and applicable regulations."; and

(2) by amending paragraph (3)(B) to read as follows:

"(B) For purposes of this paragraph, the term 'medicare program information' includes—

"(i) the limitations on hospital charges established for medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and the identity of hospitals which have in force agreements with the Secretary of Health and Human Services consistent with section 1866 of the Social Security Act (42 U.S.C. 1395cc); and

"(ii) the annual fee schedule amounts for services of participating physicians and 'limiting charge' information for nonparticipating physicians established for medicare purposes under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) and the identity of physicians and suppliers who have in force participation agreements with the Secretary consistent with subsection 1842(h) of the Social Security Act (42 U.S.C. 1395u(h).".

(b) MEDICARE AGREEMENTS WITH INSTITUTIONAL PROVIDERS.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (P);

(2) by striking out the period at the end of subparagraph (Q) and inserting ", and", and

(3) by inserting after subparagraph (Q) the following new paragraph:

"(R) to accept as payment in full the amounts that would be payable under this part (including the amounts of any coinsurance and deductibles required of individuals entitled to have payment made on their behalf) for an item or service which the provider normally furnishes to patients (or others furnish under arrangement with the provider) and which is furnished to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this title and chapter 89 of title 5, United States Code.".

(c) MEDICARE PARTICIPATING PHYSICIANS AND SUPPLIERS.—Section 1842(h)(1) of the Social Security Act (42 U.S.C. 1395u(h)(1)) is amended, after the second sentence, by inserting the following new sentence: "Such agreement shall provide, for any year beginning with 1993, that the physician or supplier will accept as payment in full the amounts that would be payable under this part (plus the amounts of any coinsurance or deductibles required of individuals on whose behalf payments are made under this title) for an item or service furnished during such year to an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) of section 8903 and section 8903a of title 5, United States Code, if such item or service is of a type that is covered under both this part and chapter 89 of title 5, United States Code.".

(d) MEDICARE ACTUAL CHARGE LIMITATION FOR NONPARTICIPATING PHYSICIANS.—Section 1848(g) of the Social Security Act (42 U.S.C. 1359w-4(g)) is amended by adding at the end thereof the following paragraph:

"(8) LIMITATION OF ACTUAL CHARGES FOR ENROLLEES OF THE FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.—(A) A nonparticipating physician shall not impose an actual charge in excess of the limiting charge defined in paragraph (2) for items and services furnished after 1993 in any case involving—

"(i) an individual who has attained age 65, is ineligible to receive benefits under this part, and is enrolled, other than as an employee, under a health benefits plan described in paragraphs (1) through (3) or section 8903 or section 8903a of title 5, United States Code; and

"(ii) an item or service of a type that is covered for benefits under both this part and chapter 89 of title 5, United States Code.

"(B) If a person knowingly and willfully bills for physicians' services in violation of subparagraph (A), the Secretary shall apply sanctions against the person in accordance with section 1842(j)(2).".

(e) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective with respect to health care provider charges for items and services furnished to individuals enrolled in plans under chapter 89 of title 5, United States Code, in contract years beginning after December 31, 1993.

(2) The amendment made by subsection (b) applies to agreements for periods after 1991.

THE INTERPUBLIC GROUP
OF COMPANIES, INC.,
New York, NY, December 24, 1991.

Mr. NICHOLAS F. BRADY,
Secretary of the Treasury, Department of the Treasury, Washington, DC.

DEAR NICK: I recently reviewed the Specter/Domenici Bill (S#1984) which has the possibility of stimulating the economy in two key sectors—housing and automobiles—major indicators of economic vitality both with the so-called experts on the economy, but more importantly, with the consumer (not to mention the impact this would have on unemployment).

We amended some of the aspects of the Bill (see attachment) and put it into national consumer research; I found the results more than interesting, and I believe you and the White House should review the data and the approach as a possible major element in a package of measures for stimulating an economic recovery.

With due respect, I point out that the consumer confidence level, which is a major problem and has been so for many months, was not addressed. The past is the past but if scenarios had been worked out in advance (what if the economy did not respond, etc.), the Administration might be in a better position to be on the attack with Congress. Of course, the media has not helped the situation at all. If you consider that the 1981–82 recession which had almost 10 percent unemployment and interest rates in the high teens (but a solid banking system and reasonable ability to lend), versus what we have today where the primary problems of the lending institutions require not only larger down-payments but a stronger consumer credit-worthiness as well, we can understand one of the major problems we face.

Because I share this concern and was intrigued by the Specter/Domenici approach, my company commissioned a study through a leading research company to estimate the number of American families who would make use of their IRA and 401K savings for housing and automobiles on a one-time basis, and to estimate the amount of money these families would invest above the levels they would spend without the use of these funds. Please note that the proposal provides that the IRA and 401K monies used would be tax free for five years, whereupon the consumer could put this money back into those retirement funds on a tax free basis (see attachment). Therefore, the program would be revenue neutral.

We have amended the Specter/Domenici Bill as follows:

A. We limited the use of IRA and 401K funds to housing and autos. These industries are the key industries for economic resurgence, and new vigor here would have a huge effect on the overall economy.

B. We suggested that autos purchased have at least 75 percent of content made in the USA. I recognize the GATT issue, but I believe our trading partners could be persuaded that a non-deficit 6 month domestic program that lifts the US economy would be to their own benefit over time as well. Additionally, this provision certainly would shake up the Japanese which the President politically must consider.

The research, a national probability sample of 1,000 households, was conducted in the middle of December, and is representative of U.S.A. demographics by age, sex, religion and race. Let me summarize the findings on this basis:

1. This proposed use of IRA and 401K funds would increase intentions to buy or improve a home or to buy a car from 26 to 44 million families—a gain of 18 million families.

2. One in three (33.5 percent) American families claim they would use some of their IRA and/or 401K funds to buy a new home, improve their home or buy a car under this proposal. Of these, over 10,300,000 families say they are "very" likely to take positive action.

3. Another 20,700,000 households say they are "somewhat" likely to act per this proposal.

4. Of these 31,000,000 households, fully 65 percent say they would use the maximum $10,000. Another 18 percent report they would use more than $5,000 but less than $10,000. This proposed legislation would motivate 26,000,000 American families to spend more than $5,000 on housing and autos, with another 5,000,000 families spending less than $5,000.

5. If they do as they say, these 31 million families would theoretically transfer over $224 billion dollars from existing IRA and 401K funds to the housing and auto industries. According to the BEA, American families spent $647 billion in these two sectors in 1990—not including maintenance and operations. At a very minimum, the proposed action would produce impactful double-digit gains in both industries.

6. Over half (55%) of the 31 million families who say they would make use of IRA and/or 401K funds for housing and autos, report, they do not intend to invest at this time in new or improved housing or buy a new car without this proposal. In other words, the Specter/Domenici proposal motivates many more people to act now. Using just this 55% figure, the impact would be over $120 billion in incremental spending coming into these two industries at this critical time.

I am very enthused about these findings. Although the sample size is not large, the responses are statistically reliable within 3%. Even if one applies a conservative adjustment to these stated consumer actions, the numbers are still very impressive.

I have heard a lot of qualitative research recently which suggests the President should adopt a more pro-American business stance. While we are all believers in free trade, there is a deep seated popular concern that the Japanese are receiving special treatment with respect to their markets versus ours. This viewpoint is being strengthened by the current U.S. auto industry problems and the attendant negative publicity. I believe this proposal is an appropriate response.

I do hope this study might be of help to you and the President. We would be happy to have our research analyst come to Washington to go over the detailed results with your staff or whomever you wish.

On a related note, a lot of us believe that a cut in the capital gains tax rate would be revenue positive and is the right thing to do. However, I believe the average American family is much more concerned with holding onto or getting jobs, and unless this tax change can be explained simply and succinctly and backed up with facts on how it creates jobs, we really should let it pass. Our indications are that this will be a detriment with the average person in getting a tax stimulus approved.

In my view, the direction proposed in the Spector/Domenici Bill is exactly right for this time and these conditions.

I hope you and your family have a very happy holiday, and I look forward to seeing you soon in the New Year.

Sincerely,

PHILIP H. GEIER, Jr.

AMENDED STATEMENT OF SENATOR SPECTER'S PROPOSAL AS USED IN RESEARCH

As you may know, recently the US economy has been stagnant. A proposal is before the US Senate to help get things moving again. It is intended to provide the economy with needed stimulation from consumers such as yourself. This Senate proposal would allow consumers to withdraw up to $100,000 from their own individual IRA or 401K accounts penalty free and without tax consequences.

The funds may be used within six months either, for purchase of a home, for improvements to a home or for purchase of an automobile having at least 75% of its content made in the USA.

If consumers choose to eliminate the tax consequence, they only need to return the withdrawal to their IRA or 401K account within the next five tax years.

If consumers choose not to return the funds withdrawn, they can still reduce the tax consequences by paying tax on only ⅛ of the amount in each of the next five years.

THE INTERPUBLIC GROUP OF COMPANIES, INC.,
New York, NY, April 3, 1992.

Hon. ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

DEAR MR. SPECTER: In December 1991, we commissioned a consumer survey—a national probability sample of 1000 adults—to learn how Americans would respond to the Specter/Domenici proposal S–1984. We described the proposal to these people, in consumer language. We told them the Senate proposal would permit them to withdraw up to $10,000 from their IRA's or 401K's without penalty if they used the monies to either buy a new car, make a home improvement or buy a new home within the next six months.

The results were very encouraging. Fully one out of every three households in the country said they'd like to take advantage of this Senate proposal . . . 31 million households said they would act on this proposal . . . if it were passed.

Ninety days later, we conducted a second round of research. This time we beefed up the questionnaire to make sure those Americans who said they would act on this Senate proposal were, in fact, qualified to act on the proposal.

The results of the second round of research are even more encouraging. Among the 26 million families that qualify . . . those who say they have an IRA, a 401K, or a Keogh plan and a household income of no more than $100K (75K for single heads) . . . fully *40%*, that is 10.5 million families, say they will take advantage of the Senate proposal to buy a new car, van or truck, make a home improvement or buy a new home.

We also asked *everybody* we interviewed, regardless of whether they qualify or don't qualify, whether they thought this proposal would be good for the economy.

69% of all American families think the Senate proposal will have a positive impact on our economy. That is 65,000,000 families favor seeing this proposal passed. Even more impressive is the fact that 74% of America's middle-class families (HH income from $25K to $50K) believe the Senate proposal will stimulate our economy.

Both rounds of research say that Americans . . . those qualified and those who *wish* they were, are very much in favor of seeing this Senate proposal passed. Not once but twice they told us they would use their own funds to get our economy moving.

The proposal is powerful. It stimulates people to spend money; their own money. It motivates people to take action and buy a new home, make a home improvement or buy a new car. The research shows there are 10,500,000 qualified families who would withdraw money from their IRA's, their 401K, or their Keogh plan to make these investments.

Nearly 50% of these qualified families, (5,000,000) were motivated to invest in these properties *solely* by the Senate proposal. That is 5 million families did *not* intend to buy a new car, a new home or do any home improvements *before* this Senate proposal made it possible for them to consider taking these actions within the next six months.

These 5 million families say they will withdraw $32 billion dollars to invest: 2.1 million families investing $14 billion for new cars; 1.2 million families investing $10 billion for new homes and 1.6 million families investing $8 billion in home improvements.

But that's not all. The $24 billion for new homes and new cars is "seed money". It needs to be multiplied by the money they would take from their savings or borrow from banks to complete their purchases. (We're making the conservative assumption that the money they withdraw to spend on home improvement is their *total* investment.)

The average cost of a "new" home last year was $95,000. The money they would "borrow" from their plans (on average $7,900) needs to be multiplied by about 11X to equal the balance of the down payment (assuming 20%) and mortgage requirements to complete the purchase cost of a new home. That alone is an additional $106 billion dollars that would flow from lending institutions to support these intentions.

The average cost of a new car, van or truck last year was $13,500. In the survey new car buyers "borrowed" $6,450 (on average) from their plans. The additional funds from savings or a bank loan needed to complete the purchase is $7,050. The multiplier is 1.1x. Therefore, the "seed money" this Senate proposal would put into the economy generates an additional $15 billion dollars in economic activity.

Bottom line is that the Senate proposal would free up $32 billion from retirement plan savings to help get our economy moving. When multipliers are included the money Americans would use to complete their purchases results in a total of $153 billion . . . home purchase $116 billion; new car purchase $29 billion; home improvement $8 billion dollars that would move into our economy.

And 75% of these qualified Americans say they will return the money they borrow from their plans within the time frame required to avoid paying any penalties or additional taxes.

As I indicated, the findings were encouraging when we initially surveyed the issue in December 1991.

Findings in the March 1992 survey make it very conclusive. This is a plan which Americans believe in. A plan from which they and our nations economy will benefit. Clearly this proposal has a powerful triggering effect. It comes at a time when the effect of lowered interest rates is being blunted by the more restrictive consumer lending policies of our financial institutions. This proposal allows responsible access to funds. These will go to responsible investments. Economic activity will be triggered, jobs ensured and created. It provides a stimulus we need right now.

I urge you to make this opportunity available to our citizens. There is no doubt of their response and there can be little doubt concerning its positive and immediate economic impact.

With regards,

PHILIP H. GEIER, Jr.

NOTE.—This letter is being sent to each member of the House Ways and Means Committee and the Senate Finance Committee and to Senators Domenici and Specter. A copy of this letter is being sent to The White House.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM—DIVISION OF RESEARCH AND STATISTICS

Date: February 12, 1992.

Subject: Analysis of Senator Specter's proposal regarding penalty-free withdrawals from retirement accounts.

This memorandum analyzes Senator Specter's proposal regarding penalty-free withdrawals from retirement accounts, focusing especially on the issue of how great an impact the action would have on household spending. Section I describes in greater detail the provisions of the proposal; Section II discusses some analytical considerations bearing on the spending issue; Section III presents some relevant estimates derived from the national Survey of Consumer Finance; Section IV offers some conjectures on the likely spending effects.

I. The proposal

The proposed legislation would allow certain taxpayers to make penalty-free withdrawals from retirement-type accounts, provided the withdrawals are applied toward one or more qualified purchases. Specifically:

The proposal would allow withdrawals from IRAs, Keoghs, and 401(k)s.

Eligibility would be restricted to those earning less than $100,000 (if married and filing jointly), $50,000 (if married and filing separately), or $75,000 (all others).

According to the legislation in its current form, qualified expenditures would include the purchase or improvement of real property, and the purchase of durable goods. In his floor speech and in other communications, Senator Specter has also mentioned medical expenses and college tuition.

Each taxpayer would be allowed to withdraw no more than $10,000.

Withdrawals would have to be made on or before December 31, 1992; associated expenditure would have to be made either (a) within six months of the withdrawal, or (b) by the time the taxpayer files his/her return for the relevant tax year (in most cases, no later than April 15, 1993). The more restrictive of (a) or (b) would be the binding rule.

Regular tax liability on the withdrawn funds would still be owed; however, the liability could be spread over a period of four years following the withdrawal.

In his floor speech and written communications, Senator Specter also mentions the possibility of allowing those who take advantage of this proposal to replenish the funds in their IRA or 401(k) over the five years following the withdrawal. The existing legislation does not contain this provision.

II. Analytical considerations

Several analytical points are worth making about the likely impact of the proposal on household spending:

It is useful to think of qualifying households as falling in one of three categories: not liquidity-constrained, extremely liquidity-constrained, and somewhat liquidity-constrained.

Households that are not liquidity-constrained will probably not be interested in tapping their retirement savings, because doing so would remove those savings from their current tax-sheltered status.

Households that are extremely pressed for the funds will be tapping their funds in any event, and would choose to pay the 10 percent penalty in the absence of Senator Specter's proposal. The extra spending generated by the Senator's proposal via these households would be only $1,000—smaller by an order of magnitude than the overall amount of $10,000.

Therefore, the proposal likely would have its greatest impact on the spending of the intermediate group: those households that are somewhat liquidity-constrained, but not too much so. These households will be induced to make a withdrawal that they otherwise would not have made.

About two-thirds of 401(k)s have borrowing provisions. Therefore, owners of these accounts have access to the wealth they hold in 401(k)s even in the absence of Senator Specter's proposal. Evidence suggests that many households take advantage of these loan provisions. For example, one recent survey found that 9 percent of account-holders initiated a new loan during 1990, while 21 percent had a loan outstanding at the end of 1990.[1] Roughly 90 percent of such plans allow general-purpose loans (and therefore cover a wider range of expenditures than would Senator Specter's plan).

The tax amortization feature probably will make relatively little difference to the proposal's influence on spending: Standard theories of consumer behavior predict that taxpayers who know that a liability is outstanding will be inclined to set aside most, if not all, of the tax liability upon receipt of the withdrawal. This prediction is supported by available evidence concerning the relationship between ordinary income tax refunds and consumer spending.[2,3]

III. Empirical evidence

The following estimates from the 1989 Survey of Consumer Finance shed further light on the likely impact of the proposal on household spending:

According to the SCF, qualified accounts (including IRAs, 401(k)s, Keoghs, thrift, and saving plans) amounted to $1.239 trillion in 1989.[4]

Of this amount, $893 billion was held by families headed by someone aged less than 59 years old. Older people already can withdraw funds from retirement accounts without penalty.

Next $736 billion was held by families meeting both the income constraints specified under the Specter proposal and the above-mentioned age cutoff.

Ownership of that $736 billion was highly concentrated, however. If we count only the first $10,000 in retirement funds per family, then the qualified pool of funds shrinks to only $136 billion.

Median liquid assets held by all families meeting the proposed age and income criteria were $1,950.[5] Among families reporting ownership of some retirement funds, median liquid asset holdings were $6,180. Among families holding at least $5,000 in retirement funds, median liquid asset holdings were $9,800. This result conforms with the common finding that those who save via IRAs and Keoghs also tend to save by other means. Families that are holding substantial amounts outside their retirement accounts will be less interested in tapping their retirement funds if given the opportunity to do so penalty-free.

Transaction costs could be sufficiently great to persuade some families who otherwise would take advantage of Senator Specter's proposal not to liquidate their IRAs or 401(k)s. These costs would include, for example, early withdrawal penalties on time deposits and broker commissions.

IV. Spending effects

A fundamental fact should be kept in mind while assessing the likely influence of the proposed program on household spending: The proposal would do nothing to raise the wealth of households, other than of those who anticipated incurring a withdrawal penalty. Therefore, the proposal would influence household spending mainly be relaxing liquidity constraints currently binding on some households. The above data from the SCF suggest that this impact probably would not be very great, given that a considerable portion of the available retirement related wealth is owned by families holding substantial amounts of other liquid assets.

Some withdrawals undoubtedly would occur if the proposal were to be adopted, but the incremental effect of the proposal on expenditure will be less than the total amount withdrawn for two reasons: First, some withdrawals would have been taken, even in the absence of the program, by families extremely pressed for liquidity. Second, some withdrawals from 401(k)s will represent, in effect, a substitution of outright withdrawal for borrowing that would have taken place in the absence of the program.

There is no way of predicting with any confidence the amount of additional expenditure that would be forthcoming in response to implementation of the proposal. It seems reasonable to guess, on the basis of the evidence presented here, that the increment to spending would amount to less than one percent of personal consumption expenditure (or $40 billion)—and it quite possibly would be substantially less. If the permissible penalty-free withdrawal were to be raised to $20,000, it would raise the amount released on the estimates above from $136 billion to $206 billion. However, while the spending effect probably would be greater, it would likely be only modestly so, because the additional balances affected would, on average, be held by individuals who are less liquidity-constrained.

FOOTNOTES

[1] Hewitt Associates, Lincolnshire, IL. News and Information Release. January 23, 1992.

[2] See "Income Tax Refunds and the Timing of Consumer Expenditure," David W. Wilcox, mimeo. Federal Reserve Board.

[3] Low-income taxpayers will experience some benefit from being allowed to smooth some of the liability into lower tax brackets. However, evidence from the Survey of Consumer Finance suggests that eligible families would have higher-than-normal incomes, and so would not benefit from this aspect of the proposal to any great degree.

[4] Respondents to the 1989 SCF reported total holdings in IRAs and Keoghs of $598 billion. For comparison. The Employee Benefit Research Institute puts the total for IRAs and Keoghs in 1989 at $494 billion. SCF respondents reported an additional $295 billion in 401(k)s, quite close to the estimate for 1988 of $277 billion based on data from the Department of Labor's Form 5500. Finally, SCF respondents reported $346 billion in thrift or saving plans, or other defined-contribution plans with borrowing provisions.

[5] Liquid assets were defined as the sum of checking accounts, money market accounts, CDs, other bank accounts, mutual fund holdings, savings bonds, other government and private bonds, direct stock holdings, and accounts held at brokers.

[An advertisement from USA Today, Mar. 6, 1992]

In the next 6 months, Congress can help Detroit sell more than a million more new cars, help builders sell more than 500,000 more new homes, and American tradesmen improve millions of old homes.

Without costing the taxpayers a penny. And without waiting for a new tax bill.

It's remarkable. It's immediate. And it's a conservative estimate based on an independent market research response to an amended version of the Specter/Domenici Bill S–1984.

When asked whether they would use up to $10,000 of their money currently in IRA's and/

Footnotes at end of article.

or 401K's—if there were no penalty—to purchase a new home, improve their current home, or buy an automobile or truck, Americans overwhelmingly answered "yes."

Indeed, 38% more people than are currently in the auto market said this would turn them from being bystanders into buyers. That's 4.8 million more people spending 65 billion new dollars. Out of a projected total of over $200 billion in purchasing power that this suggested amended bill could unleash. (and this doesn't include additional mortgage money generated, either.)

Additionally, they understood the only time qualifications was that they do this in the next six months, and return the money to their accounts within five years to reinstate tax-free benefits without a taxable event taking place.

And because people had not planned on withdrawing the money anyway, there would be no loss of revenue to the government from the loss of withdrawal penalties.

It's a provocative idea. A practical idea. And an affordable idea. And judging from the response to the market research, it's an idea for jump-starting the economy whose time has come.

By Mr. ROTH (for himself, Mr. GLENN, Mr. GRAHAM, Mr. METZENBAUM, Mr. MCCAIN, Mr. AKAKA, Mr. ROBB, and Mr. LUGAR):

S. 20. A bill to provide for the establishment, testing, and evaluation of strategic planning and performance measurement in the Federal Government, and for other purposes; to the Committee on Governmental Affairs.

GOVERNMENT PERFORMANCE AND RESULTS ACT

Mr. ROTH. Mr. President, I am reintroducing today S. 20, the Government Performance and Results Act. This legislation represents a very important and fundamental reform of the way Federal Government does business. When fully implemented, after an initial series of pilot projects, all Federal agencies would have to establish measurable program performance goals and to report actual results.

The legislation, in other words, would bring about a new form of accountability to the American taxpayers—an accountability by Federal agencies for the results they achieve when they spend tax dollars.

That this commonsense reform is long overdue is evidenced by the broad, bipartisan cosponsorship it received in the last Congress, and by the fact that it passed the Senate under unanimous consent on October 1. I am hopeful that with similar support in this Congress and from the new administration, we can move this bill quickly to enactment during the first 100 days.

This new emphasis on Government performance and results is a fundamental element underlying what has come to be referred to as reinventing Government. It is what will allow us to give program administrators greater managerial flexibility and discretion—the freedom to be innovative—in return for greater results-oriented accountability. It is what allows us to move toward performance-based budgeting, with specific program goals linked directly in the budget to the required resources. These reforms, too, are incorporated as objectives of S. 20.

For too long, Federal program performance has suffered from a lack both of specific program goals and the measurement of results. Accountability has been strictly process-oriented—did program managers properly follow a detailed set of procedural requirements, in a rigidly mandated program structure, with resources used in precisely the manner prescribed? That is what seems to matter most, not whether the program is achieving the desired results.

Rarely is the question even asked, much less answered, "What outcomes do we want for the money we are going to spend?" As a result, on those seemingly few occasions when program outcomes are actually reported, there is no preestablished benchmark against which to objectively measure success or failure. This, in turn, makes it difficult to spotlight excellence or to expose mismanagement.

The Government Performance and Results Act will address this major shortcoming in how the Federal Government operates. In doing so, it will go a along way toward improving the efficiency, effectiveness, and responsiveness of governmental institutions.

I believe it is significant that the National Academy of Public Administration and the American Society for Public Administration have called for the types of reforms mandated by S. 20. Both organizations, whose members include many esteemed present and former Government managers, have endorsed the need for such legislation, and made valuable suggestions in the develop of the bill.

This is because most Government managers truly do want to do a good job. But to do this, they need a clear understanding of specifically what it is their programs should accomplish, and accurate, timely information on program performance. They want program goals that relate to program resources, and they want the discretion to manage those resources to achieve maximum results. In all of this, they are no different than managers in the private sector.

Both the Office of Management and Budget, and the General Accounting Office, in testimony before the Governmental Affairs Committee, stated that the measures called for in S. 20 are already now being adopted in various State and local governments—and at the national government level in such countries as Australia and the United Kingdom. While the specifics of implementation are necessarily different for our Federal Government, many of the fundamental principles are applicable.

The legislation incorporates those principles. Each agency would develop a 5-year strategic plan, with a set of specific, long-term program goals. It would then develop an annual performance plan, also with measurable program goals, aiming its day-to-day activities at achieving the long-term objectives. And then each agency would publish an annual performance report, showing what it achieved compared to those goals.

Implementation of these steps would begin first on a pilot project basis, in programs within at least 10 agencies for 3 years. If satisfied with the results of those pilot projects, Congress would then approve a resolution mandating governmentwide implementation of the requirements. At that point, several pilot projects in performance-based budgeting would begin—showing proposed program budgets in a format that directly links recommended spending levels with expected results.

Mr. President, public opinion polls indicate that the average American believes 48 cents out of every tax dollar sent to Washington is wasted. This is a key reason underlying the public's frustration with the Federal Government. The Government Performance and Results Act is a major reform of how Government operates, and is aimed squarely at addressing that frustration. Its enactment will be an important and significant step toward restoring the public's confidence in our institutions of Government.

I ask unanimous consent that the text of the bill be printed following this statement.

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Performance and Results Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) waste and inefficiency in Federal programs undermine the confidence of the American people in the Government and reduces the Federal Government's ability to address adequately vital public needs;

(2) Federal managers are seriously disadvantaged in their efforts to improve program efficiency and effectiveness, because of insufficient articulation of program goals and inadequate information on program performance; and

(3) congressional policymaking, spending decisions and program oversight are seriously handicapped by insufficient attention to program performance and results.

(b) PURPOSES.—The purposes of this Act are to—

(1) improve the confidence of the American people in the capability of the Federal Government, by systematically holding Federal agencies accountable for achieving program results;

(2) initiate program performance reform with a series of pilot projects in setting program goals, measuring program performance against those goals, and reporting publicly on their progress;

(3) improve Federal program effectiveness and public accountability by promoting a

new focus on results, service quality, and customer satisfaction;

(4) help Federal managers improve service delivery, by requiring that they plan for meeting program objectives and by providing them with information about program results and service quality;

(5) improve congressional decisionmaking by providing more objective information on achieving statutory objectives, and on the relative effectiveness and efficiency of Federal programs and spending; and

(6) improve internal management of the Federal Government, and the intent of this Act is not to create any right or benefit, substantive or procedural, enforceable at law by any party against the United States, or any agency or office of the United States.

SEC. 3. STRATEGIC PLANNING.

Chapter 3 of title 5, United States Code, is amended by adding after section 305 the following new section:

"§ 306. Strategic plans

"(a) No later than September 30, 1997, the head of each agency shall submit to the Director of the Office of Management and Budget a strategic plan for program activities. Such plan shall contain—

"(1) a comprehensive mission statement covering the major functions and operations of the agency;

"(2) general goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the agency;

"(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives;

"(4) a description of how the performance goals included in the plan required by section 1115(a) of title 31 shall be related to the general goals and objectives in the strategic plan;

"(5) an identification of those key factors external to the agency and beyond its control that could significantly affect the achievement of the general goals and objectives; and

"(6) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations.

"(b) The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

"(c) The performance plan required by section 1115 of title 31 shall be consistent with the agency's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

"(d) When developing a strategic plan, the agency shall consult with the Congress, and shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan.

"(e) For purposes of this section the term 'agency' means an Executive agency defined under section 105, but does not include the Central Intelligence Agency, the General Accounting Office, the Panama Canal Commission, the United States Postal Service, and the Postal Rate Commission.".

SEC. 4. ANNUAL PERFORMANCE PLANS AND REPORTS.

(a) BUDGET CONTENTS AND SUBMISSION TO CONGRESS.—Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following new paragraph:

"(29) beginning with fiscal year 1999, a Federal Government performance plan for the overall budget as provided for under section 1115.".

(b) PERFORMANCE PLANS AND REPORTS.—Chapter 11 of title 31, United States Code, is amended by adding after section 1114 the following new sections:

"§ 1115. Performance plans

"(a) In carrying out the provisions of section 1105(a)(29), the Office of Management and Budget shall require each agency to prepare an annual performance plan covering each program activity set forth in the budget of such agency. Such plan shall—

"(1) establish performance goals to define the level of performance to be achieved by a program activity;

"(2) express such goals in an objective, quantifiable, and measurable form unless permitted an alternative form under subsection (b);

"(3) describe the operational processes, skills and technology, and the human, capital, information, and other resources required to meet the performance goals;

"(4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

"(5) provide a basis for comparing actual program results with the established performance goals; and

"(6) describe the means to be used to verify and validate measured values.

"(b) If an agency, in consultation with the Office of Management and Budget, determines that it is not feasible to express the performance goals for a particular program activity in an objective and quantifiable form, the Office of Management and Budget may authorize an alternative form. Such alternative form shall—

"(1) include separate descriptive statements of—

"(A) a minimally effective program, and

"(B) a successful program,

with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of either description; or

"(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

"(c) In preparing a comprehensive and informative plan under this section, an agency may aggregate, disaggregate, or consolidate program activities, provided that any aggregation or consolidation does not omit or minimize the significance of any program activity constituting a major function or operation for the agency.

"(d) An agency may prepare a classified or non-public annex to its plan covering program activities or parts of program activities relating to—

"(1) national security;

"(2) the conduct of foreign affairs; or

"(3) the avoidance of interference with criminal prosecution or revenue collection.

"(e) For purposes of this section and sections 1116 through 1119, and section 9704 the term—

"(1) 'agency' means an Executive agency defined under section 105 of title 5, United States Code, but does not include the Central Intelligence Agency, the General Accounting Office, the Panama Canal Commission, the United States Postal Service, and the Postal Rate Commission;

"(2) 'outcome measure' refers to an assessment of the results of a program activity compared to its intended purpose;

"(3) 'output measure' refers to the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

"(4) 'performance goal' means a target level of performance expressed as a tangible, measurable objective, against which actual achievement shall be compared, including a goal expressed as a quantitative standard, value, or rate;

"(5) 'performance indicator' refers to a particular value or characteristic used to measure output or outcome;

"(6) 'program activity' means a specific activity or project as listed in the program and financing schedules of the annual budget of the United States Government; and

"(7) 'program evaluation' means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Federal programs achieve intended objectives.

"§ 1116. Program performance reports

"(a) No later than March 31, 2000, and no later than March 31 of each year thereafter, the head of each agency shall prepare and submit to the President and the Congress, a report on program performance for the previous fiscal year.

"(b)(1) Each program performance report shall set forth the performance indicators established in the departmental or agency performance plan, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

"(2) If performance goals are specified by descriptive statements of a minimally effective program activity and a successful program activity, the results of such program shall be described in relationship to those categories, including whether the performance failed to meet the criteria of either category.

"(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

"(d) Each report shall—

"(1) review the success of achieving the performance goals of the fiscal year;

"(2) evaluate the performance plan for the current fiscal year relative to the performance achieved towards the performance goals in the fiscal year covered by the report;

"(3) explain and describe, where a performance goal has not been met, including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 1115(b)(2)—

"(A) why the goal was not met;

"(B) those plans and schedules for achieving the established performance goal; and

"(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended;

"(4) describe the use and assess the effectiveness in achieving performance goals of any waiver under section 9703 of this title; and

"(5) include the summary findings of those program evaluations completed during the fiscal year covered by the report.

"(e) The agency head may include all program performance information required annually under this section in an annual financial statement required under section 3515 if any such statement is submitted to the Congress no later than March 31 of the applicable fiscal year.

"§ 1117. Exemption

"The Director of the Office of Management and Budget may exempt from the requirements of sections 1115 and 1116 and section 306 of title 5, any agency with annual outlays of $20,000,000 or less.".

SEC. 5. MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.

(a) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Chapter 97 of title 31, United States Code, is amended by adding after section 9702, the following new section:

"§ 9703. Managerial accountability and flexibility

"(a) Beginning with fiscal year 1999, the performance plans required under section 1115 may include proposals to waive administrative procedural requirements and controls, including specification of personnel staffing levels, limitations on compensation or remuneration, and prohibitions or restrictions on funding transfers among budget object classification 20 and subclassifications 11, 12, 31, and 32 of each annual budget submitted under section 1105, in return for specific individual or organization accountability to achieve a performance goal. In preparing and submitting the performance plan under section 1105(a)(29), the Office of Management and Budget shall review and may approve any proposed waivers. A waiver shall take effect at the beginning of the fiscal year for which the waiver is approved.

"(b) Any such proposal under subsection (a) shall describe the anticipated effects on performance resulting from greater managerial or organizational flexibility, discretion, and authority, and shall quantify the expected improvements in performance resulting from any waiver. The expected improvements shall be compared to current actual performance, and to the projected level of performance that would be achieved independent of any waiver.

"(c) Any proposal waiving limitations on compensation or remuneration shall precisely express the monetary change in compensation or remuneration amounts, such as bonuses or awards, that shall result from meeting, exceeding, or failing to meet performance goals.

"(d) Any proposed waiver of procedural requirements or controls imposed by an agency (other than the proposing agency or the Office of Management and Budget) shall be endorsed by the agency that established the requirement, and the endorsement included in the proposing agency's performance plan.

"(e) A waiver shall be in effect for one or two years. A waiver may be renewed for a subsequent year. After a waiver has been in effect for three consecutive years, the performance plan prepared under section 1115 may propose that a waiver, other than a waiver of limitations on compensation or remuneration, be made permanent.".

SEC. 6. PILOT PROJECTS.

(a) PERFORMANCE PLANS AND REPORTS.—Chapter 11 of title 31, United States Code, is amended by inserting after section 1117 (as added by section 4 of this Act) the following new section:

"§ 1118. Pilot projects for performance goals

"(a) The Director of the Office of Management and Budget, after consultation with the head of each agency, shall designate not less than ten agencies as pilot projects in performance measurement for fiscal years 1994, 1995, and 1996. The selected agencies shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

"(b) Pilot projects in the designated agencies shall undertake the preparation of performance plans under section 1115, and program performance reports under section 1116, other than section 1116(c), for one or more of the major functions and operations of the agency. A strategic plan shall be used when preparing agency performance plans during one or more years of the pilot period.

"(c) No later than May 1, 1997, the Director of the Office of Management and Budget shall submit a report to the President and to the Congress which shall—

"(1) assess the benefits, costs, and usefulness of the plans and reports prepared by the pilot agencies in meeting the purposes of the Government Performance and Results Act of 1992;

"(2) identify any significant difficulties experienced by the pilot agencies in preparing plans and reports; and

"(3) set forth any recommended changes in the requirements of the provisions of Government Performance and Results Act of 1992, section 306 of title 5, sections 1105, 1115, 1116, 1117, 1119 and 9704 of this title, and this section.".

(b) MANAGERIAL ACCOUNTABILITY AND FLEXIBILITY.—Chapter 97 of title 31, United States Code, is amended by inserting after section 9703 (as added by section 5 of this Act) the following new section:

"§ 9704. Pilot projects for managerial accountability and flexibility

"(a) The Director of the Office of Management and Budget shall designate not less than five agencies as pilot projects in managerial accountability and flexibility for fiscal years 1995 and 1996. Such agencies shall be selected from those designated as pilot projects under section 1118 and shall reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

"(b) Pilot projects in the designated agencies shall include proposed waivers in accordance with section 9703 for one or more of the major functions and operations of the agency.

"(c) The Director of the Office of Management and Budget shall include in the report to the President and to the Congress required under section 1118(b) the following—

"(1) an assessment of the benefits, costs, and usefulness of increasing managerial and organizational flexibility, discretion, and authority in exchange for improved performance through a waiver; and

"(2) an identification of any significant difficulties experienced by the pilot agencies in preparing proposed waivers.

"(d) For purposes of this section the definitions under section 1115(e) shall apply.".

(c) PERFORMANCE BUDGETING.—Chapter 11 of title 31, United State Code, is amended by inserting after section 1118 (as added by section 6 of this Act) the following new section:

"§ 1119. Pilot projects for performance budgeting

"(a) The Director of the Office of Management and Budget, after consultation with the head of each agency shall designate not less than five agencies as pilot projects in performance budgeting for fiscal years 1998 and 1999. At least three of the agencies shall be selected from those designated as pilot projects under section 1118, and shall also reflect a representative range of Government functions and capabilities in measuring and reporting program performance.

"(b) Pilot projects in the designated agencies shall cover the preparation of performance budgets. Such budgets shall present, for one or more of the major functions and operations of the agency, the varying levels of performance, including outcome-related performance, that would result from different budgeted amounts.

"(c) The Director of the Office of Management and Budget shall include, as an alternative budget presentation in the budget submitted under section 1105 for fiscal year 1999, the performance budgets of the designated agencies for this fiscal year.

"(d) No later than March 31, 2001, the Director of the Office of Management and Budget shall transmit a report to the President and to the Congress on the performance budgeting pilots which shall—

"(1) assess the feasibility and advisability of including a performance budget as part of the annual budget submitted under section 1105;

"(2) describe any difficulties encountered by the pilot agencies in preparing a performance budget;

"(3) recommend whether legislation requiring performance budgets should be proposed and the general provisions of any legislation; and

"(4) set forth any recommended changes in the other requirements of the Government Performance and Results Act of 1992, section 306 of title 5, sections 1105, 1115, 1116, 1117, 1118, and 9704 of this title, and this section.

"(e) After receipt of the report required under subsection (d), the Congress may specify that a performance budget be submitted as part of the annual budget submitted under section 1105.".

SEC. 7. UNITED STATES POSTAL SERVICE.

Part III of title 39, United States Code, is amended by adding at the end thereof the following new chapter:

"CHAPTER 28—STRATEGIC PLANNING AND PERFORMANCE MANAGEMENT

"Sec.
"2801. Definitions.
"2802. Strategic plans.
"2803. Performance plans.
"2804. Program performance reports.

"§ 2801. Definitions

"For purposes of this chapter the term—

"(1) 'outcome measure' refers to an assessment of the results of a program activity compared to its intended purpose;

"(2) 'output measure' refers to the tabulation, calculation, or recording of activity or effort and can be expressed in a quantitative or qualitative manner;

"(3) 'performance goal' means a target level of performance expressed as a tangible, measurable objective, against which actual achievement shall be compared, including a goal expressed as a quantitative standard, value, or rate;

"(4) 'performance indicator' refers to a particular value or characteristic used to measure output or outcome;

"(5) 'program activity' means a specific activity related to the mission of the Postal Service; and

"(6) 'program evaluation' means an assessment, through objective measurement and systematic analysis, of the manner and extent to which Postal Service programs achieve intended objectives.

"§ 2802. Strategic plans

"(a) No later than September 30, 1997, the Postal Service shall submit to the President and the Congress a strategic plan for its program activities. Such plan shall contain—

"(1) a comprehensive mission statement covering the major functions and operations of the Postal Service;

"(2) general goals and objectives, including outcome-related goals and objectives, for the major functions and operations of the Postal Service;

"(3) a description of how the goals and objectives are to be achieved, including a description of the operational processes, skills and technology, and the human, capital, information, and other resources required to meet those goals and objectives;

"(4) a description of how the performance goals included in the plan required under section 2803 shall be related to the general goals and objectives in the strategic plan;

"(5) an identification of those key factors external to the Postal Service and beyond its control that could significantly affect the achievement of the general goals and objectives; and

"(6) a description of the program evaluations used in establishing or revising general goals and objectives, with a schedule for future program evaluations.

"(b) The strategic plan shall cover a period of not less than five years forward from the fiscal year in which it is submitted, and shall be updated and revised at least every three years.

"(c) The performance plan required under section 2803 shall be consistent with the Postal Service's strategic plan. A performance plan may not be submitted for a fiscal year not covered by a current strategic plan under this section.

"(d) When developing a strategic plan, the Postal Service shall solicit and consider the views and suggestions of those entities potentially affected by or interested in such a plan, and shall advise the Congress of the contents of the plan.

"§ 2803. Performance plans

"(a) The Postal Service shall prepare an annual performance plan covering each program activity set forth in the Postal Service budget, which shall be included in the comprehensive statement presented under section 2401(g) of this title. Such plan shall—

"(1) establish performance goals to define the level of performance to be achieved by a program activity;

"(2) express such goals in an objective, quantifiable, and measurable form unless an alternative form is used under subsection (b);

"(3) describe the operational processes, skills and technology, and the human, capital, information, and other resources required to meet the performance goals;

"(4) establish performance indicators to be used in measuring or assessing the relevant outputs, service levels, and outcomes of each program activity;

"(5) provide a basis for comparing actual program results with the established performance goals; and

"(6) describe the means to be used to verify and validate measured values.

"(b) If the Postal Service determines that it is not feasible to express the performance goals for a particular program activity in an objective and quantifiable form, the Postal Service may use an alternative form. Such alternative form shall—

"(1) include separate descriptive statements of—

"(A) a minimally effective program, and

"(B) a successful program,

with sufficient precision and in such terms that would allow for an accurate, independent determination of whether the program activity's performance meets the criteria of either description; or

"(2) state why it is infeasible or impractical to express a performance goal in any form for the program activity.

"(c) In preparing a comprehensive and informative plan under this section, the Postal Service may aggregate, disaggregate, or consolidate program activities, provided that any aggregation or consolidation does not omit or minimize the significance of any program activity constituting a major function or operation.

"(d) The Postal Service may prepare a nonpublic annex to its plan covering program activities or parts of program activities relating to—

"(1) the avoidance of interference with criminal prosecution; or

"(2) matters otherwise exempt from public disclosure under section 401(c) of this title.

"§ 2804. Program performance reports

"(a) The Postal Service shall prepare a report on program performance for each fiscal year, which shall be included in the annual comprehensive statement presented under section 2401(g) of this title.

"(b)(1) The program performance report shall set forth the performance indicators established in the Postal Service performance plan, along with the actual program performance achieved compared with the performance goals expressed in the plan for that fiscal year.

"(2) If performance goals are specified by descriptive statements of a minimally effective program activity and a successful program activity, the results of such program shall be described in relationship to those categories, including whether the performance failed to meet the criteria of either category.

"(c) The report for fiscal year 2000 shall include actual results for the preceding fiscal year, the report for fiscal year 2001 shall include actual results for the two preceding fiscal years, and the report for fiscal year 2002 and all subsequent reports shall include actual results for the three preceding fiscal years.

"(d) Each report shall—

"(1) review the success of achieving the performance goals of the fiscal year;

"(2) evaluate the performance plan for the current fiscal year relative to the performance achieved towards the performance goals in the fiscal year covered by the report;

"(3) explain and describe, where a performance goal has not been met, including when a program activity's performance is determined not to have met the criteria of a successful program activity under section 2803(b)(2)—

"(A) why the goal was not met;

"(B) those plans and schedules for achieving the established performance goal; and

"(C) if the performance goal is impractical or infeasible, why that is the case and what action is recommended; and

"(4) include the summary findings of those program evaluations completed during the fiscal year covered by the report.".

SEC. 8. CONGRESSIONAL OVERSIGHT AND LEGISLATION.

(a) IN GENERAL.—Nothing in this Act shall be construed as limiting the ability of Congress to establish, amend, suspend, or annul a performance goal. Any such action shall have the effect of superseding that goal in the plan submitted under section 1105(a)(29) of title 31, United States Code.

(b) GAO REPORT.—No later than June 1, 1997, the Comptroller General of the United States shall report to Congress on the implementation of this Act, including the prospects for compliance by Federal agencies beyond those participating as pilot projects under sections 1118 and 9704 of title 31, United States Code.

SEC. 9. TRAINING.

The Office of Personnel Management shall, in consultation with the Director of the Office of Management and Budget and the Comptroller General of the United States develop a strategic planning and performance measurement training component for its management training program and otherwise provide managers with an orientation on the development and use of strategic planning and program performance measurement.

SEC. 10. APPLICATION OF ACT.

No person who is not an officer or employee of the United States acting in such capacity shall have standing to file any civil action in a court of the United States to enforce any provision or amendment made by this Act. No provision or amendment made by this Act may be construed as creating any right, privilege, benefit, or entitlement for any person who is not an officer or employee of the United States acting in such capacity.

SEC. 11. TECHNICAL AND CONFORMING AMENDMENT.

(a) AMENDMENT TO TITLE 5, UNITED STATES CODE.—The table of sections for chapter 3 of title 5, United States Code, is amended by adding after the item relating to section 305 the following:

"306. Strategic plans.".

(b) AMENDMENTS TO TITLE 31, UNITED STATES CODE.—

(1) AMENDMENT TO CHAPTER 11.—The table of sections for chapter 11 of title 31, United States Code, is amended by adding after the item relating to section 1114 the following:

"1115. Performance plans.
"1116. Program performance reports.
"1117. Exemptions.
"1118. Pilot projects for performance goals.
"1119. Pilot projects for performance budgeting.".

(2) AMENDMENT TO CHAPTER 97.—The table of sections for chapter 97 of title 31, United States Code, is amended by adding after the item relating to section 9702 the following:

"9703. Managerial accountability and flexibility.
"9704. Pilot projects for managerial accountability and flexibility.".

(c) AMENDMENT TO TITLE 39, UNITED STATES CODE.—The table of chapters for part III of title 39, United States Code, is amended by adding at the end thereof the following new item:

"28. Strategic planning and performance management ..... 2801".

SEC. 12. EFFECTIVE DATES AND PROCEDURES.

(a) IN GENERAL.—The provisions of this Act and amendments made by this Act shall take effect on the date of the enactment of this Act, except sections 3, 4, 5, 6(c), and 7 of this Act, and the amendments made by such sections, shall take effect on the date of enactment of the resolution described in subsection (b).

(b) RESOLUTION APPROVING PERFORMANCE PLANS.—

(1) RESOLUTION DESCRIBED.—A resolution referred to in subsection (a) is a joint resolution the matter after the resolving clause of which is as follows: "That Congress approves the development of departmental and agency strategic plans, performance plans and reports pursuant to section 306 of title 5, United States Code, sections 1105(a)(29) and 9703 of title 31, United States Code, sections 1115, 1116, 1117, and 1119 of title 31, United States Code, and chapter 28 of title 39, United States Code (as amended by sections 3, 4, 5, 6, and 7 of the Government Performance and Results Act of 1992).".

(2) INTRODUCTION OF RESOLUTION.—No later than 30 days after the transmittal by the Comptroller General of the United States to

the Congress of the report referred to in section 7(b), a resolution as described in paragraph (1) shall be introduced in the Senate by the chairman of the Committee on Governmental Affairs of the Senate, or by a Member or Members of the Senate designated by such chairman, and shall be introduced in the House by the chairman of the Committee on Government Operations of the House of Representatives, or by a Member or Members of the House designated by such chairman.

(3) REFERRAL.—A resolution described in paragraph (1), shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the Senate or the House of Representatives, respectively, within 30 calendar days following the date of such resolution's introduction.

(4) DISCHARGE OF COMMITTEE.—If the committee to which is referred a resolution introduced pursuant to paragraph (2) (or, in the absence of such a resolution, the first resolution introduced with respect to the same departmental or agency plans and reports) has not reported such resolution or identical resolution at the end of 30 calendar days after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEE; VOTE ON FINAL PASSAGE.—(A) When the committee has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(C) Immediately following the conclusion of the debate on the resolution and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1), shall be decided without debate.

(E) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to departmental or agency strategic plans, performance plans and reports from the other House, then—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(F) It shall not be in order in either the Senate or the House of Representatives to consider a resolution described in paragraph (1), or to consider any conference report on such a resolution, unless the Comptroller General of the United States transmits to the Congress a report under section 7(b).

(6) RULEMAKING POWER OF CONGRESS.—The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives and as such shall be considered as part of the rules of each House, and shall supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

• Mr. GLENN. Mr. President, I rise today to cosponsor the Government Performance and Results Act of 1993. This legislation, which is very similar to a bill I cosponsored with Senator ROTH in the last Congress, will bring greater accountability and performance to the delivery of our public services, along with a wiser use of taxpayer dollars.

For too long, the Federal Government has been largely unable to measure the successes and failures of the hundreds of programs it administers. The absence of any systematic measurement of performance has meant that no one really knows whether programs are effective and reach the people they were intended to help, and whether the taxpayers footing the bill are getting their money's worth.

Today, more than ever, as we make the tough choices necessary to reduce the deficit while still providing essential public services, we must ensure that the programs and services of government operate as effectively as possible. The Government's role is to provide Americans with the vital services they need, and to provide those services at the least possible cost.

In my opinion, the Government Performance and Results Act will go a long way toward accomplishing these goals. This bill will help Federal agencies to take the steps they need to make programs work for the people and the taxpayer—and to make the Government accountable to both. The most important contribution that this bill can make is to help restore the confidence of the American people in their government, by systematically holding Federal agencies accountable for achieving program results.

Mr. President, I also would like to commend Senator ROTH for his leadership on this issue. He first introduced S. 20 at the beginning of the 102d Congress, laying the groundwork for the committee's subsequent work in this area. Since the introduction of the bill, Senator ROTH and I have worked closely together to hold hearings and to make subsequent revisions to the legislation. Then on August 5, 1992, we held a committee markup at which time we approved a revised version of the bill.

Now I believe that this new bill makes some important improvements on the original concept. One very important change is that we will begin our Federal performance measurement effort with a number of carefully selected pilot projects. Before we have the entire Federal Government instituting performance measurement systems, we must have several successful Federal models for the rest of the agencies to follow. Considering the very limited number of agencies which are currently using this concept, and considering the lingering uncertainties about how to apply performance measurement at the Federal level, it would be unwise to have the entire government trying to do it simultaneously.

Only when we have seen the results of the pilot projects and are convinced that performance measurement is working at the Federal level should we go ahead to mandate it government-wide. S. 20 provides for an expedited resolution process that will give the Congress an opportunity to expand the use of performance measurement at that time.

In order to make that determination, the bill calls for a report by the General Accounting Office by June 1, 1997. This report will analyze the success of the pilot projects, as well as looking ahead to the prospects for expansion to the entire government. Thus, the Congress will have the objective analysis we need to determine whether performance measurement has lived up to our expectations.

All-in-all, this process strikes a good balance between our desire to institute worthwhile improvements and our concern about creating new paper exercises. The agencies will have a chance to experiment with this potentially useful concept, but we will hold off on broader application until we are certain that it is worth the effort.

Mr. President, we must also understand that in order to measure and then judge the performance of Federal agencies, we must first make sure that those agencies have the capacity to perform the public missions that we ask of them. In recent years, many Federal agencies have not had the adequate resources—in qualified people, in management systems and in equipment, for instance—to do their jobs well. Capacity and performance measurement must go hand in hand if we are to fairly and accurately judge the success and failure of Federal programs.

The Government Performance and Results Act will, I believe, help to improve the effectiveness of Federal programs by promoting a new focus on results, on service quality and on customer satisfaction. The bill will help Federal managers improve service delivery by requiring that they plan for meeting program objectives and by setting up a system that will for the first time provide agencies with information about program results and service quality.

Moreover, the act would improve our own decisionmaking here in the Congress, by providing us with more objective information about achieving statutory objectives and helping us to make wiser program spending choices based on more accurate, complete, and timely information.

Our Government and our country need this legislation if we are to move forward to truly serve the needs of the people and at the same time reduce our mounting deficit. I look forward to working with the new administration on this issue, and on improving the performance of government programs.●

By Ms. FEINSTEIN (for herself, Mrs. BOXER, Mr. AKAKA, Mr. BINGAMAN, Mr. BOREN, Mr. BRYAN, Mr. FEINGOLD, Mr. HARKIN, Mr. KENNEDY, Mr. KOHL, Mr. LAUTENBERG, Mr. LEAHY, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MURRAY, Mr. NUNN, Mr. PELL, Mr. REID, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, Mr. WOFFORD, and Mr. JEFFORDS):

S. 21. A bill to designate certain lands in the California Desert as wilderness, to establish Death Valley, Joshua Tree, and Mojave National Parks, and for other purposes; to the Committee on Energy and Natural Resources.

CALIFORNIA DESERT PROTECTION ACT

Ms. FEINSTEIN. Mr. President, today I am introducing the California Desert Protection Act, a bill to provide for the protection of public lands in the California desert. I'm very pleased that my colleague from California, Senator BARBARA BOXER, and 20 other Senators are joining me as cosponsors of this legislation.

The California desert contains some of the most outstanding scenic, cultural, ecological, scientific, and recreational resources in the Nation. Comprising 25 million acres, the California desert is incredibly diverse, with sand dunes, extinct volcanoes, 90 mountain ranges, the world's largest Joshua Tree forest, and over 100,000 archaeological sites. These varied landforms provide habitats rich in biological diversity, with more than 760 different wildlife species. The finest of these resources deserve protection as part of the National Park and National Wilderness System. The California Desert Protection Act provides that protection.

The bill designates 74 Bureau of Land Management wilderness areas and 1 wilderness study area in the California desert, comprising nearly 4 million acres. It adds 1.3 million acres of national park quality land to Death Valley National Monument and national park quality land to Death Valley National Monument and redesignates the area as a national park, adds 234,000 acres to Joshua Tree National Monument and redesignates the area a national park, and establishes a 1.5 million-acre Mojave National Park.

The bill also designates national park wilderness for Death Valley, 3.18 million acres, Joshua Tree, 131,800 acres, and Mojave, 695,000 acres. It transfers 20,500 acres of Bureau of Land Management land to the State of California for addition to Red Rock Canyon State Park. And it designates a 2,040-acre Desert Lily Sanctuary.

In addition to protecting these nationally significant natural resources, the bill recognizes other important uses of the California desert. It allows livestock grazing to continue for up to 25 years in the Mojave National Park and gives priority to acquisition of ranchers' private property on a willing seller basis. It provides for the continuation of utility rights-of-way, upgrading of utility facilities, and continuation of customary operations of utilities, maintenance, repair, and replacement activities. The boundaries of the parks and wilderness areas have been drawn to avoid known or potential mineral conflicts. For example, I have excluded the Viceroy Gold Corp. mining claims in the Mojave where more than 200 people are currently working at an operating mine. More than 33,000 miles of roads and primitive routes providing access to desert lands are unaffected by the legislation and remain available for offroad vehicle use.

Finally, the bill recognizes the important military testing, training, and research activities conducted in the California desert. It withdraws public lands for continued military use of China Lake Naval Weapons Center and Chocolate Mountain Aerial Gunnery Range and does not restrict or preclude low-level overflights of military aircraft in the California desert.

Mr. President, there is tremendous support in California for desert protection. Thirty-six cities in the State, including the eight largest, have endorsed the California Desert Protection Act. A September 1988 survey conducted by the Field Institute found that the vast majority of Californians support more parks and wilderness in the California desert. Seventy-five percent of those polled said they want to see more protection for desert wildlife and ecology. More recently, a September 1992 Field Institute poll found that more than 70 percent of Californians, including more than 70 percent of the people living in desert counties, support park status for the Mojave as the bill provides.

I hope this Congress will pass the California Desert Protection Act, not only for the people of California, but so all Americans will continue to enjoy this spectacular and fragile landscape.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 21

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "California Desert Protection Act of 1993".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds and declares that—

(1) the federally owned desert lands of Southern California constitute a public wildland resource of extraordinary and inestimable value for this and future generations;

(2) these desert wildlands display unique scenic, historical, archaeological, environmental, ecological, wildlife, cultural, scientific, educational, and recreational values used and enjoyed by millions of Americans for hiking and camping, scientific study and scenic appreciation;

(3) the public land resources of the California desert now face and are increasingly threatened by adverse pressures which would impair, dilute, and destroy their public and natural values;

(4) the California desert, embracing wilderness lands, units of the National Park System, other Federal lands, State parks and other State lands, and private lands, constitutes a cohesive unit posing unique and difficult resource protection and management challenges;

(5) through designation of national monuments by Presidential proclamation, through enactment of general public land statutes (including section 601 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 et seq.) and through interim administrative actions, the Federal Government has begun the process of appropriately providing for protection of the significant resources of the public lands in the California desert; and

(6) statutory land unit designations are needed to afford the full protection which the resources and public land values of the California desert merit.

(b) In order to secure for the American people of this and future generations an enduring heritage of wilderness, national parks, and public land values in the California desert, it is hereby declared to be the policy of the Congress that—

(1) appropriate public lands in the California desert shall be included within the National Park System and the National Wilderness Preservation System, in order to—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with these unique natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems of the California desert;

(C) protect and preserve historical and cultural values of the California desert associated with ancient Indian cultures, pattern of western exploration and settlement, and sites exemplifying the mining, ranching and railroading history of the Old West;

(D) provide opportunities for compatible outdoor public recreation, protect and interpret ecological and geological features and historic, paleontological, and archaeological sites, maintain wilderness resource values, and promote public understanding and appreciation of the California desert; and

(E) retain and enhance opportunities for scientific research in undisturbed ecosystems.

TITLE I—WILDERNESS ADDITIONS

FINDINGS

SEC. 101. The Congress finds and declares that—

(1) wilderness is a distinguishing characteristic of the public lands in the California desert, one which affords an unrivaled opportunity for experiencing vast areas of the Old West essentially unaltered by man's activities, and which merits preservation for the benefit of present and future generations;

(2) the wilderness values of desert lands are increasingly threatened by and especially vulnerable to impairment, alteration, and destruction by activities and intrusions associated with incompatible use and development; and

(3) preservation of desert wilderness necessarily requires the highest forms of protective designation and management.

DESIGNATION OF WILDERNESS

SEC. 102. In furtherance of the purpose of the Wilderness Act (78 Stat. 890, 16 U.S.C. 1131 et seq.), and sections 601 and 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), the following lands in the State of California, as generally depicted on maps, referenced herein, dated February 1986 (except as otherwise dated), are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred and ninety acres, as generally depicted on a map entitled "Argus Range Wilderness—Proposed 1", dated May 1991, and two maps entitled "Argus Range Wilderness—Proposed 2" and "Argus Range Wilderness—Proposed 3", dated January 1989, and which shall be known as the Argus Range Wilderness.

(2) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately ten thousand three hundred and eighty acres, as generally depicted on a map entitled "Bigelow Cholla Garden Wilderness—Proposed", date October 1991, and which shall be known as the Bigelow Cholla Garden Wilderness.

(3) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and within the San Bernardino National Forest, which comprise approximately thirty-nine thousand two hundred acres, as generally depicted on a map entitled "Bighorn Mountain Wilderness—Proposed", dated September 1991, and which shall be known as the Bighorn Mountain Wilderness.

(4) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-seven thousand five hundred and seventy acres, as generally depicted on a map entitled "Big Maria Mountains Wilderness—Proposed", and which shall be known as the Big Maria Mountains Wilderness.

(5) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirteen thousand nine hundred and forty acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", and which shall be known as the Black Mountain Wilderness.

(6) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately nine thousand five hundred and twenty acres, as generally depicted on a map entitled "Bright Star Wilderness—Proposed", dated May 1991, and which shall be known as the Bright Star Wilderness.

(7) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-eight thousand five hundred and fifteen acres, as generally depicted on two maps entitled "Bristol Mountains Wilderness—Proposed 1", and "Bristol Mountains Wilderness—Proposed 2", dated September 1991, and which shall be known as Bristol Mountains Wilderness.

(8) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-two thousand six hundred and forty areas, as generally depicted on a map entitled "Cadiz Dunes Wilderness—Proposed", and which shall be known as the Cadiz Dunes Wilderness.

(9) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-five thousand nine hundred and seventy acres, as generally depicted on a map entitled "Cady Mountains Wilderness—Proposed", dated July 1992, and which shall be known as the Cady Mountains Wilderness.

(10) Certain lands in the California Desert Conservation Area and Eastern San Diego County, of the Bureau of Land Management, which comprise approximately fifteen thousand seven hundred acres, as generally depicted on a map entitled "Carrizo Gorge Wilderness—Proposed", and which shall be known as the Carrizo Gorge Wilderness.

(11) Certain lands in the California Desert Conservation Area and Yuma District, of the Bureau of Land Management, which comprise approximately sixty-four thousand six hundred and forty acres, as generally depicted on a map entitled "Chemehuevi Mountains Wilderness—Proposed", dated October 1991, and which shall be known as the Chemehuevi Mountains Wilderness.

(12) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on two maps entitled "Chimney Peak Wilderness—Proposed 1" and "Chimney Peak Wilderness—Proposed 2", dated May 1991, and which shall be known as the Chimney Peak Wilderness.

(13) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty thousand seven hundred and seventy acres, as generally depicted on two maps entitled "Chuckwalla Mountains Wilderness—Proposed 1" and "Chuckwalla Mountains Wilderness—Proposed 2", dated July 1992, and which shall be known as the Chuckwalla Mountains Wilderness.

(14) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise thirty-four thousand three hundred and eighty acres, as generally depicted on a map entitled "Cleghorn Lakes Wilderness—Proposed", dated September 1991, and which shall be known as the Cleghorn Lakes Wilderness. The Secretary may, pursuant to an application filed by the Department of Defense, grant a right-of-way for, and authorize construction of, a road within the area depicted as "non-wilderness road corridor" on such map.

(15) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand acres, as generally depicted on a map entitled "Clipper Mountain Wilderness—Proposed", dated May 1991, and which shall be known as Clipper Mountain Wilderness.

(16) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty thousand five hundred and twenty acres, as generally depicted on a map entitled "Coso Range Wilderness—Proposed", dated May 1991, and which shall be known as Coso Range Wilderness.

(17) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighteen thousand six hundred acres, as generally depicted on a map entitled "Coyote Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Coyote Mountains Wilderness.

(18) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand six hundred acres, as generally depicted on a map entitled "Darwin Falls Wilderness—Proposed", dated May 1991, and which shall be known as Darwin Falls Wilderness.

(19) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately forty-eight thousand eight hundred and fifty acres, as generally depicted on a map entitled "Dead Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Dead Mountains Wilderness.

(20) Certain lands in the Bakersfield District, of the Bureau of Land Management, which comprise approximately thirty-six thousand three hundred acres, as generally depicted on two maps entitled "Domeland Wilderness Additions—Proposed 1" and "Domeland Wilderness Additions—Proposed 2", and which are hereby incorporated in, and which shall be deemed to be a part of, the Domeland Wilderness as designated by Public Laws 93-632 and 98-425.

(21) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred acres, as generally depicted on a map entitled "El Paso Mountains Wilderness—Proposed", and which shall be known as the El Paso Mountains Wilderness.

(22) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand three hundred acres, as generally depicted on a map entitled "Fish Creek Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Fish Creek Mountains Wilderness.

(23) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-eight thousand one hundred and ten acres, as generally depicted on a map entitled "Funeral Mountains Wilderness—Proposed", dated May 1991, and which shall be known as Funeral Mountains Wilderness.

(24) Certain lands in the California Desert Conservation Area, of the Bureau of Land

Management, which comprise approximately thirty-seven thousand seven hundred acres, as generally depicted on a map entitled "Golden Valley Wilderness—Proposed", and which shall be known as Golden Valley Wilderness.

(25) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-one thousand seven hundred and twenty acres, as generally depicted on a map entitled "Grass Valley Wilderness—Proposed", and which shall be known as the Grass Valley Wilderness.

(26) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eight thousand eight hundred acres, as generally depicted on a map entitled "Great Falls Basin Wilderness—Proposed", and which shall be known as the Great Falls Basin Wilderness.

(27) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand two hundred and forty acres, as generally depicted on a map entitled "Hollow Hills Wilderness—Proposed", dated May 1991, and which shall be known as the Hollow Hills Wilderness.

(28) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-six thousand four hundred and sixty acres, as generally depicted on a map entitled "Ibex Wilderness—Proposed", dated May 1991, and which shall be known as the Ibex Wilderness.

(29) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-five thousand and fifteen acres, as generally depicted on a map entitled "Indian Pass Wilderness—Proposed", dated October 1991, and which shall be known as the Indian Pass Wilderness.

(30) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, and within the Inyo National Forest, which comprise approximately two hundred five thousand and twenty acres, as generally depicted on three maps entitled "Inyo Mountains Wilderness—Proposed", numbered in the title one through three, and dated May 1991, and which shall be known as the Inyo Mountains Wilderness.

(31) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-four thousand five hundred and fifty acres, as generally depicted on a map entitled "Jacumba Wilderness—Proposed", dated October 1991, and which shall be known as the Jacumba Wilderness.

(32) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred and twenty-nine thousand five hundred and eighty acres, as generally depicted on a map entitled "Kelso Dunes Wilderness—Proposed 1", dated October 1991, a map entitled "Kelso Dunes Wilderness—Proposed 2", dated May 1991, and a map entitled "Kelso Dunes Wilderness—Proposed 3", dated September 1991, and which shall be known as the Kelso Dunes Wilderness.

(33) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, and the Sequoia National Forest, which comprise approximately eighty-eight thousand two hundred and ninety acres, as generally depicted on a map entitled "Kiavah Wilderness—Proposed 1", dated February 1986, and a map entitled "Kiavah Wilderness—Proposed 2", dated May 1991, and which shall be known as the Kiavah Wilderness.

(34) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred forty-nine thousand and three hundred and sixty-eight acres, as generally depicted on two maps entitled "Kingston Range Wilderness—Proposed 2", dated October 1991, and "Kingston Range Wilderness—Proposed 4", dated January 1989, and two maps entitled "Kingston Range Wilderness—Prposed 1" and "Kingston Range Wilderness—Proposed 3", dated May 1991, and which shall be known as the Kingston Range Wilderness.

(35) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-six thousand four hundred and sixty acres, as generally depicted on a map entitled "Little Chuckwalla Mountains Wilderness—Proposed", dated October 1991, and which shall be known as the Little Chuckwalla Mountains Wilderness.

(36) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately thirty-six thousand four hundred and forty acres, as generally depicted on a map entitled "Little Picacho Wilderness—Proposed", dated October 1991, and which shall be known as the Little Picacho Wilderness.

(37) Certain loans in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and sixty acres, as generally depicted on a map entitled "Malpais Mesa Wilderness—Proposed", dated September 1991, and which shall be known as the Malpais Mesa Wilderness.

(38) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand one hundred and five acres, as generally depicted on a map entitled "Manly Peak Wilderness—Proposed", dated October 1991, and which shall be know as the Manly Peak Wilderness.

(39) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-four thousand two hundred and eighty acres, as generally depicted on a map entitled "Mecca Hills Wilderness—Proposed", dated October 1991, and which shall be known as the Mecca Hills Wilderness.

(40) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-seven thousand three hundred and thirty acres, as generally depicted on a map entitled "Mesquite Wilderness—Proposed", dated May 1991, and which shall be known as the Mesquite Wilderness.

(41) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-two thousand nine hundred acres, as generally depicted on a map entitled "Newberry Mountains Wilderness—Proposed", and which shall be known as the Newberry Mountains Wilderness.

(42) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred ten thousand eight hundred and eighty acres, as generally depicted on a map entitled "Nopah Range Wilderness—Proposed", dated May 1991, and which shall be known as the Nopah Range Wilderness.

(43) Certain lands in the California Desert Conservation Area, of the bureau of Land Management, which comprise approximately thirty-two thousand two hundred and forty acres, as generally depicted on a map entitled "North Algodones Dunes Wilderness—Proposed", dated October 1991, and which shall be know as the North Algodones Dunes Wilderness.

(44) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-five thousand five hundred and forty acres, as generally depicted on a map entitled "North Mesquite Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the North Mesquite Mountains Wilderness.

(45) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-six thousand and seventy acres, as generally depicted on a map entitled "Old Woman Mountains Wilderness—Proposed 1", dated May 1991 and a map entitle "Old Woman Mountains Wilderness—Proposed 2", dated October 1991, and which shall be known as the Old Woman Mountains Wilderness.

(46) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand seven hundred and seventy acres, as generally depicted on a map entitled "Orocopia Mountains Wilderness—Proposed", dated July 1992, and which shall be known as the Orocopia Mountains Wilderness.

(47) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately seventy-four thousand six hundred and forty acres, as generally depicted on a map entitled "Owens Peak Wilderness—Proposed 1", dated February 1986, and two maps entitled "Owens Peak Wilderness—Proposed 2" and "Owens Peak Wilderness—Proposed 3", dated May 1991, and which shall be known as the Owens Peak Wilderness.

(48) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-four thousand eight hundred acres, as generally depicted on a map entitled "Pahrump Valley Wilderness—Proposed", and which shall be known as the Pahrump Valley Wilderness.

(49) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately two hundred fourteen thousand one hundred and forty-nine acres, as generally depicted on a map entitled "Palen/McCoy Wilderness—Proposed 1", dated May 1991 and a map entitled "Palen/McCoy Wilderness—Proposed 2", dated February 1986, and which shall be known as the Palen/McCoy Wilderness.

(50) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-two thousand three hundred and twenty acres, as generally depicted on a map entitled "Palo Verde Mountains Wilderness—Proposed", dated January 1987, and which shall be known as the Palo Verde Mountains Wilderness.

(51) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand seven hundred acres, as generally depicted on a map entitled "Picacho Peak Wilderness—Proposed", dated May 1991, and which shall be known as the Picacho Peak Wilderness.

(52) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-two thousand six hundred acres, as generally depicted on a map entitled "Piper Mountain Wilderness—Proposed", dated May 1991, and which shall be known as the Piper Mountain Wilderness.

(53) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-seven thousand eight hundred acres, as generally depicted on a map entitled "Piute Mountains Wilderness—Proposed", dated October 1991, and which shall be known as Piute Mountains Wilderness.

(54) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventy-eight thousand eight hundred and sixty-eight acres, as generally depicted on a map entitled "Resting Spring Wilderness—Proposed", dated May 1991, and which shall be known as the Resting Spring Range Wilderness.

(55) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty thousand eight hundred and twenty acres, as generally depicted on a map entitled "Rice Valley Wilderness—Proposed", dated May 1991, and which shall be known as the Rice Valley Wilderness.

(56) Certain lands in the California Desert Conservation Area and the Yuma Distirct, of the Bureau of Land Management, which comprise approximately twenty-two thousand three hundred eighty acres, as generally depicted on a map entitled "Riverside Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Riverside Mountains Wilderness.

(57) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-seven thousand seven hundred acres, as generally depicted on a map entitled "Rodman Mountains Wilderness—Proposed", dated January 1989, and which shall be known as the Rodman Mountains Wilderness.

(58) Certain lands in the California Desert Conservation Area and the Bakersfield District, of the Bureau of Land Management, which comprise approximately fifty-one thousand nine hundred acres, as generally depicted on two maps entitled "Sacatar Trail Wilderness—Proposed 1" and "Sacatar Trail Wilderness—Proposed 2", dated May 1991, and which shall be known as the Sacator Trail Wilderness.

(59) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one thousand eight hundred acres, as generally depicted on a map entitled "Saddle Peak Hills Wilderness—Proposed", dated May 1991, and which shall be known as the Saddle Peak Hills Wilderness.

(60) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand five hundred acres, as generally depicted on a map entitled "San Gorgonio Wilderness—Proposed", and which are hereby incorporated in, and which shall be deemed to be a part of, the San Gorgonio Wilderness as designated by Public Laws 88-577 and 98-425.

(61) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately fifty-three thousand two hundred and forty acres, as generally depicted on a map entitled "Santa Rosa Wilderness Additions—Proposed", dated May 1991, and which are hereby incorporated in, and which shall be deemed to be a part of, the Santa Rosa Wilderness as designated by Public Law 98-425.

(62) Certain lands in the California Desert District, of the Bureau of Land Management, which comprise approximately thirty-five thousand four hundred acres, as generally depicted on a map entitled "Sawtooth Mountains Wilderness—Proposed", and which shall be known as the Sawtooth Mountains Wilderness.

(63) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred seventy-four thousand eight hundred acres, as generally depicted on two maps entitled "Sheephole Valley Wilderness—Proposed 1", dated October 1991, and "Sheephole Valley Wilderness—Proposed 2", dated February 1986, and which shall be known as the Sheephole Valley Wilderness.

(64) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixty-one thousand six hundred and thirty acres, as generally depicted on a map entitled "South Algodones Dunes Wilderness—Proposed", dated January 1989, and which shall be known as the South Algodones Dunes Wilderness.

(65) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately sixteen thousand seven hundred and eighty acres, as generally depicted on a map entitled "South Nopah Range Wilderness—Proposed", and which shall be known as the South Nopah Range Wilderness.

(66) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seven thousand and fifty acres, as generally depicted on a map entitled "Stateline Wilderness—Proposed", dated May 1991, and which shall be known as the Stateline Wilderness.

(67) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately eighty-one thousand six hundred acres, as generally depicted on a map entitled "Stepladder Mountains Wilderness—Proposed", and which shall be known as the Stepladder Mountains Wilderness.

(68) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately twenty-nine thousand one hundred and eighty acres, as generally depicted on a map entitled "Surprise Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Surprise Canyon Wilderness.

(69) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately seventeen thousand eight hundred and twenty acres, as generally depicted on a map entitled "Sylvania Mountains Wilderness—Proposed", and which shall be known as the Sylvania Mountains Wilderness.

(70) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately thirty-three thousand seven hundred and twenty acres, as generally depicted on a map entitled "Trilobite Wilderness—Proposed", dated May 1991, and which shall be known as the Trilobite Wilderness.

(71) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately one hundred forty-four thousand five hundred acres, as generally depicted on a map entitled "Turtle Mountains Wilderness—Proposed 1", dated February 1986 and a map entitled "Turtle Mountains Wilderness—Proposed 2", dated May 1991, and which shall be known as the Turtle Mountains Wilderness.

(72) Certain lands in the California Desert Conservation Area and the Yuma District, of the Bureau of Land Management, which comprise approximately seventy-five thousand three hundred acres, as generally depicted on a map entitled "Whipple Mountains Wilderness—Proposed", dated May 1991, and which shall be known as the Whipple Mountains Wilderness.

(73) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise approximately forty-six thousand and seventy acres, as generally depicted on a map entitled "Avawatz Mountains Wilderness—Proposed", dated July 1992, and which shall be known as the Avawatz Mountains Wilderness.

(74) Certain lands in the California Desert Conservation Area, of the Bureau of Land Management, which comprise fifty-five thousand five hundred and sixty acres, as generally depicted on a map entitled "Soda Mountains Wilderness—Proposed", dated July 1992, and which shall be known as the Soda Mountains Wilderness."

ADMINISTRATION OF WILDERNESS AREAS

Sec. 103. Subject to valid existing rights, each wilderness area designated under section 102 shall be administered by the appropriate Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary who has administrative jurisdiction over the area.

GRAZING

Sec. 104. Within the wilderness areas designated under section 102, the grazing of livestock, where established prior to the enactment of this Act, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary deems necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas as such intent is expressed in the Wilderness Act and section 108 of Public Law 96-560 (16 U.S.C. 133 note).

BUFFER ZONES

Sec. 105. The Congress does not intend for the designation of wilderness areas in section 102 of this Act to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

MINING CLAIM VALIDITY REVIEW

Sec. 106. The Secretary of the Interior and the Secretary of Agriculture shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within any wilderness area designated under section 102.

FILING OF MAPS AND DESCRIPTIONS

Sec. 107. As soon as practicable after enactment of section 102, a map and a legal description on each wilderness area designated under this title shall be filed by the Sec-

retary concerned with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and each such map and description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in each such legal description and map. Each such map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior, or the Chief of the Forest Service, Department of Agriculture, as is appropriate.

WILDERNESS REVIEW

Sec. 108. The Congress hereby finds and directs that lands in the California Desert Conservation Area, of the Bureau of Land Management, not designated as wilderness or wilderness study areas by this Act have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 U.S.C. 1701 et seq.), and are no longer subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

DESIGNATION OF WILDERNESS STUDY AREA

Sec. 109. In furtherance of the provisions of the Wilderness Act, certain lands in the California Desert Conservation Area of the Bureau of Land Management which comprise eleven thousand two hundred acres as generally depicted on a map entitled "White Mountains Wilderness Study Area—Proposed", dated May 1991, are hereby designated the White Mountains Wilderness Study Area and shall be administerd by the Secretary in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976.

SUITABILITY REPORT

Sec. 110. The Secretary is required, ten years after the date of enactment of this Act, to report to Congress on current and planned exploration, development or mining activities on, and suitability for future wilderness designation of, the lands as generally depicted on maps entitled "Surprise Canyon Wilderness—Proposed", "Middle Park Canyon Wilderness—Proposed", and "Death Valley National Park Boundary and Wilderness 15", dated September 1991 and a map entitled "Manly Peak Wilderness—Proposed", dated October 1991.

WILDERNESS DESIGNATION AND MANAGEMENT IN THE NATIONAL WILDLIFE REFUGE SYSTEM

Sec. 111. (a) In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Havasu National Wildlife Refuge, California, which comprise approximately three thousand one hundred and ninety-five acres, as generally depicted on a map entitled "Havasu Wilderness—Proposed", and dated October 1991, and which shall be known as the Havasu Wilderness.

(2) Certain lands in the Imperial National Wildlife Refuge, California, which comprise approximately five thousand eight hundred and thirty-six acres, as generally depicted on two maps entitled "Imperial Refuge Wilderness—Proposed 1" and "Imperial Refuge Wilderness—Proposed 2", and dated October 1991, and which shall be known as the Imperial Refuge Wilderness.

(b) Subject to valid existing rights, the wilderness areas designated under this section shall be administered by the Secretary in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) As soon as practicable after enactment of this section, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committees on Energy and Natural Resources and Environment and Public Works of the Senate and Natural Resources and Merchant Marine and Fisheries of the House of Representatives. Such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, Department of the Interior.

TITLE II—DEATH VALLEY NATIONAL PARK

FINDINGS

Sec. 201. The Congress hereby finds that—

(1) proclamations by Presidents Herbert Hoover in 1933 and Franklin Roosevelt in 1937 established and expanded the Death Valley National Monument for the preservation of the unusual features of scenic, scientific, and educational interest therein contained;

(2) Death Valley National Monument is today recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries established in the 1930's exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, geological, archaeological, paleontological, cultural, historical and wilderness values;

(4) Death Valley National Monument should be substantially enlarged by the addition of all contiguous Federal lands of national park caliber and afforded full recognition and statutory protection as a national park; and

(5) the wilderness within Death Valley should receive maximum statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHMENT OF DEATH VALLEY NATIONAL PARK

Sec. 202. There is hereby established the Death Valley National Park, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness—Proposed", numbered in the title one through twenty-three, and dated September 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Death Valley National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Death Valley National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

Sec. 203. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 202 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

MAPS AND LEGAL DESCRIPTION

Sec. 204. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the park designated under this title with the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 202. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

DISPOSITION UNDER MINING LAWS

Sec. 205. Subject to valid existing rights, the Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

Sec. 206. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the additions to the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

GRAZING

Sec. 207. The privilege of grazing domestic livestock on lands within the park may continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations, by those persons holding permits for such grazing on July 1, 1991. Upon the expiration of such permits the Secretary, acting through the Director of the National Park Service, may issue to such persons new permits for such grazing, subject to applicable laws and National Park Service regulations, but all grazing of such livestock on such lands shall cease on July 1, 2016. Further, if such a permittee informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which the permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition.

Any such base property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

TITLE III—JOSHUA TREE NATIONAL PARK

FINDINGS

Sec. 301. The Congress hereby finds that—

(1) a proclamation by President Franklin Roosevelt in 1936 established Joshua Tree National Monument to protect various objects of historical and scientific interest;

(2) Joshua Tree National Monument today is recognized as a major unit of the National Park System, having extraordinary values enjoyed by millions of visitors;

(3) the Monument boundaries as modified in 1950 and 1961 exclude and thereby expose to incompatible development and inconsistent management, contiguous Federal lands of essential and superlative natural, ecological, archaeological, paleontological, cultural, historical and wilderness values;

(4) Joshua Tree National Monument should be enlarged by the addition of contiguous Federal lands of national park caliber, and afforded full recognition and statutory protection as a national park; and

(5) the nondesignated wilderness within Joshua Tree should receive statutory protection by designation pursuant to the Wilderness Act.

ESTABLISHEMENT OF JOSHUA TREE NATIONAL PARK

Sec. 302. There is hereby established the Joshua Tree National Park, as generally depicted on a map entitled "Joshua Tree National Park Boundary—Proposed", dated May 1991, and four maps entitled "Joshua Tree National Park Boundary and Wilderness", numbered in the title one through four, and dated October 1991 or prior, which shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior. The Joshua Tree National Monument is hereby abolished as such, the lands and interests therein are hereby incorporated within and made part of the new Joshua Tree National Park, and any funds available for purposes of the monument shall be available for purposes of the park.

TRANSFER AND ADMINISTRATION OF LANDS

Sec. 303. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 302 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service for administration as part of the National Park System. The boundaries of the public lands and the national parks shall be adjusted accordingly. The Secretary shall administer the areas added to the National Park System by this title in accordance with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

MAPS AND LEGAL DESCRIPTION

Sec. 304. Within six months after the enactment of this title, the Secretary shall file maps and legal description of the park designated by this title with the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 302. The maps and legal description shall be on file and available for public inspection in the offices of the Superintendent of the Park and the Director of the National Park Service, Department of the Interior.

DISPOSITION UNDER MINING LAWS

Sec. 305. Subject to valid existing rights, Federal lands and interests therein added to the National Park System by this title are withdrawn from disposition under the public lands laws and from entry of appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from the operation of the Geothermal Steam Act of 1970.

UTILITY RIGHTS-OF-WAY

Sec. 306. Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to the Metropolitan Water District pursuant to the Boulder Canyon Project Act (43 U.S.C. 617–619b), which is located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. Nothing in this title shall have the effect of terminating the fee title to lands or customary operation, maintenance, repair, and replacement activities on or under such lands granted to the Metropolitan Water District pursuant to the Act on June 18, 1932 (47 Stat. 324), which are located on lands included in the Joshua Tree National Park, but outside lands designated as wilderness under section 501(2). Such activities shall be conducted in a manner which will minimize the impact on park resources. The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Metropolitan Water District, plans for emergency access by the Metropolitan Water District to its lands and rights-of-way.

STUDY AS TO VALIDITY OF MINING CLAIMS

Sec. 307. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

TITLE IV—MOJAVE NATIONAL PARK

FINDINGS

Sec. 401. The Congress hereby finds that—

(1) Death Valley and Joshua Tree National Parks, as established by this Act, protect unique and superlative desert resources, but do not embrace the particular ecosystems and transitional desert type found in the Mojave Desert area lying between them on public lands now afforded only impermanent administrative designation as a national scenic area;

(2) the Mojave Desert area possesses outstanding natural, cultural, historical, and recreational values meriting statutory designation and recognition as a unit of the National Park System;

(3) the Mojave Desert area should be afforded full recognition and statutory protection as a national park;

(4) the wilderness within the Mojave Desert should receive maximum statutory protection by designation pursuant to the Wilderness Act; and

(5) the Mojave Desert area provides an outstanding opportunity to develop services, programs, accommodations and facilities to ensure the use and enjoyment of the area by individuals with disabilities, consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101–336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

ESTABLISHMENT OF THE MOJAVE NATIONAL PARK

Sec. 402. There is hereby established the Mojave National Park, comprising approximately one million four hundred and sixty thousand acres, as generally depicted on a map entitled "Mojave National Park Boundary—Proposed", dated July 1992, and ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", numbered in the title one through ten, and dated July 1992 or prior, which shall be on file and available for inspection in the offices of the Director of the National Park Service, Department of the Interior.

TRANSFER OF LANDS

Sec. 403. Upon enactment of this title, the Secretary shall transfer the lands under the jurisdiction of the Bureau of Land Management depicted on the maps described in section 402 of this title, without consideration, to the administrative jurisdiction of the Director of the National Park Service. The boundaries of the public lands shall be adjusted accordingly.

MAPS AND LEGAL DESCRIPTION

Sec. 404. Within six months after the enactment of this title, the Secretary shall file maps and a legal description of the park designated under this title with the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives. Such maps and legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the maps referred to in section 402. The maps and legal description shall be on file and available for public inspection in the offices of the National Service, Department of the Interior.

ABOLISHMENT OF SCENIC AREA

Sec. 405. The East Mojave National Scenic Area, designated on January 13, 1981 (46 FR 3994), and modified on August 9, 1983 (48 FR 36210), as hereby abolished.

ADMINISTRATION OF LANDS

Sec. 406. The Secretary shall administer the park in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

DISPOSITION UNDER MINING LAWS

Sec. 407. Subject to valid existing rights, Federal lands within the park, and interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

STUDY AS TO VALIDITY OF MINING CLAIMS

Sec. 408. The Secretary shall not approve any plan of operation prior to determining the validity of the unpatented mining claims, mill sites, and tunnel sites affected by such plan within the park and shall submit to Congress recommendations as to whether any valid or patented claims should be acquired by the United States, including the estimated acquisition costs of such claims, and a discussion of the environmental consequences of the extraction of minerals from these lands.

REGULATION OF MINING

Sec. 409. Subject to valid existing rights, all mining claims located within the park shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with the protection for the scenic, scientific, cultural and other resources of the park, and any patent which may be issued after the date of enactment of this title shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations.

GRAZING

Sec. 410. The privilege of grazing domestic livestock on lands within the park may continue to be exercised at no more than the current level, subject to applicable laws and National Park Service regulations, by those persons holding permits for such grazing on July 1, 1991. Upon the expiration of such permits the Secretary, acting through the Director of the National Park Service, may issue to such persons new permits for such grazing, subject to applicable laws and National Park Service regulations, but all grazing of such livestock on such lands shall cease on July 1, 2016. Further, if such a permittee informs the Secretary that such permittee is willing to convey to the United States any base property with respect to which the permit was issued and to which such permittee holds title, the Secretary shall make the acquisition of such base property a priority as compared with the acquisition of other lands within the park, provided agreement can be reached concerning the terms and conditions of such acquisition. Any such base property which is located outside the park and acquired as a priority pursuant to this section shall be managed by the Federal agency responsible for the majority of the adjacent lands in accordance with the laws applicable to such adjacent lands.

UTILITY RIGHTS OF WAY

Sec. 411. (a)(1) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities in such right-of-way, issued, granted, or permitted to Southern California Edison Company, which is located on lands included in the Mojave National Park, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on park resources.

(2) Nothing in this title shall have the effect of prohibiting the upgrading of an existing electrical transmission line for the purpose of increasing the capacity of such transmission line in the Southern California Edison Company validly issued Eldorado-Lugo Transmission Line right-of-way and Mojave-Lugo Transmission Line right-of-way, or in a right-of-way if issued, granted, or permitted by the Secretary adjacent to the existing Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as "adjacent right-of-way"), including construction of a replacement transmission line: Provided, That—

(A) in the Eldorado-Lugo Transmission Line rights-of-way (hereafter in this section referred to as the "Eldorado rights-of-way") at no time shall there be more than 3 electrical transmission lines,

(B) in the Mojave-Lugo Transmission Line right-of-way (hereafter in this section referred to as the "Mojave right-of-way") and adjacent right-of-way, removal of the existing electrical transmission line and reclamation of the site shall be completed no later than three years after the date on which construction of the upgraded transmission line begins, after which time there may be only one electrical transmission line in the lands encompassed by Mojave right-of-way and adjacent right-of-way,

(C) if there are no more than two electrical transmission lines in the Eldorado rights-of-way, two electrical transmission lines in the lands encompassed by the Mojave right-of-way and adjacent right-of-way may be allowed,

(D) in the Eldorado rights-of-way and Mojave right-of-way no additional land shall be issued, granted, or permitted for such upgrade unless an addition would reduce the impacts to park resources,

(E) no more than 350 feet of additional land shall be issued, granted, or permitted for an adjacent right-of-way to the south of the Mojave right-of-way unless a greater addition would reduce the impacts to park resources, and

(F) such upgrade activities, including helicopter aided construction, shall be conducted in a manner which will minimize the impact on park resources.

(3) The Secretary shall prepare within 180 days after the date of enactment of this Act, in consultation with the Southern California Edison Company, plans for emergency access by the Southern California Edison Company to its rights-of-way.

(b) Nothing in this title shall have the effect of terminating any validly issued right-of-way, or customary operation, maintenance, repair, and replacement activities in such right-of-way; prohibiting the upgrading of and construction on existing facilities in such right-of-way for the purpose of increasing the capacity of the existing pipeline; or prohibiting the renewal of such right-of-way; issued, granted, or permitted to the Southern California Gas Company, which is located on lands included in the Mojave National Park, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on park resources.

(c) Nothing in this title shall have the effect of terminating any validly issued right-of-way or customary operation, maintenance, repair, and replacement activities of existing facilities issued, granted, or permitted for communications cables or lines, which are located on lands included in the Mojave National Park, but outside lands designated as wilderness under section 501(3). Such activities shall be conducted in a manner which will minimize the impact on park resources.

PREPARATION OF MANAGEMENT PLAN

Sec. 412. Within three years of the date of enactment of this title, the Secretary shall submit to the Energy and Natural Resources Committee of the Senate and the Natural Resources Committee of the House of Representatives a detailed and comprehensive management plan for the park. Such plan shall place emphasis on historical and cultural sites and ecological and wilderness values within the boundaries of the park. Any development, including road improvements, proposed by such plan shall be strictly limited to that which is essential and appropriate for the administration of the park and shall be designed and located so as to maintain its primitive nature of the area and to minimize the impairment of park resources or ecological values. To the extent practicable, administrative facilities, employee housing, commercial visitor services, accommodations, and other park-related development shall be located or provided for outside of the boundaries of the park. Such plan shall evaluate the feasibility of using the Kelso Depot and existing railroad corridor to provide public access to and a facility for special interpretive, educational, and scientific programs within the park. Such plan shall specifically address the needs of individuals with disabilities in the design of services, programs, accommodations and facilities consistent with section 504 of the Rehabilitation Act of 1973, Public Law 101-336, the Americans with Disabilities Act of 1990 (42 U.S.C. 12101), and other appropriate laws and regulations.

GRANITE MOUNTAINS NATURAL RESERVE

Sec. 413. (a) There is hereby designated the Granite Mountains Natural Reserve within the park comprising approximately 9,000 acres as generally depicted on a map entitled "Mojave National Park Boundary and Wilderness—Proposed 6", dated May 1991.

(b) Upon enactment of this title, the Secretary of the Interior shall enter into a cooperative management agreement with the University of California for the purposes of managing the lands within the Granite Mountains Natural Reserve. Such cooperative agreement shall ensure continuation of arid lands research and educational activities of the University of California, consistent with the provisions of law generally applicable to units of the National Park System.

SODA SPRINGS DESERT STUDY CENTER

Sec. 414. Upon enactment of this title, the Secretary shall enter into a cooperative management agreement with California State University for the purposes of managing facilities at the Soda Springs Desert Study Center. Such cooperative agreement shall ensure continuation of the desert research and educational activities of California State University, consistent with the provisions of law generally applicable to units of the National Park System.

CONSTRUCTION OF VISITOR CENTER

Sec. 415. The Secretary is authorized to construct a visitor center in the park for the purpose of providing information through appropriate displays, printed material, and other interpretive programs, about the resources of the park.

ACQUISITION OF LANDS

Sec. 416. The Secretary is authorized to acquire all lands and interest in lands within the boundary of the park by donation, purchase, or exchange, except that—

(1) any lands or interests therein within the boundary of the park which are owned by the State of California, or any political subdivision thereof, may be acquired only by donation or exchange except for lands managed by California State Lands Commission; and

(2) lands or interests therein within the boundary of the park which are not owned by the State of California or any political subdivision thereof may be acquired only with

the consent of the owner thereof unless the Secretary determines, after written notice to the owner and after opportunity for comment, that the property is being developed, or proposed to be developed, in a manner which is detrimental to the integrity of the park or which is otherwise incompatible with the purposes of this title.

SUITABILITY REPORT

Sec. 417. The Secretary is required, twenty years after the date of enactment of this Act, to report to Congress on current and planned exploration, development or mining activities on, and suitability for future park designation of, the lands as generally depicted on a map entitled "Mojave National Park Study Area—Proposed", dated July 1992.

TITLE V—NATIONAL PARK WILDERNESS

DESIGNATION OF WILDERNESS

SEC. 501. The following lands are hereby designated as wilderness in accordance with the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131 et seq.) and shall be administered by the Secretary of the Interior in accordance with the applicable provisions of the Wilderness Act:

(1) Death Valley National Park Wilderness, comprising approximately three million one hundred eighty-three thousand four hundred and thirty-eight acres, as generally depicted on 23 maps entitled "Death Valley National Park Boundary and Wilderness", numbered in the title one through twenty-three, and dated September 1991 or prior, and three maps entitled "Death Valley National Park Wilderness", numbered in the title one through three, and dated May 1991 or prior, and which shall be known as the Death Valley Wilderness;

(2) Joshua Tree National Park Wilderness Additions, comprising approximately one hundred thirty-one thousand seven hundred and eighty acres, as generally depicted on four maps entitled "Joshua Tree National Park Boundary and Wilderness—Proposed", numbered in the title one through four, and dated October 1991 or prior, and which are hereby incorporated in, and which shall be deemed to be a part of the Joshua Tree Wilderness as designated by Public Law 94-567; and

(3) Mojave National Park Wilderness, comprising approximately six hundred ninety-five thousand fifty-six acres, as generally depicted on ten maps entitled "Mojave National Park Boundary and Wilderness—Proposed", numbered in the title one through ten, and dated October 1991 or prior, and seven maps entitled "Mojave National Park Wilderness—Proposed", numbered in the title one through seven, and dated October 1991 or prior, and which shall be known as the Mojave Wilderness.

(4) Upon cessation of all uses prohibited by the Wilderness Act and publication by the Secretary in the Federal Register of notice of such cessation, potential wilderness, comprising approximately six thousand eight hundred and forty acres, as described in "1988 Death Valley National Monument Draft General Management Plan Draft Environmental Impact Statement" (hereafter in this title referred to as "Draft Plan") and as generally depicted on map in the Draft Plan entitled "Wilderness Plan Death Valley National Monument", dated January 1988, and which shall be deemed to be a part of the Death Valley Wilderness as designated in paragraph (1). Lands identified in the Draft Plan as potential wilderness shall be managed by the Secretary insofar as practicable as wilderness until such time as said lands are designated as wilderness.

FILING OF MAPS AND DESCRIPTIONS

SEC. 502. Maps and a legal description of the boundaries of the areas designated in section 501 of this title shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, and in the Office of the Superintendent of each area designated in section 501. As soon as practicable after this title takes effect, maps of the wilderness areas and legal descriptions of their boundaries shall be filed with the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives, and such maps and descriptions shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such maps and descriptions.

ADMINISTRATION OF WILDERNESS AREAS

SEC. 503. The areas designated by section 501 of this title as wilderness shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that title as wilderness, except that any reference in such provision to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this title, and where appropriate, and reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

TITLE VI—MISCELLANEOUS PROVISIONS

TRANSFER OF LANDS TO RED ROCK CANYON STATE PARK

SEC. 601. Upon enactment of this title, the Secretary of the Interior shall transfer to the State of California certain lands within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately twenty thousand five hundred acres, as generally depicted on two maps entitled "Red Rock Canyon State Park Additions 1" and "Red Rock Canyon State Park Additions 2", dated May 1991, for inclusion in the State of California Park System. Should the State of California cease to manage these lands as part of the State Park System, ownership of the lands shall revert to the Department of the Interior to be managed as part of the California Desert Conservation Area to provide maximum protection for the area's scenic and scientific values.

DESERT LILY SANCTUARY

SEC. 602. (a) There is hereby established the Desert Lily Sanctuary within the California Desert Conservation Area, California, of the Bureau of Land Management, comprising approximately two thousand forty acres, as generally depicted on a map entitled "Desert Lily Sanctuary", dated February 1986. The Secretary of the Interior shall administer the area to provide maximum protection to the desert lily.

(b) Subject to valid existing rights, Federal lands within the sanctuary, interests therein, are withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970.

LAND TENURE ADJUSTMENTS

SEC. 603. In preparing land tenure adjustment decisions with the California Desert Conservation Area, of the Bureau of Land Management, the Secretary shall give priority to consolidating Federal ownership within the national park units and wilderness areas designated by this Act.

LAND DISPOSAL

SEC. 604. Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Agriculture may not dispose of any lands within the boundaries of the wilderness or park designated under this Act or grant a right-of-way in any lands within the boundaries of the wilderness designated under this Act. Further, none of the lands within the boundaries of the wilderness or park designated under this Act shall be granted to or otherwise made available for use by the Metropolitan Water District and any other agencies or persons pursuant to the Boulder Canyon Project Act (43 U.S.C. 617-619b) or any similar acts.

MANAGEMENT OF NEWLY ACQUIRED LANDS

SEC. 605. Any lands within the boundaries of a wilderness area designated under this Act which are acquired by the Federal Government, shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

NATIVE AMERICAN USES

SEC. 606. In recognition of the past use of the parks and wilderness areas designed under this Act by Indian people for traditional cultural and religious purposes, the Secretary shall ensure access to such parks and wilderness areas by Indian people for such traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an Indian tribe or Indian religious community, shall temporarily close to the general public use of one or more specific portions of park or wilderness areas in order to protect the privacy of traditional cultural and religious activities in such areas by Indian people. Such access shall be consistent with the purpose and intent of Public Law 95-341 (42 U.S.C. 1996) commonly referred to as the "American Indian Religious Freedom Act", and with respect to areas designated as wilderness, the Wilderness Act (78 Stat. 890; 16 U.S.C. 1131).

WATER RIGHTS

SEC. 607. (a) With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be the date of enactment of this Act.

(b) The Secretary of the Interior and all other officers of the United States shall take all steps necessary to protect the rights reserved by this section, including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (66 Stat. 560, 44 U.S.C. 666; commonly referred to as the McCarran Amendment).

(c) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(d) The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated under this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

AUTHORIZATION OF APPROPRIATIONS

SEC. 608. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

STATE SCHOOL LANDS

SEC. 609. (a) Upon request of the California State Lands Commission (hereinafter in this section referred to as the "Commission"), the Secretary shall enter into negotiations for an agreement to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) for California State School Lands (hereinafter in this section referred to as "State School Lands") or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act. The Secretary shall negotiate in good faith to reach a land exchange agreement consistent with the requirements of section 206 of the Federal Land Policy and Management Act of 1976.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall send to the Commission and to the Committees a list of the following:

(1) The State School Lands or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands under the Secretary's jurisdiction to be offered for exchange, including in the following priority:

(A) Lands with mineral interests, including geothermal, which have the potential for commercial development but which are not currently under mineral lease or producing Federal mineral revenues.

(B) Federal lands in California managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands in California that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for an exchange involving five thousand acres or less of Federal land or interests therein, or Federal lands valued at less than $5,000,000, the Secretary may carry out the exchange in accordance with the Federal Land Policy and Management Act of 1976.

(2) If an agreement under this section is for an exchange involving more than five thousand acres of Federal land or interests therein, or Federal land valued at more than $5,000,000, the agreement shall be submitted to the Committees, together with a report containing—

(A) a complete list and appraisal of the lands or interests in lands proposed for exchange; and

(B) a determination that the State School Lands proposed to be acquired by the United States do not contain any hazardous waste, toxic waste, or radioactive waste.

(d) An agreement submitted under subsection (c)(2) shall not take effect unless approved by a joint resolution enacted by the Congress.

(e) If exchanges of all of the State School Lands are not completed by October 1, 1996, the Secretary shall adjust the appraised value of any remaining inholdings consistent with the provisions of section 206 of the Federal Land Management Policy Act of 1976. The Secretary shall establish an account in the name of the Commission in the amount of such appraised value. Title to the State School Lands shall be transferred to the United States at the time such account is credited.

(f) The Commission may use the credit in its account to bid, as any other bidder, for excess or surplus Federal property to be sold in the State of California in accordance with the applicable laws and regulations of the Federal agency offering such property for sale. The account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales. In the event that the balance in the account has not been reduced to zero by October 1, 2000, there are authorized to be appropriated to the Secretary for payment to the California State Lands Commission funds equivalent to the balance remaining in the account as of October 1, 2000.

(g) As used in this section, the term "Committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

EXCHANGES

SEC. 610. (a) Upon request of the Catellus Development Corporation (hereafter in this section referred to as "Catellus"), the Secretary shall enter into negotiations for an agreement or agreements to exchange Federal lands or interests therein on the list referred to in subsection (b)(2) of this section for lands of Catellus or interests therein which are located within the boundaries of one or more of the wilderness areas or park units designated by this Act.

(b) Within six months after the date of enactment of this Act, the Secretary shall send to Catellus and to the Committees a list of the following:

(1) Lands of Catellus or interests therein (including mineral interests) which are located within the boundaries of the wilderness areas or park units designated by this Act.

(2) Lands, wherever located, under the Secretary's jurisdiction to be offered for exchange, in the following priority:

(A) Lands, including lands with mineral and geothermal interests, which have the potential for commercial development but which are not currently under lease or producing Federal revenues.

(B) Federal lands managed by the Bureau of Reclamation that the Secretary determines are not needed for any Bureau of Reclamation project.

(C) Any public lands that the Secretary, pursuant to the Federal Land Policy and Management Act of 1976, has determined to be suitable for disposal through exchange.

(c)(1) If an agreement under this section is for (A) an exchange involving lands outside the State of California, (B) more than 5,000 acres of Federal land or interests therein in California, or (C) Federal lands in any State valued at more than $5,000,000, the Secretary shall provide to the Committees a detailed report of such land exchange agreements.

(2) All land exchange agreements shall be consistent with the Federal Land Policy and Management Act of 1976.

(3) Any report submitted to the Committees under this subsection shall include the following:

(A) A complete list and appraisal of the lands or interests in land proposed for exchange.

(B) A complete list of the lands, if any, to be acquired by the United States which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law, together with the estimated costs of any such action.

(4) An agreement under this subsection shall not take effect unless approved by a joint resolution enacted by the Congress.

(d) The Secretary shall provide the California State Lands Commission with a 180-day right of first refusal to exchange for any Federal lands or interests therein, located in the State of California, on the list referred to in subsection (b)(2). Any lands with respect to which a right of first refusal is not noticed within such period or exercised under this subsection shall be available to Catellus for exchange in accordance with this section.

(e) On January 3, 1996, the Secretary shall provide to the Committees a list and appraisal consistent with the Federal Land Policy and Management Act of 1976 of all Catellus lands eligible for exchange under this section for which an exchange has not been completed. With respect to any of such lands for which an exchange has not been completed by October 1, 1996 (hereafter in this section referred to as "remaining lands"), the Secretary shall establish an account in the name of Catellus (hereafter in this section referred to as the "exchange account"). Upon the transfer of title by Catellus to all or a portion of the remaining lands to the United States, the Secretary shall credit the exchange account in the amount of the appraised value of the transferred remaining lands at the time of such transfer.

(f) Catellus may use the credit in the exchange account to bid, as any other bidder, for any property real, personal, or mixed, wherever located, owned or controlled by the United States, including in a corporate capacity or as a receiver, conservator, or similar fiduciary capacity to be sold in accordance with the applicable laws and regulations of the Federal agency or instrumentality, or any element thereof, offering such property for sale. Upon approval by the Secretary in writing, the credits in Catellus' exchange account may be transferred or sold in whole or in part by Catellus to any other party, thereby vesting such party with all the rights formerly held by Catellus. The exchange account shall be adjusted to reflect successful bids under this section or payments or forfeited deposits, penalties, or other costs assessed to the bidder in the course of such sales.

(g)(1) The Secretary shall not accept title pursuant to this section to any lands unless such title includes all right, title, and interest in and to the fee estate.

(2) Notwithstanding paragraph (1), the Secretary may accept title to any subsurface estate where the United States holds title to the surface estate.

(3) This subsection does not apply to easements and rights-of-way for utilities or roads.

(h) In no event shall the Secretary accept title under this section to lands which contain any hazardous waste, toxic waste, or radioactive waste which requires removal or remedial action under Federal or State law unless such remedial action has been completed prior to the transfer.

(i) For purposes of the section, any appraisal shall be consistent with the provisions of section 206 of the Federal Land Policy and Management Act of 1976.

(j) As used in this section, the term "Committees" means the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

TITLE VII—DEFINITIONS

SEC. 701. For the purposes of this Act:

(1) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(2) The term "public lands" means any land and interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management.

TITLE VIII—MILITARY LANDS AND OVERFLIGHTS

SEC. 801. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This title may be cited as the "California Military Lands Withdrawal and Overflights Act of 1991".

(b) FINDINGS.—The Congress finds that—

(1) Military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system;

(2) the national parks and wilderness areas designated by this Act lie within a region critical to providing training, research, and development for the Armed Forces of the United States and its allies;

(3) there is a lack of alternative sites available for these military training, testing, and research activities;

(4) continued use of the lands and airspace in the California desert region is essential for military purposes; and

(5) continuation of these military activities, under appropriate terms and conditions, is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources and values of the Federal lands in the California desert area.

SEC. 802. MILITARY OVERFLIGHTS.

(a) Nothing in this Act shall restrict or preclude low-level overflights of military aircraft over the new units of the National Park or Wilderness Preservation System (or any additions to existing units) designated by this Act, including military overflights that can be seen or heard within the areas designated by this Act.

(b) Nothing in this Act shall restrict or preclude the designation of new units of special airspace or the use or establishment of military flight training routes over the new units of the National Park or Wilderness Preservation Systems (or any additions to existing units) designated by this Act.

(c) Nothing in this section shall be construed to modify, expand, or diminish any authority under other Federal law.

SEC. 803. WITHDRAWALS.

(a) CHINA LAKE.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) use as a research, development, test, and evaluation laboratory;

(B) use as a range for air warfare weapons and weapon systems;

(C) use as a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support; and

(D) subject to the requirements of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands, located within the boundaries of the China Lake Naval Weapons Center, comprising approximately 1,100,000 acres in Inyo, Kern, and San Bernardino Counties, California, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed", dated January 1985, and filed in accordance with section 803.

(b) CHOCOLATE MOUNTAIN.—(1) Subject to valid existing rights and except as otherwise provided in this title, the Federal lands referred to in paragraph (2), and all other areas within the boundary of such lands as depicted on the map specified in such paragraph which may become subject to the operation of the public land laws, are hereby withdrawn from all forms of appropriation under the public land laws (including the mining laws and the mineral leasing and the geothermal leasing laws). Such lands are reserved for use by the Secretary of the Navy for—

(A) testing and training for aerial bombing, missile firing, tactical maneuvering and air support; and

(B) subject to the provisions of section 804(f), other defense-related purposes consistent with the purposes specified in this paragraph.

(2) The lands referred to in paragraph (1) are the Federal lands comprising approximately 226,711 acres in Imperial County, California, as generally depicted on a map entitled "Chocolate Mountain Aerial Gunnery Range Proposed—Withdrawal" dated November 1991 and filed in accordance with section 803.

SEC. 804. MAPS AND LEGAL DESCRIPTIONS.

(a) PUBLICATION AND FILING REQUIREMENT.—As soon as practicable after the date of enactment of this title, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Natural Resources of the United States House of Representatives.

(b) TECHNICAL CORRECTIONS.—Such maps and legal descriptions shall have the same force and effect as if they were included in this title except that the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) AVAILABILITY FOR PUBLIC INSPECTION.—Copies of such maps and legal descriptions shall be available for public inspection in the Office of the Director of the Bureau of Land Management, Washington, District of Columbia; the Office of the Director, California State Office of the Bureau of Land Management, Sacramento, California; the office of the commander of the Naval Weapons Center, China Lake, California; the office of the commanding officer, Marine Corps Air Station, Yuma, Arizona; and the Office of the Secretary of Defense, Washington, District of Columbia.

(d) REIMBURSEMENT.—The Secretary of Defense shall reimburse the Secretary of the Interior for the cost of implementing this section.

SEC. 805. MANAGEMENT OF WITHDRAWN LANDS.

(a) MANAGEMENT BY THE SECRETARY OF THE INTERIOR.—(1) Except as provided in subsection (g), during the period of the withdrawal the Secretary of the Interior shall manage the lands withdrawn under section 802 pursuant to the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable law, including this title.

(2) To the extent consistent with applicable law and Executive orders, the lands withdrawn under section 802 may be managed in a manner permitting—

(A) the continuation of grazing pursuant to applicable law and Executive orders where permitted on the date of enactment of this title;

(B) protection of wildlife and wildlife habitat;

(C) control of predatory and other animals;

(D) recreation (but only on lands withdrawn by section 802(a) (relating to China Lake));

(E) the prevention and appropriate suppression of brush and range fires resulting from nonmilitary activities; and

(F) geothermal leasing on the lands withdrawn under section 802(a) (relating to China Lake).

(3)(A) All nonmilitary use of such lands, including the uses described in paragraph (2), shall be subject to such conditions and restrictions as may be necessary to permit the military use of such lands for the purposes specified in or authorized pursuant to this title.

(B) The Secretary of the Interior may issue any lease, easement, right-of-way, or other authorization with respect to the nonmilitary use of such lands only with the concurrence of the Secretary of the Navy.

(b) CLOSURE TO PUBLIC.—(1) If the Secretary of the Navy determines that military operations, public safety, or national security require the closure to public use of any road, trail, or other portion of the lands withdrawn by this title, the Secretary may take such action as the Secretary determines necessary or desirable to effect and maintain such closure.

(2) Any such closure shall be limited to the minimum areas and periods which the Secretary of the Navy determines are required to carry out this subsection.

(3) Before and during any closure under this subsection, the Secretary of the Navy shall—

(A) keep appropriate warning notices posted; and

(B) take appropriate steps to notify the public concerning such closures.

(c) MANAGEMENT PLAN.—The Secretary of the Interior (after consultation with the Secretary of the Navy) shall develop a plan for the management of each area withdrawn under section 802 during the period of such withdrawal. Each plan shall—

(1) be consistent with applicable law;

(2) be subject to conditions and restrictions specified in subsection (a)(3);

(3) include such provisions as may be necessary for proper management and protection of the resources and values of such area; and

(4) be developed not later than three years after the date of enactment of this title.

(d) BRUSH AND RANGE FIRES.—The Secretary of the Navy shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands withdrawn under section 802 as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by subsection (e) shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy to the Bureau of Land Management as compensation for such assistance.

(e) MEMORANDUM OF UNDERSTANDING.—(1) The Secretary of the Interior and the Secretary of the Navy shall (with respect to each land withdrawal under section 802) enter into a memorandum of understanding to implement the management plan developed under subsection (c). Any such memorandum of understanding shall provide that the Director of the Bureau of Land Management shall provide assistance in the suppression of fires resulting from the military use of lands withdrawn under section 802 if requested by the Secretary of the Navy.

(2) The duration of any such memorandum shall be the same as the period of the withdrawal of the lands under section 802.

(f) ADDITIONAL MILITARY USES.—(1) Lands withdrawn by section 802 may be used for defense-related uses other than those specified in such section. The Secretary of Defense shall promptly notify the Secretary of the Interior in the event that the lands withdrawn by this title will be used for defense-related purposes other than those specified in section 802. Such notification shall indicate the additional use or uses involved, the proposed duration of such uses, and the extent to which such additional military uses of the withdrawn lands will require that additional or more stringent conditions or restrictions be imposed on otherwise-permitted nonmilitary uses of the withdrawn land or portions thereof.

(g) MANAGEMENT OF CHINA LAKE.—(1) The Secretary of the Interior may assign the management responsibility for the lands withdrawn under section 802(a) to the Secretary of the Navy who shall manage such lands, and issue leases, easements, rights-of-way, and other authorizations, in accordance with this title and cooperative management arrangements between the Secretary of the Interior and the Secretary of the Navy. In the case that the Secretary of the Interior assigns such management responsibility to the Secretary of the Navy before the development of the management plan under subsection (c), the Secretary of the Navy (after consultation with the Secretary of the Interior) shall develop such management plan.

(2) The Secretary of the Interior shall be responsible for the issuance of any lease, easement, right-of-way, and other authorization with respect to any activity which involves both the lands withdrawn under section 802(a) and any other lands. Any such authorization shall be issued only with the consent of the Secretary of the Navy and, to the extent that such activity involves lands withdrawn under section 802(a), shall be subject to such conditions as the Secretary of the navy may prescribe.

(3) The Secretary of the Navy shall prepare and submit to the Secretary of the Interior an annual report on the status of the natural and cultural resources and values of the lands withdrawn under section 802(a). The Secretary of the Interior shall transmit such report to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(4) The Secretary of the Navy shall be responsible for the management of wild horses and burros located on the lands withdrawn under section 802(a) and may utilize helicopters and motorized vehicles for such purposes. Such management shall be in accordance with laws applicable to such management on public lands and with an appropriate memorandum of understanding between the Secretary of the Interior and the Secretary of the Navy.

(5) Neither this title nor any other provision of law shall be construed to prohibit the Secretary of the Interior from issuing and administering any lease for the development and utilization of geothermal steam and associated geothermal resources on the lands withdrawn under section 802(a) pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) and other applicable law, but no such lease shall be issued without the concurrence of the Secretary of the Navy.

(6) This title shall not affect the geothermal exploration and development authority of the Secretary of the Navy under section 2689 of Title 10, United States Code, except that the Secretary of the Navy shall obtain the concurrence of the Secretary of the Interior before taking action under that section with respect to the lands withdrawn under section 802(a).

SEC. 806. DURATION OF WITHDRAWALS.

(a) DURATION.—The withdrawal and reservation established by this title shall terminate 25 years after the date of enactment of this title.

(b) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—No later than 22 years after the date of enactment of this title, the Secretary of the Navy shall publish a draft environmental impact statement concerning continued or renewed withdrawal of any portion of the lands withdrawn by this title for which that Secretary intends to seek such continued or renewed withdrawal. Such draft environmental impact statement shall be consistent with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applicable to such a draft environmental impact statement. Prior to the termination date specified in subsection (a), the Secretary of the Navy shall hold a public hearing on any draft environmental impact state published pursuant to this subsection. Such hearing shall be held in the State of California in order to receive public comments on the alternatives and other matters included in such draft environmental impact statement.

(c) EXTENSIONS OF RENEWALS.—The withdrawals established by this title may not be extended or renewed except by an Act or joint resolution.

SEC. 807. ONGOING DECONTAMINATION.

(a) PROGRAM—Throughout the duration of the withdrawals made by this title, the Secretary of the Navy, to the extent funds are made available, shall maintain a program of decontamination of lands withdrawn by this title at least at the level of decontamination activities performed on such lands in fiscal year 1986.

(b) REPORTS.—At the same time as the President transmits to the Congress the President's proposed budget for the first fiscal year beginning after the date of enactment of this title and for each subsequent fiscal year, the Secretary of the Navy shall transmit to the Committees on Appropriations, Armed Services, and Energy and Natural Resources of the Senate and to the Committees on Appropriations, Armed Services, and natural Resources of the House of Representatives a description of the decontamination efforts undertaken during the previous fiscal year on such lands and the decontamination activities proposed for such lands during the next fiscal year including:

(1) amounts appropriated and obligated or expended for decontamination of such lands;

(2) the methods used to decontaminate such lands;

(3) amount and types of contaminants removed from such lands;

(4) estimated types and amounts of residual contamination on such lands; and

(5) an estimate of the costs for full decontamination of such lands and the estimate of the time to complete such decontamination.

SEC. 808. REQUIREMENTS FOR RENEWAL.

(a) NOTICE AND FILING.—(1) No later than three years prior to the termination of the withdrawal and reservation established by this title, the Secretary of the Navy shall advise the Secretary of the Interior as to whether or not the Secretary of the Navy will have a continuing military need for any of the lands withdrawn under section 802 after the termination date of such withdrawal and reservation.

(2) If the Secretary of the Navy concludes that there will be a continuing military need for any of such lands after the termination date, the Secretary shall file an application for extension of the withdrawal and reservation of such needed lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals of lands for military uses.

(3) If, during the period of withdrawal and reservation, the Secretary of the Navy decides to relinquish all or any of the lands withdrawn and reserved by this title, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(b) CONTAMINATION.—(1) Before transmitting a notice of intention to relinquish pursuant to subsection (a), the Secretary of Defense, acting through the Department of Navy, shall prepare a written determination concerning whether and to what extent the lands that are to be relinquished are contaminated with explosive, toxic, or other hazardous materials.

(2) A copy of such determination shall be transmitted with the notice of intention to relinquish.

(3) Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(c) DECONTAMINATION.—If any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is contaminated, and the Secretary of the Interior, in consultation with the Secretary of the Navy, determines that decontamination is practicable and economically feasible (taking into consideration the potential future use and value of the land) and that upon decontamination, the land could be opened to operation of some or all of the public land laws, including the mining laws, the Secretary of the Navy shall decontaminate the land to the extent that funds are appropriated for such purpose.

(d) ALTERNATIVES.—If the Secretary of the Interior, after consultation with the Secretary of the Navy, concludes that decontamination of any land which is the subject of a notice of intention to relinquish pursuant to subsection (a) is not practicable or economically feasible, or that the land cannot be decontaminated sufficiently to be opened to operation of some or all of the public land laws, or if Congress does not appropriate a sufficient amount of funds for the decontamination of such land, the Secretary of the Interior shall not be required to accept the land proposed for relinquishment.

(e) STATUS OF CONTAMINATED LANDS.—If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over lands withdrawn by this title which have been proposed for relinquishment, or if at the expiration of the withdrawal made by this title the Secretary of the Interior determines that some of the lands withdrawn by this title are contaminated to an extent which prevents opening such contaminated lands to operation of the public land laws—

(1) the Secretary of the Navy shall take appropriate steps to warn the public of the contaminated state of such lands and any risks associated with entry onto such lands;

(2) after the expiration of the withdrawal, the Secretary of the Navy shall undertake no activities on such lands except in connection with decontamination of such lands; and

(3) the Secretary of the Navy shall report to the Secretary of the Interior and to the Congress concerning the status of such lands and all actions taken in furtherance of this subsection.

(f) REVOCATION AUTHORITY.—Notwithstanding any other provision of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over lands proposed for relinquishment pursuant to subsection (a), is authorized to revoke the withdrawal and reservation established by this title as it applies to such lands. Should the decision be made to revoke the withdrawal and reservation, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(1) terminate the withdrawal and reservation;

(2) constitute official acceptance of full jurisdiction over the lands by the Secretary of the interior; and

(3) state the date upon which the lands will be opened to the operation of some or all of the public lands laws, including the mining laws.

SEC. 809. DELEGABILITY.

(a) DEFENSE.—The functions of the Secretary of Defense or the Secretary of the Navy under this title may be delegated.

(b) INTERIOR.—The functions of the Secretary of the Interior under this title may be delegated, except that an order described in section 807(f) may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 810. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn by this title shall be conducted in accordance with the provisions of section 2671 of title 10, United States Code.

SEC. 811. IMMUNITY OF UNITED STATES.

The United States and all departments or agencies thereof shall be held harmless and shall not be liable for any injury or damage to persons or property suffered in the course of any geothermal leasing or other authorized nonmilitary activity conducted on lands described in section 802 of this title.

SEC. 812. EL CENTRO RANGES.

The Secretary of the Interior is authorized to permit the Secretary of the Navy to use until January 1, 1996, the approximately 44,870 acres of public lands in Imperial County, California, known as the East Mesa and West Mesa ranges, in accordance with the Memorandum of Understanding dated June 29, 1987, between the Bureau of Land Management, the Bureau of Reclamation, and the Department of the Navy. Such use shall be consistent with such Memorandum of Understanding and such additional terms and conditions as the Secretary of the Interior may require in order to protect the natural, scientific, environmental, cultural, and other resources and values of such lands and to minimize the extent to which use of such lands for military purposes impedes or restricts use of such or other public lands for other purposes. All military uses of such lands shall cease on January 1, 1996, unless authorized by subsequent Act of Congress.

By Mr. LEAHY (for himself and Mr. DECONCINI):

S. 22. A bill to amend the Child Nutrition Act of 1966 to make available certain amounts of funding for the Special Supplemental Food Program for Women, Infants, and Children [WIC], and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

MATERNAL AND CHILD INVESTMENTS ACT OF 1993

• Mr. LEAHY. Mr. President, children are our most precious resource. They are our future. Yet when it comes to facing children's problems on the national level, other priorities seem to command more attention.

Now is the time to rethink our priorities and set them straight once and for all. With the end of the cold war, we have a once-in-a-generation opportunity to redirect taxpayer money into programs that help our children.

I agree with President Clinton that we must end this era of greed and self-interest, and act now to protect our children. Let us not wait, let us make the most of the opportunity before us, and do what is right—help those children crying out for our attention.

The Special Supplemental Food Program for Women, Infants and Children [WIC], created by Congress in 1972, is universally acclaimed as one of our Nation's most successful nutritional programs. In addition to food, WIC provides nutritional instruction, health assessments, and medically prescribed supplements. WIC also is a cost-saving program.

Much of the short-term savings realized by investments in WIC result because WIC reduces the chances that babies will have low birthweights, or that they will be born prematurely. Babies with low birthweight are at greater risk of a range of physical impairments, and often require very expensive long-term care. A USDA study showed that for every WIC dollar spent on a pregnant woman, between $1.77 and $3.13 was saved in Medicaid cost during the first 60 days after birth.

The purpose of the Maternal and Child Investment Act is simple—to provide mandatory funding for WIC and ensure that all eligible pregnant women, infants and children are served by the program. The bill would put the WIC program in the same general budgetary category as most other Federal nutrition programs.

President Clinton strongly supports increases in WIC to achieve full funding. In fact, the Bipartisan National Commission on Children, of which then Governor Clinton was a member, recommended funding increases to allow all eligible persons access to WIC.

The President knows that investments in WIC immediately produce savings in Federal mandatory programs.

WIC is one of America's best investments in our future. I am not just referring to the savings in Medicaid costs, or State medical costs, or regarding family medical expenses.

Much of the savings are generated because fewer newborns need emergency intensive medical care. Those savings represent healthier babies—babies with fewer medical problems.

Mental and physical handicaps can last a lifetime—lets invest some money up front to prevent these problems from happening in the first place.

If I were talking about any of your children—would anyone not invest the money? Would any Senator in this room say for their child, or grandchild—save the money and take the risk. Of course not. We should do the same for all low-income pregnant women and infants.

We must invest in our children and make their future our top priority. To be a productive and competitive Nation we must nurture and support our children.

If the United States is to progress into the 21st century, we must dedicate ourselves to sustaining and strengthening our Nation's children. Fully funding WIC is a giant step toward achieving that goal.

This body continues to appropriate more funding for WIC. We should guarantee that funding with this bill.

I recognize that there is automatic opposition to mandatory spending programs because of the fear of continuing cost escalations and litigation on the part of individual recipients.

My bill will solve both problems. It will not provide an entitlement to individual WIC participants but will instead assure funding levels to States based on mandatory spending caps set forth in the bill. Individuals would not have the right to file legal actions nor could costs exceed the caps.

My approach will also allow States to better plan in advance since they will be better able to predict funding levels. The bill will result in significant savings in other Federal mandatory programs and will assure funding for the WIC program at level that I—and many other Members—would have requested be appropriated.

Another WIC study showed that "for every dollar spent on the prenatal component of the WIC program, the associated savings in Medicaid costs for illnesses beginning in the first 60 days after birth ranged from $1.92 to $4.21 for newborns and mothers and from $2.98 to $4.75 for newborns only." In 1991 an estimated 662,562 pregnant women were on WIC, and around 260,000 pregnant women eligible for WIC were not served.

Longer term savings are also generated by investments in WIC. According to GAO, each dollar invested in WIC saves $3.50 over the next 18 years.

In 1990 five CEO's of major corporations testified at Congressional hearings about the need to fully fund WIC by the year 1996. They concluded that—

Each pregnant woman, infant and child who could benefit from WIC but is left out of the program represents a potential drain both on budgetary outlays in subsequent years and on our nation's future economic growth, not to mention a tragic loss in human potential.

This bill will phase in full funding for WIC by providing specified mandatory spending amounts for the WIC Program for fiscal years 1994 through 1996. The 1996 full funding amount is approximately $4.1 billion. The 1996 baseline for WIC is just over $3 billion.

A modest reserve fund would be created by the bill to deal with unanticipated cost escalations without requiring further action of Congress. This will prevent States from having to take WIC participants off the program if food costs rise unexpectedly. In addition, the Secretary will be required to administer the WIC Program—the program is now optional. All the other provisions of current law, save for technical or conforming changes, remain the same.

As many of you will recall, this body passed a bill to permit States to borrow ahead and use almost $100 million more than appropriated because of freezes in California and in Florida. Twenty-seven States were preparing to take persons of the WIC rolls after juice, and other, costs rose. President Bush signed the final version of that bill into law.

The pay-as-you-go funding source is not set forth in the bill although I want to make clear that I will not seek to bring the bill to the floor unless it is paid for in some way. I will work with this body, and the new administration to find a source of funds to pay for the bill.

I strongly urge all Senators to support this important legislation.●

By Mr. HATCH:

S. 23. A bill to amend title 17, United States Code, to clarify news reporting monitoring as a fair use exception to the exclusive rights of a copyright owner; to the Committee on the Judiciary.

FAIR USE EXCEPTION TO RIGHTS OF COPYRIGHT OWNER

Mr. HATCH. Mr. President, I am introducing today a bill to clarify the state of the law with respect to the fair use of copyrighted materials. Specifically, my bill amends section 107 of title 17, United States Code, to clarify that the monitoring of news reporting can qualify as a fair use exception to the otherwise exclusive rights of a copyright owner when such news monitoring meets the four-factor test of section 107.

This bill does not create a blanket license to copy news programs nor does it lessen in any way the strict obstacle course posed by the current four-factor test of section 107. It simply provides that video news monitoring be considered an activity similar to scholarly research, to criticism, or to news reporting itself, in other words, an activity that should be entitled to rely on the fair use exception.

Mr. President, broadcast monitors have for some time been challenged in the courts by broadcasters and cable operators who claim that their services infringe the copyright in the news that program producers are entitled to. In their defense, broadcast monitors have relied on the fair use doctrine of the Copyright Act, to prove that monitoring activities are not an infringement of copyright. I believe that, when correctly applied to broadcast monitors, the copyright law—and the fair use doctrine—can be read to protect their services from claims of infringement. Because the courts have been inconsistent in their resolution of this issue, it is appropriate for Congress to resolve the question, and I believe it is correct for Congress to resolve the question, as my bill does, on the side of greater public access to the news.

Article I, section 8 of the U.S. Constitution grants Congress the authority to "promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

Congress gave exclusive rights to authors as an incentive for them to create new works for the public good. These rights, however, can create a tension with other rights and interests of the public—as embodied in the first amendment—in the broad dissemination of works of public significance.

Congress and the courts have developed, enacted, and applied the fair use doctrine to harmonize these disparate interests. The fair use doctrine is not, therefore, only a statutory exception to the exclusive rights afforded by the Copyright Act. Rather, it is a necessary bulwark of our constitutional scheme, protecting the public's interest in access to information as a balance to the exclusive rights of copyright owners.

When it enacted the Copyright Act of 1976, Congress decided that it was important to codify the longstanding common law doctrine of fair use. See 17 U.S.C. section 107. Section 107 states that it is not a copyright infringement to make certain uses of copyrighted material, where the use is for an important public purpose, such as "criticism, comment, news reporting, teaching, scholarship or research." In the legislative history accompanying the Act, section 107 was described as codifying "one of the most important and well-established limitations on the exclusive rights of copyright owners." (H.R. Rept. 1476, 94th Cong., 2d Sess., at 65 (1976).

After indicating the types of uses that qualify for fair use consideration, section 107 sets out the factors a court should consider in determining whether a particular use of copyrighted material is a fair use. Those factors are:

First, the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purpose;

Second, the nature of the copyrighted work;

Third, the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

Fourth, the effect of the use upon the potential market for or value of the copyrighted work.

The legislative history of the Copyright Act makes clear that while "the bill endorses the purpose and general scope of the judicial doctrine of fair use," there "is not disposition to freeze the doctrine in the statute, especially during a period of rapid technological change." (H.R. Rept. supra, at 96). Thus, Congress intended that the fair use doctrine be flexible enough to protect new technological uses of copyrighted works. Important, productive and beneficial uses—such as broadcast monitoring—were not foreseeable when the Copyright Act was enacted.

Video clipping companies that provide news monitoring services would seem to fall squarely within the core range of activities protected by the fair use doctrine. In fact, the ultimate purposes of monitoring are precisely those defined in the first sentence of section 107, that is, they advance "criticism, comment, teaching, scholarship, and research." Therefore, I have concluded that news monitoring is exactly the type of activity that has traditionally been the subject of common fair use protections and the kind of activity that Congress intended to protect in its 1976 codification of the fair use doctrine. Thus, when a video news compilation satisfies the four-factor analysis of section 107, there should be no question of copyright infringement.

Broadcast monitors play an integral role in the broad dissemination of news and other public affairs programs. Recognizing this fact, most broadcasters have excellent working relations with monitors that serve their communities. Indeed, many refer viewer requests for clips of recent broadcasts to monitors. In this way broadcasters and broadcast monitors together ensure that the demand for both immediate news by local audiences and for retrieval of footage by a national audience is wholly satisfied.

The Supreme Court has correctly interpreted the fair use doctrine to mean that courts should not "inhibit access to ideas without any countervailing benefit." *Sony Corp.* v. *Universal City Studios*, 464 U.S. 417, at 450–51 1984). Because monitoring has no real or potential economic impact on newscasters, monitors simply do not diminish the incentive to produce news or other programs. There is no countervailing benefit, economic or otherwise, to be de-

rived from a decision to suppress the news, which is the inevitable result of a rule disqualifying news monitors from fair use consideration.

On the other hand, we must consider the harm that is manifestly present in viewing newscasters as the only appropriate gatekeepers to the news. Among the important individual rights that have been recognized in this country since its inception are the rights to an individual's good name and reputation. Without video monitors, there would be a very limited ability of slandered individuals to learn the source and content of slanders committed and almost no ability to assert their rights in courts.

For all these reasons, Mr. President, I believe that Congress should act to correct the judicial imbalance that has been created by those courts that have tilted the copyright law against the public's right to have access to broadcast information. We should enact legislation so that companies and individuals that provide clips, or compilations of clips, of broadcast news programming for the internal use of third parties will be recognized as engaged in an activity protected by the fair use doctrine.

It is true, Mr. President, that a useful hearing on this subject was held last year by the Subcommittee on Patents, Copyrights, and Trademarks. At that hearing, the Register of Copyrights, Mr. Ralph Oman, volunteered to oversee deliberations among the parties interested in this legislation to see if an industry agreement, or other arrangement, could not be fashioned to resolve this issue without the need of new legislation. While it is my understanding that substantial progress has been made in these informal deliberations, it remains true that no final resolution of the issue has yet been reached. Therefore, I continue to believe that, at this point in time, a legislative solution is required to restore the balance of rights between producers of news programs and the public.

By Mr. LEVIN (for himself and Mr. COHEN):

S. 24. A bill to reauthorize the independent counsel law for an additional 5 years, and for other purposes; to the Committee on Governmental Affairs.

INDEPENDENT COUNSEL REAUTHORIZATION ACT

Mr. LEVIN. Mr. President, today I am introducing with Senator COHEN the Independent Counsel Reauthorization Act of 1993, S. 24.

The goal of this legislation is to return to the statute books the law that establishes the system for appointing independent counsel to investigate persons close to the President when there are allegations of criminal misconduct. That law expired at the end of 1992.

The bill is being introduced on a bipartisan basis, and reauthorization has the strong support of President Clinton. In 1983 and 1987, the law was reenacted with large bipartisan majorities in both Houses of Congress. On both occasions, President Reagan signed the bill into law. In 1988, by a vote of 7 to 1, the Supreme Court found the law constitutional.

It is our hope that early in this Congress the independent counsel law will once more be renewed with bipartisan support and widespread recognition of the contribution it makes to public confidence in Government.

The independent counsel law was the product of Watergate's bitter lesson that no administration can with public confidence, investigate and prosecute its own top officials. Controversies over the past 20 years, from the Iran-Contra affair to the HUD scandal to the BNL prosecution, demonstrate the continuing validity of that lesson. It is a lesson that applies to Democratic administrations as well as to Republican administrations.

The basis for the law is the need for public trust in our criminal justice system. Twenty years ago, Watergate did great injury to that public trust. The culminating event was the Saturday night massacre in which President Nixon ordered his Attorney General to fire the Watergate special prosecutor who had subpoenaed the White House tapes. Attorney General Elliot Richardson resigned instead. So did Deputy Attorney General William Ruckelshaus. Solicitor General Robert Bork, however, obeyed the President's directive and fired Special Prosecutor Archibald Cox.

This interference with the Watergate criminal prosecutions left the country reeling. The result was a constitutional crisis, the resignation of a President, the appointment of a new special prosecutor, and years of criminal investigations, prosecutions and convictions.

Another result was the creation of the independent counsel law as part of the Ethics in Government Act of 1978. Since its enactment over 14 years ago, 13 independent counsels have been appointed. Most closed their investigations without indictments—but with the public's confidence that the individuals being investigated were not given any special treatment.

Four independent counsels have issued indictments. All four have obtained convictions either through jury trials or guilty pleas, although some convictions have been reversed on appeal on legal grounds. One independent counsel, appointed in December to investigate the Clinton passport matter, has yet to reach a decision on indictments.

The longest and most complex independent counsel matter has been the Iran-Contra investigation. In December 1986, then Attorney General Edwin Meese asked the special court to appoint an independent counsel to investigate all crimes arising out of the Iranian arms sales and diversion of profits to the Nicaraguan Contras. In response to Mr. Meese's request, which was supported by President Reagan, the special court appointed Lawrence Walsh—a respected lawyer who was a life-long Republican, former Federal judge, and former head of the American Bar Association and who possessed a strong résumé of professional experience and honors.

Mr. Walsh accepted the assignment and has since worked through one of the most complex criminal investigations in the history of American jurisprudence. He has filed 14 indictments of top Government officials in the Defense Department, State Department, and CIA. Eleven have resulted in criminal convictions, either from guilty pleas or jury verdicts. One indictment was dismissed due to the Government's refusal to release relevant classified information. Two indictments never went before a jury due to pardons issued by President Bush on Christmas Eve.

Today, most of the criticism of the independent counsel law consists of criticism of the Iran-Contra investigation. It would be surprising, of course, if there were no criticism of this investigation, given its focus on powerful people, complex facts, and covert actions involving terrorists, hostages, and a disputed conflict in Central America.

But what is overlooked is that the debate is generally on whether the prosecutor is being overly zealous, not on whether he is letting top officials off the hook. There have been no cries of whitewash or widespread loss of public confidence in his investigation. That is because the independent counsel law has addressed the lessons of Watergate. While people have complained that the wheels of justice in this case have moved too slowly and cost too much, none has, as in Watergate's dark days, questioned the willingness of the prosecutors to get to the truth.

President Bush's apparent agreement with the critics of Mr. Walsh came to a head, last month, when he issued pardons to six Iran-Contra defendants, the two who were awaiting trial and four others who had been convicted after a guilty plea or jury trial. The primary charges against the six were that they had illegally lied to or withheld information from Congress.

In explaining his decision to issue the pardons, President Bush said the prosecutions represented "the criminalization of policy differences." But none of the six had been prosecuted for his policy views; each had been prosecuted by the independent counsel for misrepresenting important facts when questioned by Congress or the independent counsel. These facts went to the heart of the Iran-Contra scandal and to many of the central controversies of the Reagan years: the sale of weapons to a

terrorist nation; trading arms for hostages; bankrolling a war in Nicaragua which Congress had specifically refused to fund.

Appointed officials who lie to Congress are not engaging in policy differences, they are engaging in criminal misconduct. Three of the defendants had pled guilty; one had been convicted by a jury; two were awaiting trial on indictments which the courts had upheld against attacks by their lawyers. By implying that none of these individuals had committed crimes and that each had been improperly prosecuted by the independent counsel, President Bush not only blurred the facts and set back the cause of accountability in Government, he also demonstrated the importance of and need for the independent counsel process in the first place.

Last summer, the Governmental Affairs Subcommittee on Oversight of Government Management, which I chair and on which Senator COHEN serves as ranking Republican, and which has jurisdiction over the independent counsel law, held a hearing to air concerns about the law. The full committee then approved legislation, on a bipartisan basis, to address many of the problems identified. However, that legislation did not become law last session because of a threatened filibuster.

Early this year, the subcommittee plans to hold additional hearings and will invite critics of the law, such as former Defense Secretary Caspar Weinberger, to testify. We also plan to get comments on the bill we have introduced today which includes not only the reforms suggested last year but several more as well.

Essentially, the bill does three things: It reauthorizes the law for 5 years, strengthens fiscal and administrative controls on independent counsel operations, and makes it clear that the law applies to Members of Congress. In short, it retains the basic shape of the law as approved by the Supreme Court, while recognizing that the law is not perfect and improvements can be made.

We have also worked with Congressman JACK BROOKS, chairman of the House Judiciary Committee, on this bill together with other members of that committee. He strongly supports reauthorization and will introduce companion legislation in the House.

I want to thank Senator COHEN for his long leadership in this area. We hope our colleagues will view our legislation in the same bipartisan manner in which we have operated and support its early passage this session.

Mr. President, I am delighted with two things that are going on here: First, to be the first one I believe to ask a unanimous consent request of our new Vice President.

I ask unanimous consent of the Chair that the bill and a summary of the bill be printed in the RECORD, and I add how pleased I am that the occupant of the Chair is the occupant of the Chair.

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

S. 24

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Counsel Reauthorization Act of 1993".

SEC. 2. FIVE-YEAR REAUTHORIZATION.

Section 599 of title 28, United States Code, is amended by striking "1987" and inserting "1993".

SEC. 3. ADDED CONTROLS.

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

"(l) COST CONTROLS AND ADMINISTRATIVE SUPPORT.—

"(1) COST CONTROLS.—

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

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

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

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

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

"(2) ADMINISTRATIVE SUPPORT.—The Administrative Office of the United States Courts shall provide administrative support and guidance to each independent counsel. The Administrative Office shall not disclose information related to an independent counsel's expenditures, personnel, or administrative acts or arrangements without the authorization of the independent counsel.

"(3) OFFICE SPACE.—The General Services Administration, in consultation with the Administrative Office, shall promptly provide appropriate office space for each independent counsel. Such office space shall be within a Federal building unless the General Services Administration determines that other arrangements would cost less."

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

(1) by striking "An independent counsel" and inserting "(1) IN GENERAL.—An independent counsel"; and

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

"(2) TRAVEL EXPENSES.—Except as provided in paragraph (3), an independent counsel and persons appointed under subsection (c) shall be entitled to the payment of travel expenses as provided by subchapter 1 of chapter 57 of title 5, United States Code, including travel expenses and per diem in lieu of subsistence in accordance with section 5703 of title 5.

"(3) TRAVEL TO PRIMARY OFFICE.—An independent counsel and persons appointed under subsection (c) shall not be entitled to the payment of travel and subsistence expenses under subchapter 1 of chapter 57 of title 5, United States Code, with respect to duties performed in the city in which the primary office of that independent counsel or person is located after 1 year of service under this chapter unless the employee assigned duties under subsection (l)(1)(A)(iii) certifies that the payment is in the public interest to carry out the purposes of this chapter.".

(c) INDEPENDENT COUNSEL EMPLOYEE PAY COMPARABILITY.—Section 594(c) of title 28, United States Code, is amended by striking the last sentence and inserting: "Such employees shall be compensated at levels not to exceed those payable for comparable positions in the Office of United States Attorney for the District of Columbia under sections 548 and 550, but in no event shall any such employee be compensated at a rate greater than the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5.".

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

"(5) ENFORCEMENT.—The Department of Justice and Office of Government Ethics have authority to enforce compliance with this subsection.".

(e) COMPLIANCE WITH POLICIES OF THE DEPARTMENT OF JUSTICE.—Section 594(f) is amended by striking "shall, except where not possible, comply" and inserting "shall, except to the extent that to do so would be inconsistent with the purposes of this chapter, comply".

(f) PUBLICATION OF REPORTS.—Section 594(h) of title 28, United States Code, is amended—

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

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

(2) in the first sentence of paragraph (2), by striking "appropriate" the second place it appears and inserting "in the public interest, consistent with maximizing public disclosure, ensuring a full explanation of independent counsel activities and decisionmaking, and facilitating the release of information and materials which the independent counsel has determined should be disclosed".

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

(h) PERIODIC REAPPOINTMENT OF INDEPENDENT COUNSEL.—Section 596(b)(2) of title 28, United States Code, is amended by adding at the end the following new sentence: "If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion

whether termination is appropriate under this paragraph no later than 3 years after the appointment of an independent counsel and at the end of each succeeding 3-year period.".

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

"(c) AUDIT.—By December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures by the date that is 90 days after the date on which the office is terminated. The Comptroller General shall audit each such statement and report the results of each audit to the appropriate committees of the Congress not later than March 31 of the year following the submission of any such statement.".

SEC. 4. MEMBERS OF CONGRESS.

Section 591(c) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by designating the text as paragraph (1) and inserting at the beginning of the text the following: "(1) IN GENERAL.—"; and

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

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

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall become effective on the date of enactment of this Act.

SUMMARY OF INDEPENDENT COUNSEL REAUTHORIZATION ACT OF 1993

S. 24, the Independent Counsel Reauthorization Act of 1993 would do essentially 3 things: (1) reauthorize the independent counsel law for 5 years, (2) strengthen fiscal and administrative controls on independent counsel operations, and (3) make it clear that the law applies to Members of Congress.

Short Title. Section 1 is the short title of the bill.

Five-year Reauthorization. Section 2 would reauthorize the law for five additional years.

Added Controls. Section 3 would impose additional fiscal and administrative controls on independent counsel operations. These provisions would:

Reasonable Expenditures: require independent counsels to comply with Justice Department spending policies, act with "due regard for expense," authorize only reasonable and lawful expenditures, and appoint a staff person to track and certify actual expenditures;

Administrative Support: clarify the responsibility of the Administrative Office of the U.S. Courts to provide administrative support and guidance to each independent counsel office;

Federal Office Space: require the General Services Administration to provide independent counsels with office space in federal buildings, unless other arrangements are less costly;

Per Diem Expenses: limit per diem expenses, by making it clear, after one year in office, independent counsels and staff are not entitled to travel and subsistence expenses when working in the city of which their primary office is located, unless payment is certified as in the public interest;

Staff Compensation: require independent counsel staff compensation to be comparable to the compensation paid by U.S. Attorney's Office in the District of Columbia;

Ethics Enforcement: make it clear that the Department of Justice and Office of Government Ethics can enforce standards of conduct for independent counsels, their staffs and law firms;

Law Enforcement Policies: clarify the obligation of independent counsels to comply with Justice Department law enforcement policies;

Annual Reports: require independent counsels to file annual reports with Congress, ensure public availability of their final reports;

Periodic Reappointment: require the special court to determine at least once every three years whether an independent counsel office should be terminated because its work is substantially complete; and

Audits: require annual expenditure statements by independent counsels and annual audits by GAO.

Members of Congress. Section 4 would make it clear that the Attorney General may use the independent counsel process in cases involving Members of Congress.

Effective Date. The bill's provisions would become effective on the date of the enactment of the Act.

INDEPENDENT COUNSEL REAUTHORIZATION

• Mr. COHEN. Mr. President, I am pleased to join with Senator LEVIN today in introducing legislation to reauthorize the independent counsel provisions of the Ethics in Government Act of 1978 which, regrettably, expired in December of last year.

As my colleagues know, the independent counsel process was established by the Congress in 1978—reauthorized in 1982 and 1987—as necessary to ensure that investigations and prosecutions of top-level executive branch officials are conducted fully and fairly.

Over the years, critics have challenged the wisdom and need for the independent counsel law. Justice Holmes once said that—

> The life of the law has not been logic: it has been experience.

In this case, both logic and experience are on the side of reauthorizing the independent counsel law.

The law serves two ends, both equally important in our democratic society. One is that justice must be done, and the other that it must appear to be done. The appearance of justice is just as important as justice itself, in terms of maintaining public confidence in our judicial system. Such confidence is undermined when the administration of the law appears to be compromised.

By providing for a judicially appointed independent counsel to handle such cases in limited circumstances, the process established by the Ethics Act helps to assure the public that criminal wrongdoing by top-level government officials will not be buried or tolerated, and that top-level officials will not be treated as if they are above the law.

The independent counsel process should not be viewed as an affront to the integrity of the Department of Justice or administration. Conflict of interest problems are not unique to any one administration or political party. Scandals involving high-ranking government officials date far back in our Nation's history and transcend party lines.

I believe that an institutional mechanism, such as the independent counsel law, will always be necessary to guard against inherent conflicts of interest that occur whenever the executive branch is called upon to investigate itself. Not only does a statutory process enhance public confidence in the handling of prosecutions involving officials, but it also helps the officials themselves who have been cleared by such a process, by removing the suspicion that the official was let off easy by his or her own administration.

The independent counsel process is one that has worked, albeit with some flaws over its 14-year history of the law. Most recently, significant concerns have been raised over the monetary costs of the law, in light of the unanticipated scope and cost of independent counsel investigations in the past several years.

To address the cost issue, the legislation that Senator LEVIN and I are introducing includes several provisions to tighten fiscal controls. The bill would require independent counsels to conduct all activities with due regard for expense, to authorize only reasonable and lawful expenditures, and promptly upon taking office, assign to a specific employee the duty of certifying that expenditures are made in accordance with these principles.

The bill would also require independent counsels to comply with Justice Department spending policies, require GSA to provide independent counsels with office space in Federal buildings unless other arrangements would cost less, and require the administrative office of the U.S. courts to provide administrative support and guidance.

The bill also addresses a second, more controversial issue which is the law's coverage of Members of Congress. Most of those familiar with the statute recognize that Members were already covered by the so-called catchall provision. This provision allowed the Attorney General to seek appointment of an independent counsel whenever he determined that an investigation of a Member of Congress by the Justice Department may pose a conflict of interest—either personal, financial, or political.

There is, of course, no inherent conflict of interest when the Justice Department investigates or prosecutes Members of Congress, nor is there any evidence that the Department is hesitant to investigate or prosecute Members. However, to accommodate those

who sincerely believe that the old law is inadequate in this respect, the legislation would give the Attorney General the authority to seek the appointment of an independent counsel in any case involving allegations of criminal wrongdoing by Members of Congress.

This new provision would not require a finding of a conflict of interest before it can be used. Therefore, the Attorney General could—if he or she chose—use an independent counsel in every case involving a Member of Congress, effectively creating mandatory coverage, or could confine its use to situations where a conflict exists as under current law. The discretionary nature of the provision would obviate any constitutional concerns raised by an absolute bar on Justice Department investigations of Members of Congress.

Mr. President, the Subcommittee on Oversight of Government Management, chaired by Senator LEVIN and on which I serve as ranking member, will hold a hearing on the independent counsel provisions later this year. The hearing will provide an opportunity to discuss fully the continued need for the independent counsel process and the means by which it can be improved. The legislation we are introducing today proposes some solutions to concerns that have arisen in the implementation of the Ethics Act. I look forward to working with Senator LEVIN and my colleagues to ensure enactment of legislation that restores and strengthens this important law.•

By Mr. MITCHELL (for himself, Mr. AKAKA, Mr. BAUCUS, Mr. BIDEN, Mr. BINGAMAN, Mr. BOREN, Mrs. BOXER, Mr. BRADLEY, Mr. BRYAN, Mr. CAMPBELL, Mr. CHAFEE, Mr. COHEN, Mr. DODD, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. INOUYE, Mr. JEFFORDS, Mr. KENNEDY, Mr. KERRY, Mr. KERREY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Ms. MURRAY, Mr. PACKWOOD, Mr. PELL, Mr. RIEGLE, Mr. ROBB, Mr. SARBANES, Mr. SIMON, Mr. SPECTER, Mr. WELLSTONE, and Mr. KOHL):

S. 25. A bill to protect the reproductive rights of women, and for other purposes; to the Committee on Labor and Human Resources.

FREEDOM OF CHOICE ACT

Mr. MITCHELL. Mr. President, I am introducing today the Freedom of Choice Act, to give statutory strength to the right of American women to govern their reproductive lives without coercive government interference.

The bill is identical to last year's Freedom of Choice Act, introduced with the original sponsor, former Senator Cranston, which gained 47 cosponsors by the close of the session.

We were unable to take up the measure last year, so it is reintroduced this year, with the expectation that the 103d Congress will be willing to debate it on the merits and vote.

The only small change made in the measure since last year is a change worked out last year, with the Catholic Health Association, the leadership group for the Nation's network of community Catholic hospitals.

That change provides that States have the right to protect unwilling private health care institutions, as well as private individuals, from providing abortion services against their will. Its practical effect is to continue what has been national policy since the ruling in the case of Roe versus Wade, which is to permit conscientiously opposed individuals and institutions to refrain from providing these services.

This change, worked out with the cooperation and agreement of the Catholic Health Association, makes it clear to the members of that body that passage of the Freedom of Choice Act will impose on them no obligations that existing law does not impose.

Our goal in doing this is to assure all parties that the goal of the Freedom of Choice Act is to do no more, but no less, than to codify the holding in Roe.

Since 1973, when the Supreme Court, in the Roe case, determined that the constitutional right of privacy is broad enough to include a woman's right to choose to terminate a pregnancy, American women have had the assurance that their choices in life are their own. American women have been free of the nightmare fears of back-alley abortions or unwanted pregnancies.

Abortion is no one's first preference. The best possible world would be one in which their were no unwanted pregnancies, where every pregnancy was the forerunner of a much-wanted and loved child.

That is not the reality, however.

Birth control does not always work. Women are raped. Young women are the victims of incest, a particularly disgusting form of rape. Far too many women don't have regular access to primary health care, including birth control.

Our society does far too little to enforce on men the idea that conceiving a child carries with it an obligation to care for that child. Too often, instead, single mothers are condemned for the crime of having a child, just as women seeking abortions are condemned for the crime of not wanting a child.

Most Americans, including many who dislike abortion and do not wish to encourage abortion, have concluded that the standards set by the Supreme Court's decision in Roe versus Wade, along with the subsequent cases defining the limits of State regulation of abortion, are a workable standard for a diverse society.

That is the majority view, because Americans know that the real-world alternative is either a reversion to the pre-1973 world of illegal abortions or a post-Roe world of intrusive government questioning of women's decisions about childbearing.

That is why the Freedom of Choice Act seeks to preserve the Roe standard and nothing more.

The availability of safe, legal abortion is the premise on which the broad majority of Americans make judgments about related matters, such as minors' rights, funding, and so forth. My bill does the same.

From 1973 to 1988, the Supreme Court reviewed various State restrictions on abortion and determined which were intentional obstacles to the free exercise of a woman's choice and which were not, based on the holding in Roe that the right to choose abortion is a right of constitutional standing.

From 1989 forward, however, with changes in the makeup of the Court, the standing of the right to choose has been under assault within the Court itself. There has been no change in public opinion about the fact that the Roe standard works. There has been no change in the real world outcome: The overwhelming majority—97 percent—of abortions are performed in the first 15 weeks of pregnancy.

The change has been in the political debate and in the makeup of the court. As a result, today, we face two conflicting and contradictory standards by which the right to choose abortion is judged.

On the one hand, there is the standard of strict scrutiny, applied in Roe and in subsequent cases, which holds that the right to reproductive choice is constitutionally based and thus demands the same level of protection as other constitutional rights. On the other hand, last year a 5-to-4 majority of the Court in the Casey ruling enunciated a new standard, the "undue burden" standard, whose parameters are not clear and whose main outcome seems likely to be a proliferation of new litigation, as persons opposed to all abortions seek to probe the extent to which the new standard relaxes the Constitutional protection of the basic right.

The Roe decisions was rooted, in part, in the understanding that of all the parties with an interest in a women's pregnancy, the person with the greatest interest, for whom the consequences of a pregnancy are most direct, is the woman herself.

The findings in Roe, despite efforts to distort them, are clearcut: Until fetal viability, a woman has the right to choose an abortion for herself. After fetal viability, a State may restrict that right, except when the life or health of the woman is threatened. Appropriate, medically necessary State regulation of the procedure is recognized.

Roe did not foreclose further adjudication of related issues and in the

years since Roe, such other cases have been decided involving questions of minors' rights and adult involvement, State funding obligations, and the right of conscientious refusal to participate in the provisions of abortion services.

Because the bill tracks the decision and does not seek to expand it, these factors are explicit in the language of the bill. At the same time, because the bill does intend to track Roe, and not to contract its area of protection, it does not grant new and untested rights of regulation to the States. States themselves must judge if they wish to legislative and litigate in such fields.

Abortion is a controversial subject because the views of Americans on the status of fetal life vary enormously.

Some believe that a fertilized ovum is the legal equivalent in every sense of an adult person. Some believe that at no point before birth does a fetus acquire any significance.

These differences are not reconcilable. The Roe ruling didn't reconcile them and my bill doesn't.

But the majority of Americans don't hold extreme views. They believe there are circumstances where an abortion is the only alternative. They believe that at some point in a pregnancy, the right of the woman must give way before the right of a potential life. That is the view the Roe decision upheld and the view my bill echoes.

The Roe Court agreed that the right of a woman to choose the outcome of a pregnancy is a right rooted in her personal right of privacy.

Since the late 19th century, the Supreme Court, in a series of rulings, has developed a body of law and precedent which establishes that Americans enjoy many rights not specifically unenumerated in the Constitution. Among them is a right of personal privacy.

Privacy is not the only unenumerated right: The right of citizens to associate freely with each other is nowhere mentioned in the Constitution. The right of Americans to travel is not specified in the Constitution. The right to marry is not spelled out. Neither is the right to have children. But no one denies that these rights are fundamental rights of every American.

In Roe versus Wade, the Supreme Court concluded that the right of privacy "is broad enough to encompass a woman's decision whether or not to terminate her pregnancy."

That finding is what my bill seeks to uphold, no more and no less.

This right is controversial today. The assertion of the right to use birth control was controversial 30 years ago. The right of persons to marry across race lines was controversial.

Even today, when many of these cases have been settled law for decades, some Americans still find their premises offensive. We are a diverse and pluralistic society; we allow all our citizens to seek to persuade each other by peaceful means. But we don't let the preferences of some rule the actions and choices of others.

When one citizen asserts a constitutional right, the fact that its exercise may be offensive to someone else is not a ground for curtailing that right.

Lawmakers have an additional affirmative responsibility to examine all the alternatives to any course of action.

In this instance, opponents of this legislation offer absolutely no realistic alternatives.

The claim that changing a Supreme Court ruling will stop abortion is disproven by history and fact. It will not.

Before Roe, illegal abortions—back-alley abortions for the poor, self-induced abortion attempts for the young and desperate, and trips abroad for the fortunate few—were a common reality. So were neglected, unwanted and un-adopted children.

And, of course, opponents of this legislation are often—although not always—in the forefront of those opposed to family planning.

Many of today's most vocal opponents of abortion oppose birth control for any reason by any person.

The fact is that the opponents of abortion simply want to make abortion illegal. They know they can't stop it because abortions occur in every society, regardless of the legal position the society takes.

Opponents claim they don't want to make criminals of women. But their actions speak louder than their words. And their actions are directed entirely at making abortion illegal—not unnecessary.

The majority of Americans has seen through that argument and that is why, even though abortion is a difficult, painful and wrenching issue for most people, the majority nonetheless believes it must remain legal.

My bill achieves that goal: Not more, but not less. It makes the Roe standard, under which the nation has now lived for almost two decades, the law of the land. I ask unanimous consent that the bill be printed in the RECORD following my remarks.

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

S. 25

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Freedom of Choice Act of 1993".

SEC. 2. CONGRESSIONAL STATEMENT OF FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The 1973 Supreme Court decision in *Roe v. Wade* established constitutionally based limits on the power of States to restrict the right of a woman to choose to terminate a pregnancy. Under the strict scrutiny standard enunciated in *Roe v. Wade*, States were required to demonstrate that laws restricting the right of a woman to choose to terminate a pregnancy were the least restrictive means available to achieve a compelling State interest. Since 1989, the Supreme Court has no longer applied the strict scrutiny standard in reviewing challenges to the constitutionality of State laws restricting such rights.

(2) As a result of the Supreme Court's recent modification of the strict scrutiny standard enunciated in *Roe v. Wade*, certain States have restricted the right of women to choose to terminate a pregnancy or to utilize some forms of contraception, and these restrictions operate cumulatively to—

(A)(i) increase the number of illegal or medically less safe abortions, often resulting in physical impairment, loss of reproductive capacity or death to the women involved;

(ii) burden interstate commerce by forcing women to travel from States in which legal barriers render contraception or abortion unavailable or unsafe to other States or foreign nations;

(iii) interfere with freedom of travel between and among the various States;

(iv) burden the medical and economic resources of States that continue to provide women with access to safe and legal abortion; and

(v) interfere with the ability of medical professionals to provide health services;

(B) obstruct access to and use of contraceptive and other medical techniques that are part of interstate and international commerce;

(C) discriminate between women who are able to afford interstate and international travel and women who are not, a disproportionate number of whom belong to racial or ethnic minorities; and

(D) infringe upon women's ability to exercise full enjoyment of rights secured to them by Federal and State law, both statutory and constitutional.

(3) Although Congress may not by legislation create constitutional rights, it may, where authorized by its enumerated powers and not prohibited by a constitutional provision, enact legislation to create and secure statutory rights in areas of legitimate national concern.

(4) Congress has the affirmative power both under section 8 of Article I of the Constitution of the United States and under section 5 of the Fourteenth Amendment of the Constitution to enact legislation to prohibit State interference with interstate commerce, liberty or equal protection of the laws.

(b) PURPOSE.—It is the purpose of this Act to establish, as a statutory matter, limitations upon the power of States to restrict the freedom of a woman to terminate a pregnancy in order to achieve the same limitations as provided, as a constitutional matter, under the strict scrutiny standard of review enunciated in *Roe v. Wade* and applied in subsequent cases from 1973 to 1988.

SEC 3. FREEDOM TO CHOOSE.

(a) IN GENERAL.—A State—

(1) may not restrict the freedom of a woman to choose whether or not to terminate a pregnancy before fetal viability;

(2) may restrict the freedom of a woman to choose whether or not to terminate a pregnancy after fetal viability unless such a termination is necessary to preserve the life or health of the woman; and

(3) may impose requirements on the performance of abortion procedures if such re-

quirements are medically necessary to protect the health of women undergoing such procedures.

(b) RULES OF CONSTRUCTION.—Nothing in this Act shall be construed to—

(1) prevent a State from protecting unwilling individuals or private health care institutions from having to participate in the performance of abortions to which they are conscientiously opposed;

(2) prevent a State from declining to pay for the performance of abortions; or

(3) prevent a State from requiring a minor to involve a parent, guardian, or other responsible adult before terminating a pregnancy.

SEC. 4. DEFINITION OF STATE.

As used in this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and each other territory or possession of the United States.

Mr. FEINGOLD. Mr. President, I am pleased to join my distinguished colleague, Senator MITCHELL in proposing legislation which would restore womens' reproductive freedom to the standard established in the 1973 Supreme Court decision on Roe versus Wade.

The Freedom of Choice Act is a vital step toward attaining full reproductive freedom for women. It would reinstate the level of protection afforded women until the 1989 Webster versus Reproductive Health Services decision open the door for States to impose burdensome restrictions.

Since the Webster decision, the Court has retreated even further from full protection by abandoning the strict scrutiny standard that is normally applied to other fundamental, constitutionally guaranteed rights. Instead, the Court has adopted a much less protective standard for women which allows States to legislate restrictions deemed not to pose an undue burden on a woman seeking to terminate a pregnancy.

Since these Court decisions, more than 500 antichoice bills have been introduced at the State level.

The Court and many of the individual 50 States are conducting a blow-by-blow assault on the reproductive rights of women. Federal legislation is necessary to stem the erosion of these rights and remove unwanted government interference from what should be a purely personal and private decision.

Some have called the Freedom of Choice Act a radical bill, but it is not. In reality it would simply reinstate what was the guiding principle for 17 years in this country under Roe versus Wade.

Specifically, Roe versus Wade states that the right to determine whether to terminate a pregnancy is protected by the Constitution, therefore the States may not interfere with a woman's right to obtain a safe and legal abortion. Once medical viability is determined however, the State may elect to impose restrictions or even prohibit an abortion unless the pregnancy jeopardizes the life or health of the mother. The Freedom of Choice Act closely follows this framework.

The authors of the Freedom of Choice Act were careful not to expand beyond the scope of Roe versus Wade in other areas. As under the original decision, States may pass parental consent or notification laws for minors as long as those laws contain a constitutional bypass provision.

I see these requirements as an onerous restriction for many teenagers who do not have a healthy family support system, and who may be understandably intimidated by court proceedings. Our overriding goal should be protecting the rights and privacy of all women in need of abortion services.

During the last 4 years I have witnessed a gradual chiseling away at a basic individual freedom. Burdensome restrictions such as waiting periods, spousal notice requirements and informed consent measures belittle a woman's ability to make her own decisions based on her own individual set of circumstances. S

Not only is the hand of government reaching into a woman's private decisionmaking, it is erecting a set of obstacles which many women may never clear. Women whom our society should most seek to empower face the greatest barriers; poor women, women in abusive relationships, or those with few outside sources of information and education.

These women are also the least likely to have the resources to pay for abortion or family planning services. The Freedom of Choice Act remains silent on government funding for abortion services, although I understand funding will be addressed through the Reproductive Health Equity Act. Without adequate funding levels and protection from government interference, we are creating a two-tiered system that will further trap women in the poverty spiral. Access to abortion services should not be dependent on wealth and education.

We have made great strides in eliminating inequality in the treatment of individual rights in this century. The Freedom of Choice Act will return to all American women the protection they deserve under the law.

As this new legislative session continues, I anticipate many new bills, under various guises, will attempt to make the right to an abortion more difficult to attain. Our swift movement to codify a long-held standard will help protect a woman's right to choose. The Freedom of Choice Act is a reasonable response to such attempts, and I urge my colleagues to push for swift passage of this important legislation.

Mr. KENNEDY. Mr. President, I am pleased to join Senator MITCHELL and many other colleagues today in sponsoring the Freedom of Choice Act, a bill to codify the constitutional right to reproductive freedom established by the Supreme Court in 1973 in the landmark case of Roe versus Wade.

Tomorrow marks the 20th anniversary of Roe versus Wade. In that historic decision, the Supreme Court recognized, as part of the constitutional right to privacy, the fundamental right of a woman to choose to terminate her pregnancy. The Roe decision invalidated a variety of State laws that had prohibited or sharply restricted abortions, and put an end to the back-alley abortions that had maimed and killed so many women in the past.

In recent years, however, as the membership of the Supreme Court has changed, the barriers blocking access to safe and legal abortion have begun to be rebuilt. In the Webster case in 1989, the Court indicated that it would no longer hold State antichoice laws to the strict scrutiny standard of review. The States reacted by beginning to enact laws imposing a variety of restrictions on abortion. Then last summer in the Casey decision, the Court, upholding restrictions adopted in Pennsylvania, made it clear that it had indeed abandoned strict scrutiny of abortion legislation.

The Casey decision severely undermines the right of a woman to choose to terminate her pregnancy. Restrictions on abortion of the sort approved by the Court are all too likely to cause large numbers of women to sacrifice their dignity, risk their health, and sometimes give their lives, to terminate their pregnancies.

Two types of restrictions upheld by the Court in Casey that often operate in practice to prevent women from exercising their constitutional right to choose are the so-called informed consent provisions and mandatory waiting periods. Most informed consent laws do not actually ensure that a woman is genuinely informed about her options, which good medical practice guarantees in any event, nor are they intended to do so. Rather, these laws require abortion providers to recite a litany of biased and often irrelevant information in order to harass, frighten, and intimidate women.

Mandatory waiting periods are equally unnecessary and burdensome on the right to choose. A 24-hour waiting period requires women to make two trips to an abortion provider. For women who do not have an abortion provider near where they live, a waiting period can mean another day of travel, perhaps overnight accommodations, arranging for another day off from work, and extra child care arrangements. These burdens fall particularly heavily on poor women and those in rural areas. Their effect is at a minimum to delay access to a safe and legal abortion, and in many instances to deny such access altogether.

A recent study by the American Medical Association Council on Scientific Affairs found that restrictions which delay abortions—including mandatory waiting periods—increase the costs of

the procedure and, more important, the health risks to the woman. The AMA report concluded:

As access to safer, earlier legal abortion becomes increasingly restricted, there is likely to be a small but measurable increase in mortality and morbidity among women in the United States.

American women deserve better than this.

Enactment of the Freedom of Choice Act is critical to ensure that the principles of Roe are restored and the right to a safe and legal abortion is guaranteed. The Freedom of Choice Act will ensure that the dark days of back-alley abortions do not return.

We should all work to reduce the need for abortions through more effective family planning, contraception research and adoption services. But we must also safeguard a woman's freedom to make the deeply personal choice to terminate a pregnancy, and to ensure that she can safely implement her choice without government interference.

Mr. President, I hope that Congress will expedite its action on this important legislation.

Mr. GLENN. Mr. President, I rise today to reaffirm my support for S. 25, the Freedom of Choice Act, and to add my name as an original cosponsor. It is my hope that Congress passes and President Clinton signs this important legislation into law as soon as possible.

On June 29, 1992, the Supreme Court changed the standard under which States could restrict a woman's access to abortion. In Planned Parenthood of Southeastern Pennsylvania versus Casey, the Court ruled that States could restrict a woman's right to choose whether to have an abortion as long as it did not impose an undue burden on that right. In Casey, the Court determined that requiring a woman to wait 24 hours for an abortion and to listen to her physician discuss specific antichoice material is not an undue burden, but that requiring her to notify her husband is an undue burden.

Mr. President, I believe that in its Casey decision, the Court not only abandoned its previous strict scrutiny standard; it abandoned American women as well. Under the 1973 Roe versus Wade decision, which I support, a woman's right to choose was considered a fundamental right to be protected under strict judicial scrutiny. Today that right has significantly less protection. In fact, the right of women to choose can be altered at whim. Today's Supreme Court has decided that a State's forcing a woman to notify her husband of her decision to have an abortion poses an undue burden on the woman's right to choose. What will tomorrow's Supreme Court decide? The lives of American women are now at the mercy of courts and State legislatures.

I support the Freedom of Choice Act because I believe that a woman has a fundamental right to make this most personal decision on her own. The Freedom of Choice Act would codify the Supreme Court's decision in Roe versus Wade. It would prevent States from restricting a woman's right to choose, and it would remove this important matter from an everchanging Supreme Court and State legislatures that can place obstacles in the way of women who choose to exercise their right to an abortion.

It is imperative that we pass S. 25 as soon as possible. As written, the Freedom of Choice Act codifies Roe versus Wade. It does nothing more. The bill would still allow States to restrict a woman's right to abortion after fetal viability except when the life of the mother is in danger, to impose medically necessary requirements on the performance of abortion procedures, to require the involvement of a parent or other responsible adult in a minor's abortion, and to protect individuals who oppose abortion from having to perform the procedure. The bill would not require States to fund abortions. The Freedom of Choice Act would allow States to regulate abortions but at the same time would assure that all American women have access to safe, legal abortions.

Before the Roe decision, each State was free to set its own abortion laws. Women with resources traveled to States with less restrictive laws, while women without resources often died. Poor women and young women who did not have access to safe, legal abortions often resorted to illegal or self-induced abortions. Most of today's young women cannot remember these tragic times. I fear that if the Freedom of Choice Act is not present, they will be forced to learn of this tragedy first hand.

Mr. President, in the interest of assuring that the women of this Nation have access to safe and legal abortions, I believe that we must pass the Freedom of Choice Act. I understand that some Americans oppose a woman's right to choose, and others would like to make changes to S. 25 before it is passed. I have heard from Ohioans who feel this way. While I certainly respect their views, I do not believe that the Government should prevent a woman from determining what is best for her life and her body. For this reason, I will fight to see that the Freedom of Choice Act, as introduced today, is enacted into law. Our Nation's women have struggled long and hard to gain their rights, and it is time that the Congress and the President act to ensure that the right of women to choose is not taken away by courts or politicians.

Mr. RIEGLE. Mr. President, I rise today to support the Freedom of Choice Act. Enactment of the Freedom of Choice Act is vitally important for the women of Michigan and America.

Recent Supreme Court decisions have eroded the constitutional rights expounded under Roe versus Wade. The weakening of that landmark ruling has encouraged and given rise to a crazy quilt of patchwork laws across the 50 States. States can now put up more road blocks for women choosing to have abortions prior to fetal viability. These road blocks continue to chip away at a woman's right to choose. In Michigan, the 2.2 million women of childbearing age are no longer protected from State government intrusion in this highly personal and difficult decision.

I strongly believe that the reproductive rights of American women should be the same regardless of which State they live in. That is why Congress must enact S. 25, the Freedom of Choice Act. The Freedom of Choice Act guarantees the essential protections provided for under the Roe versus Wade decision for a woman to choose to have an abortion before fetal viability.

A decision regarding abortion is deeply personal and I believe, is best made by the individual woman herself, guided by her own personal beliefs and convictions, in consultation with her doctor. This decision should be free from political interference. Enactment of the Freedom of Choice Act will keep the decision where it should be made, with the woman.

Mr. President, while I today ask my colleagues to enact legislation that will secure the reproductive rights for women across America, I also call upon President Clinton to take immediate administrative action to repeal the gag rule policy of restricting all federally funded health facilities that receive title X funding from discussing abortion as a medical option. I am pleased that President Clinton has indicated that one of his first acts as President will be to repeal the gag rule policy.

Over the years, this country, at the national, State, and local levels, and particularly through our court system, has continued to evaluate the issues surrounding abortion. In my years in Congress, I have consistently opposed legislative initiatives designed to limit the rights of individuals as defined by constitutional law. I am committed to supporting legislation to ensure that women have reproductive freedom in this country.

Mr. DODD. Mr. President, I rise today to cosponsor the Freedom of Choice Act which our distinguished majority leader is introducing today.

The Freedom of Choice Act will restore the full intent of Roe versus Wade and ensure, once and for all, that women have the right to choose. In Planned Parenthood versus Casey, the Supreme Court called this issue into question once again with its ruling empowering States with the right to impose new regulations on a woman seeking to terminate a pregnancy. It is

critical that Congress act now and take the appropriate action before it is too late.

Currently, women are subject to the laws of their States. I am pleased that my home State of Connecticut recognizes a woman's right to choose. In 1990, the Connecticut General Assembly passed a law making the decision to terminate a pregnancy prior to fetal viability solely that of the pregnant women in consultation with her physician. Because nearly all abortions occur before viability, the law means that women in Connecticut will have the opportunity to make their own choices.

Unfortunately, this is not the case nationwide. States are now free to put up nearly insurmountable barriers for women seeking abortions. Mandatory 24-hour waiting periods, informed consent, and husband notice laws create onerous situations for many women. Without uniform regulations on the Federal level we are increasing the chances of forced pregnancies and illegal abortions that may result in life-threatening conditions.

Mr. President, the decision to have an abortion is a deeply private, personal, and often difficult matter—one that should not be decided by the courts. By stripping a woman of her right to choose we are denying her individual privacy. Roe versus Wade upholds that principle. In 1973, the Court ruled that the 14th amendment to the Constitution is broad enough to encompass a woman's decision whether or not to terminate her pregnancy. The *Casey* ruling indicates that the Court feels differently today.

For over 20 years we have been fighting to preserve women's choice. It is clear that we can no longer rely on the Courts to guarantee women their constitutional rights. For the past 12 years we have watched a concerted effort to stack the Court with individuals who have taken a strong position in opposition of the right to choose. As a result, the legislative branch must take a stand—one that is pro-choice and pro-women.

I am hopeful that the voice of millions of Americans demanding congressional action will be heard and that the Freedom of Choice Act will quickly become the law of the land. If passed, this legislation will safeguard a woman's privacy and codify the standards promised them by the U.S. Constitution. I urge my colleagues to support this vital and long overdue piece of legislation.

Mr. LEVIN. Mr. President, I am pleased to be an original cosponsor of the Freedom of Choice Act, S. 25, a bill to codify the 1973 Roe versus Wade decision which annunciated as a matter of constitutional law a woman's right to choose relating to the question of abortion. Abortion is a personal matter. The decision relative to it should be made by the woman who has the opportunity to consult with those she trusts. It is an intimate, private decision which should be treated with caring concern and not the heavy hand of government.

We are here today because the basic fundamental right to choose has been under attack. The Supreme Court's Casey decision allows for restrictions under a weaker standard than Roe. The Casey decision reveals that the Court is only one vote away from completely overruling Roe. The Freedom of Choice Act would safeguard the right to choose as a matter of statutory right under the Roe standard, even if the Supreme Court overturns Roe, thereby striking down the constitutional right. The right to choose with the Roe standard for judging State restrictions could therefore be part of statutory law.

I have consistently believed in the privacy rights as detailed in Roe. That ruling answered the fundamental question, "Who decides?" and I agree with the Court's conclusion: "The woman, not the government."

I was a cosponsor of the revised Freedom of Choice Act in the 102d Congress because it included clarifying provisions concerning minors and States rights to legislate in that area. The legislation introduced today by Senator MITCHELL includes these provisions.

Specifically, the Freedom of Choice Act specifically states that the bill would not prevent States from requiring the involvement of a parent, guardian, or other responsible adult before a minor terminates a pregnancy. I had been concerned that the initial Freedom of Choice Act introduced in the 102d Congress could have been construed to prohibit States from enacting any adult involvement statutes.

I believe that teenage pregnancy is a serious problem. A minor who is pregnant needs and deserves the support and help of an adult who cares. However, not all teenagers can go to their parents for such guidance. Not every young woman has the gift of a supportive, understanding parent. This is why there needs to be a way to involve an adult before a minor decision, whether that adult is a family member of a counselor or other advisor. The purpose is not to make the decision for her, but for consultation that leads to an informed choice.

The Freedom of Choice Act also clarifies that it would not require States to fund the performance of abortions or require anyone who is opposed to abortions to participate in the provision of abortions. Further, it explicitly preserves the right of States to restrict abortion after fetal viability.

It is time to secure the fundamental right of choice as a matter of statute in the face of its uncertain future constitutional status.

• Mr. PACKWOOD. Mr. President, I am most pleased to again be an original cosponsor of the Freedom of Choice Act. No legislation before the 103d Congress is more critical or more timely.

The Supreme Court decision in Webster versus Reproductive Health Services in 1989 began the gradual sunsetting of the most important constitutional right of women—the ability to control their own destinies by deciding whether and when to bear children. I would challenge those who would minimize the importance of choice to consider its impact on, for instance, a woman's education and job opportunities. While discrimination against a women because of pregnancy or motherhood is illegal, there is no doubt that bearing and raising a child is a profound lifelong commitment, probably unequal in time and effort to any other type of endeavor. The ability to plan ones family is therefore crucial.

When the Freedom of Choice Act is taken up, we will probably see a slew of proposals which are presented as reasonable restrictions on the right to choose: waiting periods, so-called informed consent provisions requiring doctors to discourage women seeking abortions, and the like. I urge my colleagues to examine such proposals critically and ask, is this medically necessary to the health of the woman? Because anything less is not reasonable, but rather an attempt to place obstacles before women seeking abortions.

Mr. President, there is no bill I would be more pleased to have as part of the U.S. Code than the Freedom of Choice Act. During the bleak years before Roe my efforts to enact such legislation met with little support. In all the years since Roe, we have engaged in battle after battle to preserve it. I maintain a stubborn and persistent hope that we will bring this matter to a close, and will permanently guarantee reproductive rights to American women. Nineteen ninety-three would be a great year to do it.•

• Mr. CHAFEE. Mr. President, I am pleased to join as an original cosponsor of the Freedom of Choice Act. This is a very important piece of legislation that will protect the rights and privacy of American women.

Twenty years ago, the Supreme Court ruled in Roe versus Wade that States cannot restrict the right of a woman to terminate a pregnancy prior to fetal viability. In doing so, the Court established two basic constitutional principles: first, that a woman's right to terminate a pregnancy is a fundamental right; and second, that laws infringing on that right must be subjected to the most exacting judicial scrutiny. For nearly 17 years, that landmark decision permitted women to live secure in the knowledge that difficult and personal reproductive choices will be theirs to make.

But in 1989, the Supreme Court complicated the principles set forth in Roe when it issued its Webster versus Reproductive Health Care Services decision. The Webster decision presaged the beginning of the gradual erosion of this fundmental right. And since Webster there has been tremendous legislative activity at the State level to restrict choice, as well as another Supreme Court ruling—Planned Parenthood of Southeastern Pennsylvania versus Casey, in which the Court upheld most of the provisions of the Pennsylvania Abortion Control Act by applying an undue burden test.

Congress must respond to these unsettling Supreme Court decisions that have chipped away at Roe by affirming its commitment to choice. The Freedom of Choice Act is such a response. Simply stated, the bill codifies the Supreme Court's decision in Roe versus Wade, guaranteeing a woman's right to choose to terminate a pregnancy as part of her constitutional right to privacy.

Women in America fought long and hard to attain this right. It is unconscionable to think that the government would take this basic right away, sending, women back to fight State-by-State battles they have already won. Enactment of the Freedom of Choice Act will ensure that it does not.●

Mrs. BOXER. Mr. President, I rise in support of the Freedom of Choice Act, and commend the distinguished majority leader, Senator MITCHELL, for all his hard work on this issue.

Women must be free to make their most personal and private decisions. Passage of the Freedom of Choice Act is critical to ensuring a woman's legal right to choose an abortion. This legislation would codify the Supreme Court's 1973 decision in Roe versus Wade which established that right.

Since 1989 the Supreme Court has backed away from protecting a woman's right to choose. The Webster case opened the door for States to enact new laws placing restrictions on a woman's right to choose. Then Pennsylvania versus Casey officially sanctioned those restrictions. And last week, the Court ruled in Bray versus Alexandria Women's Health Clinic, that health care clinic blockades set up by anti-abortion protectors do not discriminate against women. These rulings eliminate the essence of the Roe decision by establishing dangerous and insulting obstacles between women and the exercise of their fundamental rights.

Since American women can no longer rely on the Supreme Court to protect them, it is time to put Roe versus Wade into the Federal statutes and make it the law of the land. To do that, we must pass the Freedom of Choice Act.

I am proud to work with Senator MITCHELL and my colleagues in the Senate for quick passage of this important measure.

By Mr. DORGAN:

S. 26. A bill to amend the Internal Revenue Code of 1986 to end deferral for U.S. shareholders on income of controlled foreign corporations attributable to property imported into the United States; to the Committee on Finance.

AMERICAN JOBS AND MANUFACTURING PRESERVATION ACT OF 1993

Mr. DORGAN. Mr. President, I couldn't agree more with President Clinton on one point: We can no longer afford to ignore the adverse impact of misdirected U.S. tax policies which have contributed to a massive exodus of American businesses to foreign shores.

That is why I rise today to introduce the American Jobs and Manufacturing Preservation Act of 1993 to remove a perverse Federal tax incentive that persuades many of our finest U.S. companies to shut down manufacturing plants in the United States and to supply the U.S. markets from abroad.

Over the past decade, thousands of U.S. workers have lost jobs with domestic companies that have opened up operations abroad only to manufacture similar, if not identical, products for sale in the U.S. Domestic businesses that have remained to manufacture goods for sale in the U.S. market must unfairly compete with multinational companies who generally enjoy the lucrative benefit of U.S. tax deferral on foreign subsidiary income.

Specifically, my legislation removes this tax break for certain imported property income arising from runaway manufacturing plants that are controlled by a U.S. parent corporation. Identical legislation was passed by the House of Representatives in 1987, but was later dropped in conference.

It's patently unfair that our tax laws are permitted to shortchange both American workers and producers. We ought to rethink our tax code that pays some of our best and strongest companies to locate overseas. In 1992, the Joint Tax Committee estimated the tax deferral benefit provided to U.S. companies that set up shop in foreign tax havens—but manufacture for sale in the U.S. market—to be about $1.3 billion over 5 years. It is no wonder that U.S. companies leave to produce goods for U.S. consumption when we offer tax deferral that makes it more advantageous for them to operate abroad. This is especially true when foreign countries entice them with low tax rates or labor costs.

In this respect, the Federal tax code's deferral provisions fly in exactly the opposite direction of the incentives we ought to be providing. We ought to be encouraging U.S. companies to invest at home in the strength of this country—the American worker—by repealing the incentives for moving abroad. Yet, current tax policy only works to accelerate the exodus of domestic plants and jobs. That makes absolutely no sense.

This legislation will pull the plug on this U.S. tax deferral provision by imposing U.S. taxes currently on the income that arises from the activities of a U.S. controlled foreign plant operating in a tax haven, when it manufactures and sells a product to be used or consumed in the United States. Opponents to the legislation may claim that it will impede the ability of multinational companies to complete and grow in the global economy. However, that's simply not the case.

First, let's talk about the issue of competitive disadvantage. Imagine two competing companies on Mainstreet, USA manufacturing a product for sale in the U.S. market. Company A has a plant in the U.S. with American workers. It sells its product here at home, paying U.S. taxes currently on its sale proceeds. However, Company B decides to build a new plant in a foreign country because it can produce the same goods at a lower cost, using foreign workers who are frequently underpaid and overworked. Moreover, Company B pays almost no taxes in the foreign country and no taxes currently in the U.S. because it is entitled to tax deferral under our income tax laws. It seems to me that the U.S. company operating at home is really the one which is placed at a competitive disadvantage.

Second, the fact is that my bill does nothing to prevent U.S. multinationals from being competitive with foreign firms which produce goods for foreign markets. This legislation is carefully targeted to ensure that tax deferral is removed only for controlled foreign companies that supply our domestic markets from tax havens around the world.

Some folks have also raised a concern that the bill may be too difficult for the government to administer properly because it requires the tracking of goods. Let me be clear on this point. It is not my intention to set up a maze of complex rules in order to enforce this provision. But, the concept of tracking the destination of goods is not new to the code. Other existing tax benefits turn upon the flow and final destination of goods, and these provisions will provide helpful guidance to the Treasury Department in promulgating workable regulations. And I plan to work closely with the Treasury Department in order to craft rules that make sense in this area.

In conclusion, I think it is unfair that American workers—who have been the backbone of our Nation's economy—are losing thousands of jobs every year as companies shutdown U.S. operations to seek greater profits by supplying the U.S. market from overseas.

President Clinton believes that Congress must act quickly to both protect American jobs and prevent any further erosion of our domestic economic base. I agree. Many greedy companies may still choose to disclocate thousands of workers in America in search for greater profits abroad. But, at a minimum, we must stop participating in the outmigation of these businesses by refusing to pick up the tab for the move. I urge my colleagues to cosponsor this legislation to help protect America's economic future.

A detailed explanation of the bill follows.

The bill imposes current tax on U.S. shareholders of a controlled foreign corporation [CFC] to the extent of the corporation's imported property income. The bill also adds a new separate foreign tax credit limitation for imported property income, whether earned by a controlled foreign corporation or directly by a U.S. taxpayer.

Imported property income means income—whether in the form of profits, commissions, fees, or otherwise—derived in connection with manufacturing, producing, growing, or extracting imported property; the sale, exchange, or other disposition of imported property; or the lease, rental or licensing of imported property. Imported property income does not include any foreign oil and gas extraction income or any foreign oil-related income.

The bill defines "imported property" as property which is imported into the United States by the controlled foreign corporation or a related person. It also includes any property imported into the United States by an unrelated person if, when the property was sold to the unrelated person by the controlled foreign corporation—or a related person—it reasonable to expect that the property would be imported into the United States or that the property would be used as a component in other property which would be imported into the United States. The Treasury Department would provide guidance concerning whether it is reasonable to expect that property sold to an unrelated person will be imported into the United States. Imported property does not include any property which is imported into the United States and which, before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or is used by the CFC or a related person as a component of other property which is sold, leased, or rented.

The term "import" means entering into, or withdrawal from the warehouse, for consumption or use. The term "import" for this purpose generally includes licensing or any grant to use marketing or manufacturing intangibles in the United States. For example, assume that a CFC produces a film in a foreign country. The CFC licenses that film to unrelated U.S. persons for viewing in the United States. Assume that the royalty payment is not subject to Subpart F under current tax law because it is derived in the conduct of an active trade or business and it is received from a person other than a related person. Under the bill, the income of the CFC that is attributable to the royalty is subject to current tax under Subpart F as imported property income; for foreign tax credit purposes, that subpart F inclusion is U.S. source income.

The term "import" doesn't include foreign currency, securities, or other financial instruments.

Under the look-through rules of the foreign tax credit limitation, interest, rents, and royalties from a CFC in which the recipient—or in certain cases, a related party—is a 10 percent owner are to be treated as imported property income to the extent properly allocable to imported property income of the CFC. Thus, foreign taxes imposed on other income could not offset U.S. tax on this income.

In the case of income that would be both foreign base company sales income and imported property income, that income is to be treated as imported property income.

In the application of subpart F to imported property income, various exceptions obtain. For example, assume that a CFC derives imported property income that is taxed by a foreign country at an effective rate greater than 90 percent of the maximum U.S. rate, and its U.S. shareholder elects the high tax kickout—section 954(b)(4)—from subpart F treatment. Subsequently, distributed dividends from the CFC will be treated as imported property income on a pro rata basis.

These provisions apply to taxable years for CFC's beginning after December 1992 and to U.S. shareholders within which such taxable years of such CFC's ends. In the case of imported property income earned by a U.S. person directly, the amendments apply to taxable years beginning after December 1992.

Mr. President, I ask unanimous consent that the entire text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 26

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Jobs and Manufacturing Preservation Act of 1993".

SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 of the Internal Revenue Code of 1986 (defining foreign base company income) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).".

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 of such Code is amended by adding at the end thereof the following new subsection:

"(h) IMPORTED PROPERTY INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

"(A) manufacturing, producing, growing, or extracting imported property,

"(B) the sale, exchange, or other disposition of imported property, or

"(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

"(2) IMPORTED PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

"(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

"(i) such property would be imported into the United States, or

"(ii) such property would be used as a component in other property which would be imported into the United States.

"(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

"(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

"(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

"(3) DEFINITIONS AND SPECIAL RULES.—

"(A) IMPORT.—For purposes of this subsection, the term 'import" means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

"(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

"(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income."

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) of such Code (relating to separate application of section with respect to certain categories of income) is amended by striking "and" at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

"(I) imported property income, and".

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) of such Code is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

"(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h))."

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) of such Code is amended by striking "or (E)" and inserting "(E), or (H)".

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) of such Code (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

"(III) imported property income,".

(2) Paragraph (5) of section 954(b) of such Code (relating to deductions to be taken into account) is amended by striking "and the foreign base company oil related income" and inserting "the foreign base company oil related income, and the imported property income".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1992, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1992.

By Mr. SARBANES:

S. 27. A bill to authorize the Alpha Phi Alpha fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia; to the Committee on Rules and Administration.

MEMORIAL TO MARTIN LUTHER KING, JR., IN THE DISTRICT OF COLUMBIA

• Mr. SARBANES. Mr. President, on January 18, 1993, we commemorated the 64th anniversary of Dr. Martin Luther King, Jr.'s birth. As a cosponsor of the legislation enacted in 1983 which authorized the national observance of the Martin Luther King, Jr., birthday holiday, I am very pleased to once again rise to recognize one of our Nation's greatest leaders in the ongoing struggle to achieve full equality for all our citizens.

The holiday we observed on Monday served to remind us of the importance of Martin Luther King, Jr.'s dream which he articulated so dramatically in August 1963, in the march on Washington speech at the Lincoln Memorial:

I have a dream that one day on the red hills of Georgia, sons of former slaves and sons of former slave owners will be able to sit down together at the table of brotherhood. . . . I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character.

Twenty-five years after his death, we are still working toward the fruition of Dr. King's dreams. Our national celebration of Martin Luther King, Jr.'s birthday serves to pay tribute to a great leader and places us on record as rededicating ourselves to the principles of justice and equality which Dr. King's life so richly exemplified. In this regard, I am pleased to note that my State of Maryland has celebrated January 15, the actual birthday of Martin Luther King, Jr., as a legal holiday since 1974.

I am also pleased to rise today to reintroduce legislation to authorize Alpha Phi Alpha, the oldest African-American fraternity in the United States, to establish a monument to Martin Luther King, Jr., on Federal land in the District of Columbia. An identical bill passed the Senate in the 102d Congress with 60 cosponsors, but was unfortunately not passed by the House of Representatives before adjournment sine die.

Pursuant to this proposal, the Alpha Phi Alpha fraternity of which Dr. King was a member, will coordinate the design and funding of the monument. The bill provides that the monument be established entirely with private contributions at no cost to the Federal Government. The Department of the Interior, in consultation with the National Capital Park and Planning Commission and the Commission on Fine Arts, will select the site and approve the design.

Alpha Phi Alpha was founded in 1906 at Cornell University and has hundreds of chapters across the country and many prominent citizens as members, including former Supreme Court Justice Thurgood Marshall. Alpha Phi Alpha has strongly endorsed the Martin Luther King, Jr., memorial project and is committing its considerable human resources to the project's development.

Since 1955, when in Montgomery, AL, Dr. King became a national hero and an acknowledged leader in the civil rights struggle, until his tragic death in Memphis, TN in 1968, Martin Luther King, Jr., made an extraordinary contribution to the evolving history of our Nation. His courageous stands and unyielding belief in the tenet of nonviolence reawakened our Nation to the injustice and discrimination which continued to exist 100 years after the Emancipation Proclamation and the enactment of the guarantees of the 14th and 15th amendments to the Constitution.

A memorial to Dr. King erected in the Nation's Capital will provide continuing inspiration to all who visit it, and particularly to the thousands of students and young people who visit Washington, DC, every year. While these young people may have no personal memory of the condition of civil rights in America before Dr. King, nor of the struggle in which he was the major figure, they do understand that there is much more that still needs to be done. As Coretta King said so articulately:

Young people in particular need nonviolent role models like him. In many ways, the civil rights movement was a youth movement. Young people of all races, many of whom were jailed, were involved in the struggle, and some gave their lives for the cause. Yet none of the youth trained by Martin and his associates retaliated in violence, including members of some of the toughest gangs of urban ghettos in cities like Chicago and Birmingham. This was a remarkable achievement. It has never been done before; it has not been duplicated since.

It is my hope that the young people who visit this monument will come to understand that it represents not only the enormous contribution of this great leader, but also two very basic principles necessary for the effective functioning of our society. The first is that change, even very fundamental change, is to be achieved through nonviolent means; that this is the path down which we should go as a nation in resolving some of our most difficult problems. The other basic principle is that the reconciliation of the races, the inclusion into the mainstream of American life of all its people, is essential to the fundamental health of our Nation.

Mr. President, Martin Luther King, Jr., dedicated his life to achieving equal treatment and enfranchisement for all Americans through nonviolent means. I urge all of my colleagues to join me in this effort to ensure that the essential principles taught and practiced by Dr. King are never forgotten.•

By Mr. MCCAIN:

S. 28. A bill to improve the health of the Nation's children, and for other purposes; to the Committee on Finance.

CHILDREN'S HEALTH CARE IMPROVEMENT ACT OF 1993

• Mr. MCCAIN. Mr. President, I rise today to introduce the Children's Health Care Improvement Act of 1993.

America is in the throes of a health care crisis, and most at risk are our children. The legislation I am introducing today directly addresses the problem of many American children lacking health care coverage.

While the quality of the American health care system is revered around the world, more than 37 million Americans have no health care coverage—nearly 10 million of whom are children. And, costs continue to go through the roof—with no apparent end in sight.

It was once said that the strength and energy of a society may be measured today and predicted for tomorrow

by the health of its children. Applying such a measurement today would reveal that we are clearly a nation at risk.

The medical chart on the end of the health system's bed reveals some grim realities about our current health care system and children:

Nearly 10 million American children are without health care coverage, making up more than one-fourth of the uninsured;

There is a lack of access to primary and preventive care;

Many American children use the emergency room for their primary care because they lack insurance;

America's infant mortality rate exceeds that of every other industrialized country;

Twenty-four percent of pregnant women in America lack access to prenatal care;

And 20 to 30 percent of American children aged 2 and younger go without the necessary immunizations.

Without the excellent efforts of our Nation's Medicaid Programs, these statistics would be even more grim. Medicaid, however, is not able to address the whole problem.

The Children's Health Care Improvement Act of 1993 addresses the health care crisis facing our Nation's children head on. It will ensure access to coverage and bring down costs, while preserving quality and choice.

First, it would make a basic health insurance policy available to every child in our Nation's school systems.

In the same way the school lunch program has guaranteed that no child will go without a nutritious lunch, this legislation would guarantee that no child has to go without health insurance.

In Arizona, Blue Cross and Blue Shield has developed a policy that could serve as a model for this program. There are also managed care plans that could serve as models.

Second, it would expand the excellent Community and Migrant Health Center Program which provides ready access to primary and preventive care for lower income Americans, and those residing in underserved areas. In Arizona, last year this excellent program accommodated nearly 700,000 patient visits—many of them children.

Third, to make sure all of our Nation's children are immunized, it would increase funding for the critical Childhood Immunization Program.

Fourth, to reach out and serve the needs of mothers and/or children at high-risk for abuse and neglect, this legislation would provide funding to assist States in establishing a program to track at-risk children and pregnant women to ensure they are receiving the care and assistance they need.

And, fifth, it will eliminate needless bureaucracy by permitting States to combine the application and eligibility process for Medicaid, WIC, and Maternal and Child Health Programs. Together, these programs serve the nutritional, health screening, and basic health services needs of many low-income expectant mothers and children. As currently configured in most States, needy women and children face barriers to service because these programs usually operate independent of one another.

Together with a provision prohibiting discrimination based on preexisting conditions, and reform of the small employer insurance marketplace, which will be contained in other pieces of my health reform package to be introduced in the coming weeks, and part of which was reported out of the Finance Committee last year, this initiative will ensure that all of our Nation's children have access to health coverage.

One area not covered by this initiative is that of school nurses. As the Flynn Foundation put it, in a recent report on the health status of Arizona's children, school nurses are the Mash unit of health care for children. So right they are. Currently, the Arizona Medical Association and the Arizona Nurses Association are working jointly on a project to expand the role and presence of school nurses. I look forward to working with them and supporting their efforts.

Does the initiative I am introducing today cost money? Sure it does. But, so, too, does sending a child to the emergency room for nontrauma cases, overusing the neonatal care wards due to a lack of adequate prenatal care, and the like. If adopted, this legislation will actually end up reducing costs and ultimately holding costs in check by giving all children access to primary and preventive care.

For example, we know that every dollar spent on prenatal care saves $3 in the child's first year of life. Every dollar spent on immunizations saves $10 to $14 by reducing illness, disease, and death. Poor children who have comprehensive primary and preventive care have been shown to have annual health costs 10 percent lower than those children who did not receive such care. We will save a great deal of money by delivering basic care outside of the emergency room.

Addressing this aspect of our health care crisis is a national imperative. The current situation just cannot continue. It is my hope that as we pursue health reform in the 103d Congress, this legislation will receive serious consideration so that we will no longer risk sacrificing the future of this great country because of inadequate health care for our children. Under this initiative, all of our children will have access to health coverage. Our new President has indicated that addressing the needs of children will be among his highest priorities. I applaud him for this commitment, and would hope that he and his staff would consider this legislation as they study how best to address the health care coverage needs of our Nation's children.

Mr. President, I encourage my colleagues to review this legislation and consider joining me as a cosponsor. I look forward to continuing to work with all of my colleagues as we grapple with how best to address the critical problem of 10 million children who lack health care coverage.

I ask unanimous consent that the full text of the Children's Health Care Improvement Act of 1993 be printed in the RECORD immediately following my remarks.

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

S. 28

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Health Care Improvement Act of 1993".

SEC. 2. FINDINGS.

Congress finds that—

(1) America's children represent the hope and future of our country, and are a resource we cannot afford to squander;

(2) Americans under 18 represent one-fourth of those without health insurance, with nearly 9.8 million children completely uninsured;

(3) uninsured children are less likely to see a doctor for preventive or basic care and more likely to visit the more expensive emergency room setting for care when they become ill;

(4) uninsured children are more likely to miss school and may not learn as effectively as insured children;

(5) elementary and secondary schools provide a large applicant pool for insurance, much like that of a university, permitting children to join with their peers in purchasing insurance will result in lower rates;

(6) the WIC, Medicaid and Maternal and Child Health block grant programs each provide critical services to low income mothers and children, but barriers to services exist due to the fact that in most States these programs have individual eligibility processes;

(7) routine immunization of children against common disease is cost effective and an effective measure against disease proliferation;

(8) migrant and community health centers are a critical link to preventive and primary health care services, and there is a need for expansion of this critical program; and

(9) early identification and monitoring of those children and mothers at risk of abuse or neglect to ensure that they have access to health and social services is cost effective.

TITLE I—SCHOOL-BASED HEALTH INSURANCE

SEC. 101. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—The Secretary of Education, in consultation with the Secretary of Health and Human Services, shall establish a program under which local educational agencies (as such term is defined in section 1471(12) of the Elementary and Secondary Education Act of 1965) shall offer basic health insurance coverage to eligible students in such schools.

(b) REQUIREMENTS.—

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(1) APPLICABILITY.—The provisions of this section shall apply to each local education agency that receives Federal educational assistance.

(2) STATE EDUCATION DEPARTMENTS.—

(A) POLICIES.—The department of education for a State shall determine the types of health insurance policies that should be offered under this section by local education agencies of such State. In making such determination, the department shall ensure that coverage under a fee-for-service plan and a managed care plan is available to the local educational agencies in the State.

(B) ANNUAL REPORTS.—The department of education for a State shall annually prepare and submit to the Secretary of Education a report that describes the health insurance policies offered under this section in the public schools in such State.

(3) HEALTH INSURANCE COVERAGE.—The Secretary of Health and Human Services, shall determine the minimum requirements that any health insurance plan offered under this section must meet, including—

(A) the primary, preventative, medical, emergency and surgical care services and benefits to be covered under such plan; and

(B) any other matter determined appropriate by such Secretary.

(4) LOCAL ADMINISTRATION.—The department of education for a State shall administer the requirements of this section through the local educational agencies.

(c) ELIGIBLE STUDENTS.—To be eligible to be covered under a health insurance plan offered by a local educational agency, an individual shall—

(1) not be more than 18 years of age and reside in the school district;

(2) be uninsured for a period of not less than 6 months prior to the date on which coverage under the plan offered by such school would commence;

(3) not be covered or enrolled under title XIX of the Social Security Act or under any other public health insurance program; and

(4) meet any other requirements determined appropriate by the State department of education or the Secretary of Education.

(d) ENFORCEMENT.—If the Secretary determines that a local educational agency is not in compliance with the requirements of this section, the Secretary may withhold, or request a remittance, of not to exceed 10 percent of the total amount of Federal educational assistance to be made available, or previously made available, to such local educational agency for the fiscal year during which such noncompliance is occurring.

(f) CONSTRUCTION.—This section shall not be construed as requiring the purchase of policies under this section.

(g) ADMINISTRATIVE SUPPORT.—The Secretary may provide assistance to local educational agencies to assist such agencies in off-setting the additional administrative costs to such agencies in complying with this section.

(h) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Education shall promulgate regulations necessary to carry out this section.

SEC. 102. REFUNDABLE TAX CREDIT FOR CHILDREN'S HEALTH INSURANCE EXPENSES.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by inserting after section 34 the following new section:

"SEC. 34A. CHILDREN'S HEALTH INSURANCE EXPENSES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the qualified health insurance expenses paid by such individual during the taxable year.

"(b) QUALIFIED HEALTH INSURANCE EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified health insurance expenses' means amounts paid during the taxable year for medical care (within the meaning of section 213(d)(1)(C)) with respect to insurance policies issued pursuant to any program approved under section 101 of the Children's Health Care Improvement Act. For purposes of the preceding sentence, the rules of section 213(d)(6) shall apply.

"(2) DOLLAR LIMIT ON QUALIFIED HEALTH INSURANCE EXPENSES.—The amount of the qualified health insurance expenses paid during any taxable year which may be taken into account under subsection (a) shall not exceed $1,000 per qualifying child adjusted under regulations promulgated by the Secretary to reflect any increase in the consumer price index.

"(3) PHASEOUT.—In the case of any taxpayer whose adjusted gross income exceeds 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, the dollar amount under paragraph (2) shall be reduced (but not below zero) by the percentage by which such income exceeds such poverty line.

"(4) ELECTION NOT TO TAKE CREDIT.—A taxpayer may elect for any taxable year to have amounts described in paragraph (1) not treated as qualified health insurance expenses.

"(5) COORDINATION WITH HEALTH INSURANCE PREMIUM CREDIT.—Paragraph (1) shall not apply to any amount taken into account in computing the amount of the credit allowed under section 32.

"(6) SUBSIDIZED EXPENSES.—No expense shall be treated as a qualified health insurance expense if—

"(A) such expense is paid, reimbursed, or subsidized (whether by being disregarded for purposes of another program or otherwise) by the Federal Government, a State or local government, or any agency or instrumentality thereof under title XIX of the Social Security Act, and

"(B) the payment, reimbursement, or subsidy of such expense is not includible in the gross income of the recipient.

"(c) QUALIFYING CHILD.—For purposes of this section, the term 'qualifying child' has the meaning given to such term by section 32(c)(3) (determined without regard to subparagraph (A)(iii)).

"(d) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—

"(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment in excess of the amount of the credit allowable under this section is made to the individual under 7524 during any calendar year, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

"(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.

"(f) REDUCTION OF CREDIT TO TAXPAYERS SUBJECT TO ALTERNATIVE MINIMUM TAX.—The credit allowed under this section for the taxable year shall be reduced by the amount of tax imposed by section 55 (relating to alternative minimum tax) with respect to such taxpayer for such taxable year.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by inserting after section 7523 the following new section:

"SEC. 7524. ADVANCE PAYMENT OF CREDIT FOR CHILDREN'S HEALTH INSURANCE EXPENSES.

"(a) GENERAL RULE.—The Secretary of the Treasury shall make advance payments of refunds to which eligible taxpayers are entitled by reason of section 34A.

"(b) ELIGIBLE TAXPAYER.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if the taxpayer furnishes, at such time and in such manner as the Secretary may prescribe, to the Secretary such information as the Secretary may require in order to—

"(1) determine if the individual will be eligible to receive the credit provided by section 34A for the taxable year, and

"(2) estimate the amount of qualified health insurance expenses (as defined in section 34A(b)) for the calendar year.

"(c) PAYMENTS.—The Secretary shall make payment of the amount determined under subsection (b)(2) upon receipt of the information described in subsection (b).

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section."

(c) CONFORMING AMENDMENT.—Section 213 of the Internal Revenue Code of 1986 (relating to deduction for medical, dental, etc., expenses) is amended by adding the following new subsection:

"(g) COORDINATION WITH HEALTH INSURANCE EXPENSES CREDIT UNDER SECTION 34A.—The amount otherwise taken into account under subsection (a) as expenses paid for medical care shall be reduced by the amount (if any) of the children's health insurance expenses credit allowable to the taxpayer for the taxable year under section 34A."

(d) TECHNICAL AMENDMENT.—Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period "or from section 34A of such Code".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 34 the following new item:

"Sec. 34A. Children's health insurance expenses."

(2) The table of sections for chapter 77 of such Code is amended by inserting after the item relating to section 7523 the following new item:

"Sec. 7524. Advance payment of credit for children's health insurance expenses."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

TITLE II—WIC PROGRAM, MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM, AND MEDICAID

SEC. 201. DEVELOPMENT OF UNIFORM APPLICATION FORM AND PROCESS.

(a) UNIFORM MODEL APPLICATION FORM AND PROCESS.—The Secretary of Health and Human Services (hereafter referred to in this title as the "Secretary"), working in consultation with the Secretary of Agriculture, shall develop a single model uniform application form and process to be utilized in applying for and obtaining benefits under the Special Supplemental Food Program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Maternal and Child Health Services Block Grant Program under title V of the Social Security Act (42 U.S.C. 701 et seq.), and the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). The Secretary of Health and Human Services shall provide any waivers necessary to carry out this section.

(b) AVAILABILITY OF FORM AND PROCESS.—The single model uniform application form and process shall be made available to States electing to adopt such form and process for use in applying for and obtaining benefits under such programs.

(c) OUTREACH PROGRAM.—The Secretary, working in consultation with the Secretary of Agriculture, shall provide an outreach program for States electing to adopt the single model uniform application form and process. The outreach program shall be designed to inform recipients and potential recipients of benefits under the Special Supplemental Food Program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Maternal and Child Health Services Block Grant Program under title V of the Social Security Act (42 U.S.C. 701 et seq.), and the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) of the option to apply for benefits under those programs using the single model uniform application form and process.

SEC. 202. DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary shall make grants to not more than five States to enable such States to conduct demonstration projects for the purpose of encouraging women to obtain prenatal and well-baby care under the Special Supplemental Food Program under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Maternal and Child Health Services Block Grant Program under title V of the Social Security Act (42 U.S.C. 701 et seq.), and the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) APPLICATION.—

(1) SUBMISSION OF APPLICATION.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary may require.

(2) REVIEW AND APPROVAL OF APPLICATION.—The Secretary shall review and approve each application submitted pursuant to paragraph (1) in accordance with such criteria as the Secretary finds appropriate.

(c) AMOUNT OF GRANT.—The amount of a grant to a State under this section shall be an amount that the Secretary finds reasonable and necessary for the development and implementation of the State's demonstration program.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE III—EXPANSION OF MIGRANT AND COMMUNITY HEALTH CENTER PROGRAM

SEC. 301. EXPANSION OF MIGRANT AND COMMUNITY HEALTH CENTER PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated, $250,000,000 to enable the Secretary of Health and Human Services to award grants for the planning and development of additional migrant and community health centers under sections 329 and 330 of the Public Health Service Act (42 U.S.C. 254b and 254c) in medically underserved areas or areas in which there is a high concentration of medically underserved populations.

(b) FUNDING FOR OPERATIONS.—There are authorized to be appropriated, $290,000,000 in each fiscal year to enable the Secretary of Health and Human Services to provide operational assistance to migrant and community health centers developed under subsection (a).

TITLE IV—REVISION OF NATIONAL HEALTH SERVICE CORPS PRIORITIES

SEC. 401. MISSION OF THE CORPS.

Section 331(a) of the Public Health Service Act (42 U.S.C. 254d(a)) is amended by adding at the end thereof the following new paragraph:

"(4) It shall be a principal mission of the National Health Service Corps to increase the access to primary health care services of urban and inner-city poverty stricken target populations (particularly infants and children), rural residents, high-risk pregnant women, migrant workers and their families, substance abusers, and homeless individuals.".

SEC. 402. PRIMARY CARE PHYSICIAN STRATEGY.

(a) IN GENERAL.—Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by inserting after section 335, the following new section:

"SEC. 335A. PRIMARY CARE PHYSICIAN STRATEGY.

"(a) ESTABLISHMENT OF STRATEGY.—The Secretary shall develop and implement, using amounts appropriated under section 338(c), a strategy to provide incentives to encourage primary care physicians to serve—

"(1) in migrant or community health centers or in related health programs; or

"(2) in medically underserved inner-city and rural areas.

"(b) REQUIREMENTS.—The Secretary shall ensure that the strategy developed under subsection (a) requires the implementation of at least one of the programs described in paragraph (1) or (2) through the National Health Service Corps program.

"(1) RECRUITMENT PROGRAM.—Under the strategy developed under subsection (a), the Secretary shall establish a program under the National Health Service Corps to recruit individuals from medically underserved areas to serve as Corps members in the areas from which such individuals were recruited.

"(2) CONTINUED SERVICE PROGRAM.—Under the strategy developed under subsection (a), the Secretary shall establish a program under the National Health Service Corps to encourage Corps members to continue to serve in medically underserved areas after such individuals have discharged their service obligations to the Corps. In determining the method by which to encourage such individuals to continue such service, the Secretary shall evaluate the desirability of providing incentives for such individuals to start a private medical practice or join medical groups, hospitals, and health care systems operating in, or within a reasonable distance from, such medically underserved areas.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 338 of such Act (42 U.S.C. 254K) is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated to carry out section 335A, $100,000,000 for each fiscal year.".

TITLE V—CHILDHOOD IMMUNIZATIONS

SEC. 501. INCREASE IN AUTHORIZATION FOR CHILDHOOD IMMUNIZATIONS.

Section 317(j)(1)(B) of the Public Health Service Act (42 U.S.C. 247b(j)(1)(b)) is amended by striking out "such sums as may be necessary" and inserting in lieu thereof "$240,000,000 for each of the fiscal years 1993 through 1997".

TITLE VI—CHILDREN AT RISK

SEC. 601. ESTABLISHMENT OF HEALTHY START DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a demonstration program to award grants to five States to enable such States to implement healthy start programs that would track mothers and children at high-risk of abuse and neglect, and at risk of not receiving necessary services and care and enable such services to be obtained.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require, including a description of the program to be implemented in the State with amounts received under the grant.

(c) PROGRAM REQUIREMENTS.—

(1) DISTRIBUTION OF FUNDS.—In implementing a healthy start program with amounts received under this section, a State shall distribute funds through the State department of health to community health centers or other community social service programs that agree to perform identification and monitoring activities with respect to at risk children.

(2) IDENTIFICATION AND TRACKING SERVICES.—In implementing a healthy start program with amounts received under this section, the department of health of a State shall develop and implement, either directly or through agreements with entities of the type described in paragraph (1), procedures to identify and track infants born in target areas designated by such department as areas in which children are more likely to be subject to abuse or neglect.

(3) INFORMATION.—In implementing a healthy start program with amounts received under this section, a State shall require that caseworkers providing services under such program to mothers provide such mothers with information concerning services or assistance available under the Special Supplemental Food Program under section 17 of the Child Nutrition Act of 1966, the Food Stamp Act of 1977, titles V and XIX of the Social Security Act and section 8 of the United States Housing Act of 1937.

(d) MODEL SCREENING PROGRAM.—The Secretary of Health and Human Services shall develop and implement, in States that receive assistance under this section, a screening program to identify children determined to be at risk of being subject to abuse or neglect.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.●

By Mr. McCAIN:

S. 29. A bill to fully apply the rights and protections of Federal law to employment by Congress; to the Committee on Governmental Affairs.

OMNIBUS CONGRESSIONAL COMPLIANCE ACT OF 1993

• Mr. McCAIN. Mr. President, today I am introducing the Omnibus Congressional Compliance Act of 1993. This legislation, which is long overdue, will apply to the Congress all the measures that the Congress believes worthy enough to pass into law for the remainder of society.

Mr. President, there is no excuse for the laws that govern our society not being applied to the Congress.

Mr. President, this bill will apply the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act of 1967, the Rehabilitations Act of 1973, the National Labor Relations Act, the Fair Labor Standards Act, the Equal Pay Act of 1963, the Occupational Safety and Health Act of 1970, the Freedom of Information Act, and the Privacy Act to the Congress in the same manner that these laws apply to the general public. Additionally, this bill applies these laws to Presidential appointees.

In the past, the Senate and the House have taken only token steps in this area. This legislation builds on the steps of the past but goes much further. The Omnibus Congressional Compliance Act of 1993 will fully apply these laws to the Congress, including allowing for enforcement of actions in court and compensatory and punitive damages to be awarded to aggrieved parties.

In recent years, during debate on this subject, I have heard many knowledgeable individuals argue, for this or that high-minded reason, for this or that political purpose, for this or that security reason, that the laws we pass should not be fully applicable to the Congress. The time for such debate is over. The public has demanded action. The public will no longer be duped by eloquent rhetoric. We must apply the laws of our country, fully and completely, to the Congress.

Mr. President, the Declaration of Independence, July 4, 1776, states:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.

That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.—

The words and the intent of our Founding Fathers is clear: We are a Congress of, by, and for the people. We are a Congress which derives its powers from the people. By exempting the Congress from our Nation's laws, we are allowing the existence of a royal Congress, separate and above the people.

Mr. President, such royal trappings are wrong. In 1776, royal arrogance and separation led the Founding Fathers to revolt. Some of the incumbents who lost their last election may say a new revolt has already begun.

Our new President has stated:

We cannot put people first and create jobs and economic growth without a revolution in government. We must take away power from entrenched bureaucracies and special interests that dominate Washington.

I wholeheartedly agree with our President, and I trust he will agree with me that we must apply the laws to Congress. Additionally, Mr. President, this legislation will apply all the laws to Presidential appointees. President Clinton has said he would hold his employees to the highest standards. I know he will support efforts to ensure that his appointees also live by all the laws of our great country.

Thomas Jefferson noted:

The basis of our Government being the opinion of the people, the very first object should be to keep that right.

I am dismayed to see that we have not kept sacred these words. My purpose is to remind my colleagues of the perception of hypocrisy that informs the public's judgment of our actions here, and of their dismay with how we are doing our jobs. We will not engender much public respect if we persist in legally committing the public to standards for a just society, from which we, the Congress, are excused.

Mr. President, it is time we remedied this situation.

I ask unanimous consent that the text of Omnibus Congressional Compliance Act of 1993 appear in the RECORD at this point.

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

S. 29

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Congressional Compliance Act of 1993".

SEC. 2. COVERAGE OF CONGRESS.

(a) CONGRESSIONAL EMPLOYMENT.—

(1) APPLICATION.—

(A) IN GENERAL.—The rights and protections provided pursuant to the provisions specified in subparagraph (B) shall apply with respect to employment by Congress.

(B) PROVISIONS.—The provisions that shall apply with respect to employment by Congress shall be—

(i) the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.);

(ii) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(iii) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.);

(iv) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

(v) section 1977 of the Revised Statutes (42 U.S.C. 1981);

(vi) section 1977A of the Revised Statutes (42 U.S.C. 1981a);

(vii) the National Labor Relations Act (29 U.S.C. 151 et seq.);

(viii) the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.);

(ix) the Equal Pay Act of 1963 (29 U.S.C. 206); and

(x) the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(2) ENFORCEMENT BY ADMINISTRATIVE ACTION.—

(A) IN GENERAL.—

(i) RIGHT TO BRING ACTION.—Notwithstanding any other provision of law, and subject to the limitations contained in this paragraph, a congressional employee or any person, including a class or organization on behalf of a congressional employee, may bring an administrative action to enforce a provision of law referred to in paragraph (1) against the House of Representatives or the Senate, as appropriate, or the congressional employer of the employee, if a similarly situated complaining party may bring such an action before an Executive agency, as defined in section 105 of title 5, United States Code.

(ii) ENTITY.—Such an action may be brought, as appropriate—

(I) in the case of an employee of the House of Representatives, before a hearing panel of the Office of Fair Employment Practices of the House of Representatives, the Committee on House Administration of the House of Representatives, or such other entity as the House of Representatives may designate;

(II) in the case of an employee of the Senate, before a hearing panel of the Office of Senate Fair Employment Practices, the Select Committee on Ethics of the Senate, or such other entity as the Senate may designate; or

(III) in the case of an employee of an instrumentality of the Congress, before such hearing panel or other entity as the instrumentality may designate.

(B) LIMITATIONS ON COMMENCEMENT OF ADMINISTRATIVE ACTION.—Except as provided in subparagraphs (D) and (E), an administrative action commenced under this paragraph to enforce a provision of law referred to in paragraph (1) shall be commenced in accordance with the limitations, exhaustion, and other procedural requirements of the law otherwise applicable to a similarly situated complaining party seeking to enforce the provision.

(C) ACTION.—Except as provided in subparagraphs (D) and (E), in any administrative action brought before a panel, committee, or entity designated in subparagraph (A) to enforce a provision of law referred to in paragraph (1), the panel, committee, or entity may take such action against the House of Representatives or the Senate, as appropriate, or the congressional employer as the agency could take in an action brought by a similarly situated complaining party.

(D) CIVIL RIGHTS VIOLATIONS.—

(i) HOUSE OF REPRESENTATIVES.—The provisions of clauses 3, 5 through 8, 10 through 12, 14, and 15, of Rule LI of the Rules of the House of Representatives of the One Hundred Third Congress, shall—

(I) apply with respect to an allegation of a violation of a provision of Federal law specified in any of clauses (i) through (vi), of section 2(a)(1)(B), with respect to employment by the House of Representative of an employee of the House of Representatives; and

(II) apply to such an allegation in the same manner and to the same extent as such sections of such rule apply with respect to an allegation of a violation under such rule.

(ii) SENATE.—The provisions of sections 304 through 308, 310 through 313, and 316, of the Government Employee Rights Act of 1991 (2 U.S.C. 1204–1208, 1210–1213, and 1215) shall—

(I) apply with respect to an allegation of a violation of a provision of Federal law specified in any of clauses (i) through (vi) of section 2(a)(1)(B), with respect to Senate employment of a Senate employee; and

(II) apply to such an allegation in the same manner and to the same extent as such sections of the Government Employee Rights Act of 1991 apply with respect to an allegation of a violation under such Act.

(E) LABOR VIOLATIONS.—The provisions of clauses 1, 3, 5 through 8, 10 through 12, 14, and 15, of Rule LI of the Rules of the House of Representatives of the One Hundred Third Congress, shall—

(i) apply with respect to an allegation of a violation of a provision of Federal law specified in section 2(a)(1)(B)(viii), with respect to employment by the House of Representative of an employee of the House of Representatives; and

(ii) apply to such an allegation in the same manner and to the same extent as such clauses of such rule apply with respect to an allegation of a violation under such rule.

(3) ENFORCEMENT BY CIVIL ACTION.—

(A) CIVIL RIGHTS VIOLATIONS.—

(i) IN GENERAL.—Within 30 days of receipt of the decision or order of a hearing panel described in section 2(a)(2)(A)(ii), or of a committee, instrumentality, or entity described in such section on an appeal from such a decision or order, on a complaint of a violation of a provision of Federal law specified in any of clauses (i) through (vi) of section 2(a)(1)(B) brought pursuant to this Act, or after 180 days from the filing of such a complaint with an Office or instrumentality described in section 2(a)(2)(A)(ii) or the notice of appeal with a committee, instrumentality, or entity described in such section on an appeal from a decision or order of such hearing panel until such time as final action may be taken by the hearing panel, instrumentality, committee, or entity, a congressional employee, if aggrieved by the final disposition of the complaint of the employee, or by the failure to take final action on the complaint, may file a civil action as provided in section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5), in which civil action the Senate, the House of Representatives, or the congressional employer of the employee shall be the defendant.

(ii) PROCEDURES.—The provisions of paragraphs (3) through (5) of subsection (f), and subsections (g) through (k), of section 706 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–5 (f) (3)–(5), and (g)–(k)), as applicable, shall govern civil actions brought to enforce a provision of Federal law specified in any of clauses (i) through (vi) of section 2(a)(1)(B). The remedies and right to a jury trial made available to complaining parties under section 1977 of the Revised Statutes (42 U.S.C. 1981a) shall be equally available to any congressional employee bringing such a civil action.

(iii) PUNITIVE DAMAGES.—Notwithstanding any other provision of Federal law, in such a civil action a congressional employee may be awarded punitive damages on the same terms and conditions as such damages may be awarded to an aggrieved individual who is a nongovernmental complaining party.

(B) OTHER VIOLATIONS.—

(i) IN GENERAL.—Notwithstanding any other provision of law, and subject to the limitations contained in this subparagraph, a congressional employee or any person, including a class or organization on behalf of a congressional employee, may bring a civil action to enforce a provision of Federal law specified in any of clauses (vii) through (x) of section 2(a)(1)(B) in a court specified in clause (iii) against the House of Representatives or Senate, as appropriate, or the congressional employer of the employee, if a similarly situated complaining party may bring such an action.

(ii) LIMITATIONS ON COMMENCEMENT OF CIVIL ACTION.—A civil action commenced under this subparagraph to enforce such a provision of Federal law shall be commenced in accordance with the limitations, exhaustion, and other procedural requirements of the law otherwise applicable to a similarly situated complaining party seeking to enforce the provision.

(iii) VENUE.—An action may be brought under this subparagraph to enforce such a provision of Federal law in any court of competent jurisdiction in which a similarly situated complaining party may otherwise bring an action to enforce the provision.

(iv) RELIEF.—In any civil action brought under this subparagraph to enforce such a provision of Federal law, the court—

(I) may grant as relief against the House of Representatives or the Senate, as appropriate, or the congressional employer any equitable relief otherwise available to a similarly situated complaining party bringing an action to enforce the provision;

(II) may grant as relief against the House of Representatives or the Senate, as appropriate, or the congressional employer any damages that would otherwise be available to such a complaining party; and

(III) shall allow such fees and costs as would be allowed in such an action.

(4) PAYMENTS BY THE PRESIDENT OR A MEMBER.—The President, a Member of the House of Representatives, or a Member of the Senate shall reimburse the appropriate Federal account for any payment made on the behalf of the President or Member out of such account for a violation of a provision of Federal law specified in section 2(a)(1)(B) by the President or Member, not later than 60 days after the payment is made.

(b) CONDUCT REGARDING MATTERS OTHER THAN EMPLOYMENT.—

(1) APPLICATION.—In accordance with section 509(a)(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12209(a)(2)) the rights and protections provided pursuant to such Act shall apply with respect to the conduct of Congress regarding matters other than employment.

(2) ENFORCEMENT.—Notwithstanding any other provision of law, any person may bring an administrative action described in subsection (a)(2) in accordance with subparagraphs (A), (B), and (C) of such subsection, or a civil action described in subsection (a)(3)(B) in accordance with such subsection, against the House of Representatives or the Senate, as appropriate, or a congressional employer, to enforce paragraph (1).

(c) INFORMATION.—

(1) APPLICATION.—The rights and protections provided pursuant to section 552 of title 5, United States Code (commonly known as the "Freedom of Information Act") and section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974") shall apply with respect to information in the possession of the Congress.

(2) ENFORCEMENT.—Notwithstanding any other provision of law, any person may bring an administrative action described in subsection (a)(2) in accordance with subparagraphs (A), (B), and (C) of such subsection, or a civil action described in subsection (a)(3)(B) in accordance with such subsection, against the House of Representatives or the Senate, as appropriate, or the congressional employer in possession of the information, to enforce paragraph (1).

(d) ETHICS IN GOVERNMENT.—

(1) APPLICATION.—The rights and protections provided pursuant to chapter 40 of title 28, United States Code (commonly known as title VI of the Ethics in Government Act of 1978) shall apply with respect to investigation of congressional improprieties.

(2) ENFORCEMENT.—Notwithstanding any other provision of law, any person may bring a civil action described in subsection (a)(3)(B) in accordance with such subsection against any party with a duty under chapter 40 of title 28, to enforce paragraph (1).

(e) PRESIDENTIAL APPOINTEES.—

(1) APPLICATION.—The rights and protections provided pursuant to the provisions described in subsections (a)(1), (b)(1), (c)(1), and (d)(1), shall apply with respect to employment of Presidential appointees.

(2) ENFORCEMENT.—Notwithstanding any other provision of law, a Presidential appointee or any person, including a class or organization on behalf of a Presidential appointee, may bring an administrative action before an Executive agency in accordance with subparagraphs (A)(i), (B), and (C) of subsection (a)(2), or a civil action described in subsection (a)(3)(B) in accordance with such subsection, against the United States to enforce paragraph (1), if a similarly situated complaining party may bring such an administrative or civil action.

(f) OTHER ENFORCEMENT.—Notwithstanding any other provision of law, no congressional employee or Presidential appointee may commence a proceeding or action to enforce a provision of Federal law specified in subsection (a)(1), (b)(1), (c)(1), or (d)(1), except as provided in this section.

(g) ADMINISTRATION.—

(1) SENATE.—The Committee on Rules and Administration of the Senate shall issue such requirements as the Committee may determine to be appropriate to effectuate the application of the rights, protections, and requirements described in subsections (a) through (d) to the Senate.

(2) HOUSE OF REPRESENTATIVES.—The Committee on House Administration of the House of Representatives shall issue such requirements as the Committee may determine to be appropriate to effectuate the application of the rights, protections, and requirements described in subsections (a) through (d) to the House of Representatives.

(3) INSTRUMENTALITIES.—Each congressional employer described in subsection (i)(1)(C) shall issue such requirements as the Committee may determine to be appropriate to effectuate the application of the rights, protections, and requirements described in subsections (a) through (d) to the employees of the employer.

(h) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, meditation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve complaints arising under a provision of Federal law specified in subsection (a)(1), (b)(1), (c)(1), or (d)(1).

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

(1) CONGRESSIONAL EMPLOYER.—The term "congressional employer" means—

(A) a supervisor, as described in paragraph 12 of rule XXXVII of the Standing Rules of the Senate;

(B)(i) a Member of the House of Representatives, with respect to the administrative, clerical, or other assistants of the Member;

(ii)(I) a Member who is the chairman of a committee, with respect, except as provided in subclause (II), to the professional, clerical, or other assistants to the committee; and

(II) the ranking minority Member on a committee, with respect to the minority staff members of the committee;

(iii)(I) a Member who is a chairman of a subcommittee which has its own staff and financial authorization, with respect, except as provided in subclause (II), to the professional, clerical, or other assistants to the subcommittee; and

(II) the ranking minority Member on the subcommittee, with respect to the minority staff members of the committee;

(iv) the Majority and Minority Leaders and the Majority and Minority Whips, with respect to the research, clerical, or other assistants assigned to their respective offices; and

(v) the other officers of the House of Representatives, with respect to the employees of the officers; and

(C)(i) the Architect of the Capitol, with respect to the employees of the Architect of the Capitol;

(ii) the Director of the Congressional Budget Office, with respect to the employees of the Office;

(iii) the Comptroller General, with respect to the employees of the General Accounting Office;

(iv) the Public Printer, with respect to the employees of the Government Printing Office;

(v) the Librarian of Congress, with respect to the employees of the Library of Congress;

(vi) the Director of the Office of Technology Assessment, with respect to the employees of the Office; and

(vii) the Director of the United States Botanic Garden, with respect to the employees of the United States Botanic Garden.

(2) CONGRESSIONAL EMPLOYEE.—The term "congressional employee" means an employee who is employed by, or an applicant for employment with, a congressional employer.

(3) INSTRUMENTALITY.—The term "instrumentality" includes the Office of the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden.

(4) PRESIDENTIAL APPOINTEE.—The term "Presidential appointee" means an employee, or an applicant seeking to become an employee—

(A) whose appointment is made by and with the advice and consent of the Senate; or

(B) whose position has been determined to be of a confidential, policy-determining, policy-making, or policy-advocating character by—

(i) the President for a position that the President has excepted from the competitive service;

(ii) the Office of Personnel Management for a position that the Office has excepted from the competitive service; or

(iii) the President or head of an agency for a position excepted from the competitive service by statute.

(5) SIMILARLY SITUATED COMPLAINING PARTY.—The term "similarly situated complaining party" means—

(A) in the case of a party seeking to enforce a provision with a separate enforcement mechanism for governmental complaining parties, a governmental complaining party; or

(B) in the case of a party seeking to enforce a provision with no such separate mechanism, a nongovernmental complaining party.

(j) EFFECTIVE DATE.—This section shall take effect 120 days after the date of the enactment of this Act.•

By Mr. MCCAIN (for himself, Mr. SHELBY, Mr. MACK, Mr. SMITH, Mr. HELMS, Mr. DECONCINI, and Mr. COATS).

S. 30. A bill to amend title II of the Social Security Act, to eliminate the earnings test for individuals who have attained retirement age; to the Committee on Finance.

ELIMINATION OF SOCIAL SECURITY EARNINGS TEST

• Mr. MCCAIN. Mr. President, I am pleased to be joined by my colleagues, Senators SHELBY, MACK, SMITH, HELMS, DECONCINI, and COATS in introducing this bill, the Older Americans Freedom to Work Act of 1993, to fully repeal the Social Security earnings test for older Americans between the ages of 65 and 69. This legislation is identical to that which I introduced last year. It was adopted by the Senate, and would have provided freedom, opportunity, and fairness for our Nation's senior citizens. Unfortunately, the House failed to adopt it prior to the end of the 102d Congress.

Most people are amazed to find that older Americans are actually penalized for their productivity. For every $3 earned by a retiree over the $10,560 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom exist on low incomes, are effectively burdened with a 33.3 percent tax. Combined with Federal, State, and other Social Security taxes, it will amount to a shocking 70-percent tax bite, and sometimes even more—Federal tax—15 percent, FICA—15.3 percent, earnings test penalty—33.3 percent, State and local tax—5 percent. Obviously, this earnings cap is a tremendous disincentive to work. No one who is struggling along at $10,000 a year wants to face an effective marginal tax rate of 70 percent.

Mr. President, this is unquestionably an issue of fairness. No American should be discouraged from working. Unfortunately, as a result of the earnings test, Americans over the age of 65 are being punished for attempting to be productive. The earnings test doesn't take into account an individual's desire or ability to contribute to society. It arbitrarily mandates that a person retire at age 65 or face losing benefits. It is plainly age discrimination; it is plainly wrong.

There are more than 40 million Americans age 60 or older who have over 1 billion years of cumulative work experience—all going to waste. Three out of five of these people do not have any disability that would preclude them from working. Furthermore, almost half a million elderly individuals who do work earn annual incomes within 10 percent of the earnings limit. They are struggling to get ahead without hitting the limit. If not for the earnings test, many more would work, but the system is coercing them into retirement and idleness.

Perhaps most importantly, the earnings cap is a serious threat to the welfare of low-income senior citizens. Once the earnings cap has been met, a person with a job providing just $5 an hour would find the after tax value of that wage dropping to only $2.20. A person with no private pension or liquid investments—which, by the way, are not counted as earnings—from his or her working years may need to work in order to meet the most basic expenses, such as shelter and food. Health care costs, rising at an astronomical rate, are another expense many elderly Americans have trouble meeting. There is also a myth that repeal of the earnings test would benefit only the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle income elderly who must work to supplement their income.

Finally, it is simply outrageous to pursue a policy that keeps people out of the work force who are experienced and want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from helping to meet that challenge? As the U.S. Chamber of Commerce, which strongly supports this legislation, has pointed out, "retraining older workers already is a priority in labor intensive industries, and will become even more critical as we approach the year 2000."

We have a massive Federal deficit. Studies have found that repealing the earnings test could net $140 million in extra Federal revenue. Furthermore, the earnings test is costing us $15 billion a year in reduced production. Taxes on that lost production would help to reduce the budget deficit. Nor, as it continues to become tougher to compete globally, can America afford to pursue any policy that adversely affects production or effectively prevents our citizens from working.

Repeal would also save the taxpayer over $200 million a year in reduced compliance costs. According to the Social Security Administration, the earnings test is its largest administrative burden. Sixty percent of all overpayments and 45 percent of benefit underpayments are attributable to the earnings test.

And, according to the Social Security Administration, repeal of the earnings test would only have a negligible impact on the health of the Social Security Trust Funds.

Several of our Nation's largest seniors organizations strongly support this particular bill: the National Com-

mittee to Preserve Social Security and Medicare, the Seniors Coalition, the National Alliance of Senior Citizens, the Retired Officers Association, and the National Association of Retired Federal Employees.

My effort in the Senate last year to address this issue of fairness was nearly met with success. The Senate adopted this measure as an amendment to the Older Americans Act Reauthorization Bill, but the House leadership allowed it to languish in an attempt to kill it. It is hard to understand the unwillingness of some in Congress to resolve this issue of basic fairness. In the final days of the 102d Congress, I was left with little choice but to intervene in order to save the Older Americans Act Reauthorization Bill as they were willing to let both measures die. At that time, I resolved to continue the pressure for passage of this measure in the 103d Congress.

During the Presidential campaign, I noted with interest that addressing the injustice of the Social Security earnings test was among the few specific items related to the elderly on which Bill Clinton articulated a position. He indicated that he would help lead the fight to address this issue. I look forward to working with him to see that this injustice is finally brought to end.

Mr. President, it is my hope that we can act on the legislation I am introducing today very early in the first session of the 103d Congress. And, I hope that all of my colleagues will review this legislation and consider adding their name as a cosponsor.

I ask unanimous consent that the text of the Older Americans Freedom to Work Act be printed in the RECORD following my statement.

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

S. 30

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Americans' Freedom to Work Act of 1993".

SEC. 2. ELIMINATION OF EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

Section 203 of the Social Security Act is amended—

(1) in paragraph (1) of subsection (c) and paragraphs (1)(A) and (2) of subsection (d), by striking "the age of seventy" and inserting "retirement age (as defined in section 216(l))";

(2) in subsection (f)(1)(B), by striking "was age seventy or over" and inserting "was at or above retirement age (as defined in section 216(l))";

(3) in subsection (f)(3), by striking "33⅓ percent" and all that follows through "any other individual," and inserting "50 percent of such individual's earnings for such year in excess of the product of the exempt amount as determined under paragraph (8)," and by striking "age 70" and inserting "retirement age (as defined in section 216(l))";

(4) in subsection (h)(1)(A), by striking "age 70" each place it appears and inserting "retirement age (as defined in section 216(l))"; and

(5) in subsection (j), by striking "Age Seventy" in the heading and inserting "Retirement Age", and by striking "seventy years of age" and inserting "having attained retirement age (as defined in section 216(l))".

SEC. 3. CONFORMING AMENDMENTS ELIMINATING THE SPECIAL EXEMPT AMOUNT FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE.

(a) UNIFORM EXEMPT AMOUNT.—Section 203(f)(8)(A) of the Social Security Act is amended by striking "the new exempt amounts (separately stated for individuals described in subparagraph (D) and for other individuals) which are to be applicable" and inserting "a new exempt amount which shall be applicable".

(b) CONFORMING AMENDMENTS.—Section 203(f)(8)(B) of such Act is amended—

(1) in the matter preceding clause (i), by striking "Except" and all that follows through "whichever" and inserting "The exempt amount which is applicable for each month of a particular taxable year shall be whichever";

(2) in clause (i), by striking "corresponding"; and

(3) in the last sentence, by striking "an exempt amount" and inserting "the exempt amount".

(c) REPEAL OF BASIS FOR COMPUTATION OF SPECIAL EXEMPT AMOUNT.—Section 203(f)(8)(D) of such Act is repealed.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS.

(a) ELIMINATION OF REDUNDANT REFERENCES TO RETIREMENT AGE.—Section 203 of the Social Security Act is amended—

(1) in the last sentence of subsection (c), by striking "nor shall any deduction" and all that follows and inserting "nor shall any deduction be made under this subsection from any widow's or widower's insurance benefit if the widow, surviving divorced wife, widower, or surviving divorced husband involved became entitled to such benefit prior to attaining age 60."; and

(2) in subsection (f)(1), by striking clause (D) and inserting the following: "(D) for which such individual is entitled to widow's or widower's insurance benefits if such individual became so entitled prior to attaining age 60, or".

(b) CONFORMING AMENDMENT TO PROVISIONS FOR DETERMINING AMOUNT OF INCREASE OF ACCOUNT OF DELAYED RETIREMENT.—Section 202(w)(2)(B)(ii) of such Act is amended—

(1) by striking "either"; and

(2) by striking "or suffered deductions under section 203(b) or 203(c) in amounts equal to the amount of such benefit".

(c) CONTINUED APPLICATION OF RULE GOVERNING ENTITLEMENT OF BLIND BENEFICIARIES.—The second sentence of section 223(d)(4) of such Act is amended by inserting after "subparagraph (D) thereof" where it first appears the following: "(or would be applicable to such individuals but for the amendments made by the Older Americans' Freedom to Work Act of 1990)".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall apply only with respect to taxable years beginning after December 31, 1993.●

By Mr. MCCAIN:

S. 31. A bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new providers; to the Committee on Finance.

REPEAL OF REDUCED MEDICARE PAYMENT PROVISION

● Mr. MCCAIN. Mr. President, I rise today to introduce a bill which would eliminate discrimination in Medicare reimbursement practices for physicians and other health care providers receiving Medicare reimbursement. Current practices result in new physicians and other providers receiving less reimbursement for the same procedure than physicians and other providers who have been practicing for a longer period of time. This legislation is similar to that which I introduced last year which became a part of H.R. 11.

Specifically, the legislation I am introducing today will repeal the inequitable provision of existing law that reduces Medicare payment to so-called new physicians and other providers in their first 4 years of practice. With some limited exceptions, current law reduces the payment base or allowed amount by some 20 percent in the first year of practice, 15 percent in the second year, 10 percent in the third, and 5 percent in the fourth year. My bill would repeal this discriminatory law.

The rationale behind this discriminatory law, which was enacted a couple of years ago, was to achieve budget savings at the expense of young physicians and other providers who are new to providing care for Medicare beneficiaries, under the assumption that a new physician's or other provider's services are of less value—and therefore less worthy of full compensation—than those of a more experienced physician or other provider. However, the value of these physicians' or other providers' services, as evidenced by the new Medicare physician payment system which bases reimbursement on a resource-based relative value scale [RBRVS], is not modified based on the experience of the physician or other provider providing the care. Furthermore, the RBRVS assigns a value to each service—and that service does not cost those designated as new physicians or other providers any less to perform than physicians or other providers who have been in practice for a longer time. Under the current law, the definition of a new physician or other provider is so general and so vague that physicians or other providers who have served in the military for years, but have not previously billed the Medicare Program, are viewed as new physicians or other providers. Payments for their services to Medicare beneficiaries are reduced during the first 4 years of civilian private practice. Clearly, the existing law does not reward these dedicated physicians and other providers on a level commensurate with their experience.

The current law reducing payments to new physicians and other providers violates the underlying concepts behind the landmark Medicare physician payment reform, which became effec-

tive as of January 1, 1992. It also ignores the financial reality facing new physicians and other providers of meeting high start-up costs associated with building a new practice, and the skyrocketing costs of medical education. The provisions of the current law serve only to discourage new physicians and other providers from certain targeted specialties and providing care for Medicare beneficiaries, as well as causing group practices to steer Medicare beneficiaries away from those physicians and other providers defined under the law as new.

I urge support for this legislation, which will ensure that all physicians and other providers are treated fairly, and which corrects the inequities of the current law. I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.●

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

S. 31

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Provider Payment Equity Act of 1993".

SEC. 2. REPEAL OF REDUCED MEDICARE PAYMENT PROVISION FOR NEW PROVIDERS.

(a) PHYSICIANS.—Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by repealing paragraph (4).

(b) OTHER PRACTITIONERS.—Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(c) BUDGET NEUTRALITY.—The Secretary of Health and Human Services shall provide that in carrying out the amendments made by subsections (a) and (b) that payments under section 1848 of the Social Security Act are no greater or lesser than what such payments would have been but for the provisions of this Act.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to physicians' services furnished on or after January 1, 1993.●

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 32. A bill to provide for the collection and dissemination of information on injuries, death, and family dissolution due to bullet-related violence, to require the keeping of records with respect to dispositions of ammunition, and to require that persons comply with State and local firearms licensing laws before receiving a Federal license to deal in firearms; to the Committee on Finance.

VIOLENT CRIME CONTROL ACT OF 1993

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that comprehensively seeks to control the epidemic proportions of violence in America. This legislation, the Violent Crime Control Act of 1993, combines most of the provisions of three other crime-related bills I am introducing today as well.

By including several different crime-related provisions, my bill attacks the crime epidemic on numerous fronts. If we are truly serious about confronting our Nation's crime problem, we must learn about the nature of the epidemic of bullet-related violence and ways to control it, including the requirement of recordkeeping on the dispositions of ammunition. We need to insist that persons first comply with State and local firearms licensing laws before receiving a Federal license to deal in firearms.

Last October, the testimony we received during a Finance Committee hearing demonstrated that public health and safety experts have independently come to the conclusion that there is an epidemic of bullet-related violence. The facts are staggering.

In 1989, 34,776 people lost their lives in the United States from bullets, 14,464 were murdered, 18,178 committed suicide, the rest died from accidents or legal intervention. By focusing on bullets, and not guns, we realize that much like nuclear waste, guns remain active for centuries. With minimum care, they do not deteriorate. However, bullets are consumed. We have only a 4 year supply of them.

Not only am I proposing that we tax bullets used disproportionately in crimes—for examples 9 millimeter, .25, and .32 caliber bullets—I also believe we must set up a Bullet Death, and Injury Control Program within the Centers for Disease Control's National Center for Injury Prevention and Control. This center will enhance our knowledge of the distribution and status of bullet-related death and injury and subsequently make recommendations about the extent and nature of bullet-related violence.

So that the center would have substantive information to study and analyze, this bill also requires importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco, and Firearms [BATF] on the disposition of ammunition. Currently, importers and manufacturers of ammunition are not required to do so.

Finally, this bill would prevent the issuance of a Federal license to deal firearms unless the applicant has a State and local license for the same purpose. A 3-year Federal license to deal in firearms may be obtained from BATF for just $30. A valid State or local dealers license is not required. It's a loophole you can drive a truck through, one Federal law enforcement official told the Washington Post. We can reduce unlawful gunrunning by closing this loophole.

Clearly, it will take intense effort on all or our parts to reduce violent crime in America. My legislation rests on the notion that we must confront this epidemic from several different angles, recognizing that there is no simple solution to this problem.

I ask unanimous consent that the text of this bill be printed in the RECORD at this time.

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

S. 32

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Violent Crime Control Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is no reliable information on the amount of ammunition available;

(2) importers and manufacturers of ammunition are not required to keep records to report to the Federal Government on ammunition imported, produced, or shipped;

(3) a loophole in current law permits a Federal licensee to order unlimited amounts of guns from a manufacturer, whether or not the licensee is legally permitted to sell them under State or local law;

(4) the rate of bullet-related deaths in the United States is unacceptably high and growing;

(5) three calibers of bullets are used disproportionately in crime: 9 millimeter, .25 caliber, and .32 caliber bullets;

(6) injury and death are greatest in young males, and particularly young black males;

(7) epidemiology can be used to study bullet-related death and injury to evaluate control options;

(8) bullet-related death and injury has placed increased stress on the American family resulting in increased welfare expenditures under title IV of the Social Security Act;

(9) bullet-related death and injury have contributed to the increase in Medicaid expenditures under title XIX of the Social Security Act;

(10) bullet-related death and injury have contributed to increased supplemental security income benefits under title XVI of the Social Security Act;

(11) a tax on the sale of bullets will help control bullet-related death and injury;

(12) there is no central responsible agency for trauma, there is relatively little funding available for the study of bullet-related death and injury, and there are large gaps in research programs to reduce injury;

(13) current laws and programs relevant to the loss of life and productivity from bullet-related trauma are inadequate to protect the citizens of the United States; and

(14) increased research in bullet-related violence is needed to better understand the causes of such violence, to develop options for controlling such violence, and to identify and overcome barriers to implementing effective controls.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to increase the tax on the sale of 9 millimeter, .25 caliber, and .32 caliber bullets (except with respect to any sale to law enforcement agencies) as a means of reducing the epidemic of bullet-related death and injury;

(2) to undertake a nationally coordinated effort to survey, collect, inventory, synthesize, and disseminate adequate data and information for—

(A) understanding the full range of bullet-related death and injury, including impacts on the family structure and increased de-

mands for benefit payments under provisions of the Social Security Act;

(B) assessing the rate and magnitude of change in bullet-related death and injury over time;

(C) educating the public about the extent of bullet-related death and injury; and

(D) expanding the epidemiologic approach to evaluate efforts to control bullet-related death and injury and other forms of violence;

(3) to develop options for controlling bullet-related death and injury;

(4) to build the capacity and encourage responsibility at the individual, group, community, State and Federal levels for control and elimination of bullet-related death and injury;

(5) to promote a better understanding of the utility of the epidemiologic approach for evaluating options to control or reduce death and injury from nonbullet-related violence; and

(6) to control the proliferation of illegal firearms currently causing an alarming rate of death.

TITLE I—BULLET DEATH AND INJURY CONTROL PROGRAM

SEC. 101. BULLET DEATH AND INJURY CONTROL PROGRAM.

(a) ESTABLISHMENT.—There is established within the Centers for Disease Control's National Center for Injury Prevention and Control (referred to as the "Center") a Bullet Death and Injury Control Program (referred to as the "Program").

(b) PURPOSE.—The Center shall conduct research into and provide leadership and coordination for—

(1) the understanding and promotion of knowledge about the epidemiologic basis for bullet-related death and injury within the United States;

(2) developing technically sound approaches for controlling, and eliminating, bullet-related deaths and injuries;

(3) building the capacity for implementing the options, and expanding the approaches to controlling death and disease from bullet-related trauma; and

(4) educating the public about the nature and extent of bullet-related violence.

(c) FUNCTIONS.—The functions of the Program shall be—

(1) to summarize and to enhance the knowledge of the distribution, status, and characteristics of bullet-related death and injury;

(2) to conduct research and to prepare, with the assistance of State public health departments—

(A) statistics on bullet-related death and injury;

(B) studies of the epidemic nature of bullet-related death and injury; and

(C) status of the factors, including legal, socioeconomic, and other factors, that bear on the control of bullets and the eradication of the bullet-related epidemic;

(3) to publish information about bullet-related death and injury and guides for the practical use of epidemiological information, including publications that synthesize information relevant to national goals of understanding the bullet-related epidemic and methods for its control;

(4) to identify socioeconomic groups, communities, and geographic areas in need of study, develop a strategic plan for research necessary to comprehend the extent and nature of bullet-related death and injury, and determine what options exist to reduce or eradicate such death and injury;

(5) to provide for the conduct of epidemiologic research on bullet-related death and injury through grants, contracts, cooperative agreements, and other means, by Federal, State, and private agencies, institutions, organizations, and individuals;

(6) to make recommendations to Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State, and local agencies on the technical management of data collection, storage, and retrieval necessary to collect, evaluate, analyze, and disseminate information about the extent and nature of the bullet-related epidemic of death and injury as well as options for its control;

(7) to make recommendations to the Congress, the Bureau of Alcohol, Tobacco, and Firearms, and other Federal, State and local agencies, organizations, and individuals about options for actions to eradicate or reduce the epidemic of bullet-related death and injury;

(8) to provide training and technical assistance to the Bureau of Alcohol, Tobacco, and Firearms and other Federal, State, and local agencies regarding the collection and interpretation of bullet-related data; and

(9) to research and explore bullet-related death and injury and options for its control.

(d) ADVISORY BOARD.—

(1) IN GENERAL.—The Center shall have an independent advisory board to assist in setting the policies for and directing the Program.

(2) MEMBERSHIP.—The advisory board shall consist of 13 members, including—

(A) 1 representative from the Centers for Disease Control;

(B) 1 representative from the Bureau of Alcohol, Tobacco and Firearms;

(C) 1 representative from the Department of Justice;

(D) 1 member from the Drug Enforcement Agency;

(E) 3 epidemiologists from universities or nonprofit organizations;

(F) 1 criminologist from a university or nonprofit organization;

(G) 1 behavioral scientist from a university or nonprofit organization;

(H) 1 physician from a university or nonprofit organization;

(I) 1 statistician from a university or nonprofit organization;

(J) 1 engineer from a university or nonprofit organization; and

(K) 1 public communications expert from a university or nonprofit organization.

(3) TERMS.—Members of the advisory board shall serve for terms of 5 years, and may serve more than 1 term.

(4) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(5) TRAVEL EXPENSES.—A member of the advisory board that is not otherwise in the Federal Government service shall, to the extent provided for in advance in appropriations Acts, be paid actual travel expenses and per diem in lieu of subsistence expenses in accordance with section 5703 of title 5, United States Code, when the member is away from the member's usual place of residence.

(6) CHAIR.—The members of the advisory board shall select 1 member to serve as chair.

(e) CONSULTATION.—The Center shall conduct the Program required under this section in consultation with the Bureau of Alcohol, Tobacco, and Firearms and the Department of Justice.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1993, $2,500,000 for fiscal year 1994, and $5,000,000 for each of fiscal years 1995, 1996, and 1997 for the purpose of carrying out this section.

(g) REPORT.—The Center shall prepare an annual report to Congress on the Program's findings, the status of coordination with other agencies, its progress, and problems encountered with options and recommendations for their solution. The report for December 31, 1995, shall contain options and recommendations for the Program's mission and funding levels for the years 1996–2000, and beyond.

TITLE II—INCREASE IN EXCISE TAX ON CERTAIN BULLETS

SEC. 201. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new flush sentence:

"In the case of 9 millimeter, .25 caliber, or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent.".

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

"(d) LAW ENFORCEMENT.—The last sentence of section 4181 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1995.

TITLE III—USE OF AMMUNITION

SEC. 301. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at the licensee's place of business for such period and in such form as the Secretary, in consultation with the Director of the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), may by regulation prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

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

"(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, in consultation with the Director of

the National Center for Injury Prevention and Control of the Centers for Disease Control (for the purpose of ensuring that the information that is collected is useful for the Bullet Death and Injury Control Program), shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.".

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the Centers for Disease Control to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) submit to Congress, not later than July 31, 1996, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.

TITLE IV—COMPLIANCE WITH STATE AND LOCAL FIREARMS LAWS

SEC. 401. COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS REQUIRED BEFORE ISSUANCE OF FEDERAL LICENSE TO DEAL IN FIREARMS.

(a) IN GENERAL.—Section 923(d)(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following:

"(F) in the case of an application for a license to engage in the business of dealing in firearms—

"(i) the applicant has complied with all requirements imposed on persons desiring to engage in such a business by the State and political subdivision thereof in which the applicant conducts or intends to conduct such business; and

"(ii) the application includes a written statement which—

"(I) is signed by the chief of police of the locality, or the sheriff of the county, in which the applicant conducts or intends to conduct such business, the head of the State police of such State, or any official designated by the Secretary; and

"(II) certifies that the information available to the signer of the statement does not indicate that the applicant is ineligible to obtain such a license under the law of such State and locality.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for a license that is issued on or after the date of the enactment of this Act.●

By Mr. DANFORTH (for himself and Mr. BOND):

S. 33. A bill to require the Secretary of Education to waive certain regulations in considering an application submitted by the Winona R–III School District, MO; to the Committee on Labor and Human Resources.

WAIVER OF CERTAIN REGULATIONS

● Mr. DANFORTH. Mr. President, once again, as we did more than 5 years ago, Senator BOND and I join together to request that the Senate move swiftly to help the people of Winona, MO. I know that Congressman BILL EMERSON has also introduced companion legislation to the bill we offer here today.

Educating the children of Winona is the responsibility of the Winona R–III School District. It is a small, impoverished district which has suffered under a crippling financial burden since 1986. This burden arose out of an unfortunate sequence of circumstances, quite beyond the district's control, combined with the district's commitment to the safety of its children.

Approximately 47 percent of the Winona R–III School District's land is federally owned. A further 27 percent of the land is owned by the State of Missouri. As a consequence, almost three-fourths of the land in that district generates zero tax revenue. Moreover, even the revenue generated from the mere 26 percent which remains, is slight.

In fact, according to State income tax records, the average 1989 income of Winona was only $13,973—far lower than Missouri's average income that year of $49,048. Obviously, the burden of providing a decent education to its children is breaking the backs of the Winona taxpayers.

Nonetheless, Winona is trying. In 1985, Winona applied to the Department of Education for Federal impact aid construction funding. At that time, the Winona High School was located in a decrepit 68-year-old building with crumbling mortar which had already been declared by the State to be a hazard to public health and safety. But that was not all. Winona is situated near the New Madrid Fault line. The fault is subject to tremors and earthquakes. In fact, geologists expect a tremor of significant magnitude within this decade. A new building was needed because the old one could easily have collapsed.

In 1987, Federal officials came to Winona to determine its eligibility to receive the requested impact aid. They witnessed first hand the tax consequences of Federal ownership of land in and around Winona. They witnessed, too, the practical effects of the school district's poverty and the condition of the school building. The Federal Government acknowledged the district's need by ranking the Winona School District first in priority for impact aid construction funding.

At this point, the Winona school district's most immediate difficulties appeared to have been at least partially alleviated. However, circumstances conspired to present Winona with an ongoing problem from which it cannot escape without our help.

In 1985, when Winona first applied for impact aid, the district's valuation was assessed at $2,470,000. Later that year, however, the assessed valuation skyrocketed to $5,980,000. Prior to the reassessment, the property levy was $4 per $100 in assessed valuation. The State recognized that, despite the considerable change in the paper value of the land, the ability of the residents to generate revenue remained about the same. Missouri, therefore, enacted a law requiring a rollback of the property levy so that the paper increase would not result in any additional taxes. After the reassessment, the rollback resulted in a levy ceiling of $2.09 per $100 in assessed valuation, and the tax burden remained the same.

Unfortunately, the statewide reassessment also had a marked impact on Winona's school construction funding application. The impact aid school construction law requires a demonstration by each applicant school district of a substantial local effort toward building the school. And, the Department of Education considers 10 percent of the district's assessed valuation a satisfactory demonstration.

Cognizant of the Department's guidelines, at the time Winona applied to the Department, it expected to contribute this 10 percent, that is, a little under $250,000, toward construction. As burdensome as this would be, the new construction was simply a necessity. There was no alternative. In light of the subsequent reassessment, however, the Department of Education demanded that Winona pay almost $600,000 up front before it saw any of the impact aid dollars.

The district was caught between a rock and a hard place. Without the up-front $598,000, Winona would lose the Federal construction funding. Winona's school children would be forced to continue spending their days in a truly dangerous, ever more decrepit, old school building. Clearly, tempting fate with the health and safety of its children was out of the question. On the other hand, Winona simply did not have the up-front money.

In the end, the Winona School District took the only route it truly could have taken. Despite the obvious financial dangers, the district borrowed the $598,000 at uncomfortably high interest rates and contributed the money toward the new construction which was completed successfully, and houses its high school today.

Mr. President, as Congressman EMERSON stated when he introduced this legislation in the House of Representatives, "this tale should have had a happing ending." Unfortunately, the tale is far from over and the Winona School District still finds itself in financial desperation. Because of the timing of Missouri's reassessment and rollback, Winona now has a $598,000 debt which it is unable to repay. The government-owned acreage still contributes no revenue and the people have become no wealthier. An added complication is Missouri State law which forbids local school districts to finish a school year in deficit. Thus, Winona's meager educational resources are first channeled into servicing its debt. Only if funds remain can they be put toward educational needs.

Mr. President, this is not the first time I have risen on Winona's behalf. Nor is it the first time this body has

considered Winona's situation and sought assistance. In the fiscal year 1987 supplemental appropriations bill, the Senate recognized Winona's plight and inserted language to the effect that Winona's local effort would be satisfied by a $200,000 contribution. When that provision was in conference, however, the conferees determined that the Secretary of Education already had discretion to provide relief to Winona. Accordingly, the conferees removed the statutory language and, in the report, "direct[ed] the Secretary to consider an amount of local effort not in excess of $200,000 as reasonable and adequate to satisfy the requirements of section 14(c)." (House Rpt. No. 100-195, 100th Congress p. 70, June 27, 1987).

Thus, Winona's problems should now be a matter of the past. Nonetheless, despite the direction given to the Department of Education over 5 years ago, the Winona School District, Senator BOND, Congressman EMERSON and I have had no success whatsoever in persuading the Department of Education to follow the direction of the conferees. Despite the conference report, the Department of Education insists it has no discretion to accept $200,000. It is inexplicable.

This bill is not about a free ride for anybody. It is about simple equity for Americans in dire straits. Americans who put the safety and education of their children first, despite terrible cost. If this legislation is passed, Winona will be relieved of the additional $398,000 the Department of Education has demanded due to reassessment. However, it will still be required to contribute a fair and reasonable local effort of $200,000 toward construction.

Even with this relief, Winona will be required to do its utmost. Indeed, the school district will still be required to pay the accrued and accruing high interest payments on its loan. Nonetheless, the relief embodied in this legislation will remove the heaviest burden now on its shoulders.

Senator BOND, Congressman EMERSON and I have lost no time in introducing this legislation at the first possible moment in both the Senate and the House of Representatives. It is a simple, clear bill, which addresses a very specific problem. And, although this legislation is intended to alleviate the suffering of just one school district in Missouri, it is appropriate that it be considered at the earliest possible moment. For the taxpayers of that district, and for their children, this situation has been an albatross for more than 7 years. Only we, the Congress, can help them. More than 5 years ago, this body resolved to help Winona. We agreed the relief in this bill was the appropriate vehicle. Let us now translate that resolve into action.●

By Mr. DURENBERGER:

S. 34. A bill for the relief of Randall G. Hain; to the Committee on the Judiciary.

RELIEF OF RANDALL G. HAIN

● Mr. DURENBERGER. Mr. President, today I am introducing a private bill for the relief of Randall G. Hain of Minnesota.

Mr. Hain was drafted into the Army and served in Vietnam from October 13, 1966 to August 21, 1968. He attained the rank of specialist 5th class and received an honorable discharge.

In 1963, prior to entering the military, Mr. Hain was involved in a motorcycle/automobile accident. As a result of the accident, he underwent two surgeries and spent 5 months in traction. The surgeons strengthened his left leg by inserting a metal plate secured by 10 metal screws. This insertion shortened his left leg by 1¼ inches.

In September 1966, Mr. Hain was drafted and given a pre-induction physical; the surgery scars on his left leg were noted in the record, but the leg was not x rayed. This was a violation of the requirements of the Surgeon General's Medical Fitness Standards according to Army Regulation 40-501, chapter 6.

The Surgeon General's Office has stated that he "should have been considered unfit for induction because of residuals of a fracture of the left tibia and femur with retained metallic plate and screws."

During basic training at Fort Hood, Mr. Hain went on sick call and the Darnell Army Hospital did x ray the left leg, but due to lack of followup, no medical discharge recommendation was recorded.

The physical activity of basic training and being stationed in a war zone unwillingly exacerbated his original condition and have contributed to both his deteriorating physical and mental health.

Mr. Hain has attempted to right this wrong by filing claims with the Department of Veterans' Affairs six times. Only 20 percent disability compensation has been granted him. He has also filed unsuccessful claims with the Army Board for Correction of Military Records and the U.S. District Court in Minnesota. He now has exhausted all of his legal remedies.

Randall Hain has been unable to hold a steady job or lead a normal, productive life since his wrongful induction into the Army. Therefore, I offer this private bill to partially compensate for lost employment opportunity and provide him with 50 percent veteran's disability compensation. Had he not been inducted into the military, he would have pursued an academic career. I hope that this still could become a reality for him with the benefits we seek today.

Mr. President, I ask unanimous consent that a 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. 34

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

SECTION 1. SATISFACTION OF CLAIM AGAINST THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Randall G. Hain of Eden Prairie, Minnesota, the sum of $50,000 for any damages incurred by that individual (including any injury or aggravation of any injury relating to or arising from a leg injury of that individual) as a result of—

(1) the induction of that individual into the United States Army; and

(2) the service of that individual in the United States Army during the period from October 13, 1966, to August 23, 1968.

(b) CONDITION OF PAYMENT.—The payment of the sum referred to in subsection (a) shall be in full satisfaction of any claim of the individual referred to in that subsection against the United States arising out of the induction and service described in that subsection.

SEC. 2. DISABILITY RATING.

(a) IN GENERAL.—Nothwithstanding any other provision of law, Randall G. Hain of Eden Prairie, Minnesota, shall be deemed to have a service-connected disability rated at 50 percent for the purposes of chapter 11, title 38, United States Code, as a result of injuries of that individual incurred during or aggravated by the service referred to in section 1(a)(2).

(b) PROHIBITION ON RETROACTIVE BENEFITS.—Benefits may not be paid under chapter 11 of title 38, United States Code, to Randall G. Hain as a result of the enactment of this Act for any period before the date of the enactment of this Act.

SEC. 3. LIMITATION ON ATTORNEY AND AGENT FEES.

(a) IN GENERAL.—Not more than 10 percent of the amount appropriated pursuant to section 1 to the individual referred to in that section shall be paid by or on behalf of that individual to any agent or attorney or received by any agent or attorney from or on behalf of that individual for services rendered in connection with the claim described in that section.

(b) ENFORCEMENT.—Any person who violates the provisions of this section shall be fined not more than $1,000.●

By Mr. CRAIG:

S. 35. A bill to provide for an extension of regional referral center classifications, and for other purposes.

EXTENSION OF REGIONAL REFERRAL CENTER CLASSIFICATION

Mr. CRAIG. Mr. President, today, I am introducing legislation that is of great importance to the citizens of my State, Idaho—and to citizens across the Nation who live in rural areas. This measure addresses a very pressing concern: The future provision of health care in rural America.

Action needs to be taken if this Nation's rural referral centers are to continue meeting the needs of their patients. The legislation I am introducing today would simply provide for the retroactive extension of a sunset provi-

sion of law which expired at the end of fiscal year 1992. It would be extended until fiscal year 1995, when the urban-rural differential will be phased out and reimbursements will be more equitable for rural hospitals.

The provision is commonly referred to as the "rural referral grandfather clause" and provides these unique hospitals with a reimbursement rate comparable to that of their urban counterparts.

Similar legislation extending the grandfather clause through fiscal year 1992 was included in the Omnibus Reconciliation Act of 1989. However, that expired last October. I introduced this legislation in the 102d Congress. It passed as a provision of H.R. 11, which was vetoed by President Bush. Now it is time to address this problem once again.

In my State of Idaho and in 41 other States, rural referral centers are the cornerstones of rural health care. In some communities, they are the sole source of health care—the only source of health care for other communities in their region.

Rural referral centers provide a larger variety of specialized services and are therefore reimbursed from Medicare funds at a rate higher than that given to small rural hospitals. The larger rural referral centers must also pay salaries and expenses comparable to urban hospitals. If they are to continue offering the much needed, specialized care, rural referral centers must be reimbursed at a rate which properly reflects their costs. This legislation is fundamentally important to these hospitals if they are to be allowed to continue operating until the urban-rural differential is phased out.

Mr. President, rural referral centers are more than just health care centers—they are an important thread in the fabric of rural society. America's rural hospitals continue to face financial difficulties—difficulties that threaten not only their existence, but also the existence of the communities they serve. Medicare payments have long been inequitable to our rural referral centers. Let us protect them and the people they serve, until the present inequities in the system are phased out.

By Mr. BOREN:

S. 36. A bill to amend section 207 of title 18, United States Code, to tighten the restrictions on former executive and legislative branch officials and employees; to the Committee on Governmental Affairs.

ETHICS IN GOVERNMENT REFORM ACT

Mr. BOREN. Mr. President, earlier today I introduced a bill which would reform the way campaigns are financed in our country. My hope is that this legislation will help restore some of the faith Americans have lost in our democracy. However, while campaign finance reform is a necessary step toward reforming our Government, if we ever expect the American people to trust their leaders, we must put an end to the revolving door of lobbying which has done so much to damage people's hope for honest Government in our Capitol.

Throughout last year's campaign, one of President Clinton's central themes was his promise to reform the executive branch by requiring his political appointees to pledge never to work for foreign governments. The country responded by electing him President. Yesterday, in his inaugural speech, President Clinton stated:

> To renew America, we must revitalize our democracy.
>
> This capital, like every capital since the dawn of civilization, is often a place of intrigue and calculation. Powerful people maneuver for position and worry endlessly about who is in and who is out, who is up and who is down, forgetting those people whose toil and sweat sends us here and pays our way.
>
> Americans deserve better, and in this city today, there are people who want to do better. And so I say to all of us here, let us resolve to reform our politics, so that power and privilege no longer shout down the voice of the people. Let us put aside personal advantage so that we can feel the pain and see the promise of America.
>
> Let us resolve to make our government a place for what Franklin Roosevelt called "bold, persistent experimentation," a government for our tomorrows, not our yesterdays.
>
> Let us give this Capitol back to the people whom it belongs.

President Clinton backed these words with action by signing his executive order on lobbing restrictions as one of his first official actions as President. And while he continues to do his part by requiring antilobbying pledges from his Cabinet members and other top appointees, those restrictions cannot be a fully effective means of government reform unless they extend to Congress. In addition, to ensure that these restrictions are permanent and will continue after this President leaves office, they must be enacted into law. The bill I am introducing would do just that.

Today, I call upon Congress to help President Clinton in his reform efforts and to help itself by restoring the faith of the American people in government. Congress can answer this challenge by supporting the legislation I introduce today. The Ethics in Government Reform Act of 1993 codifies President Clinton's lobbying restrictions on executive branch appointees and extends those same restrictions to the Congress.

This legislation would mandate that executive branch appointees who are paid at or above Executive Schedule V would not be allowed to lobby their former agencies for 5 years after leaving office. It would also require that Executive Office of the President appointees abide by the aforementioned restrictions as well as refrain from lobbying for 2 years any other top appointees in the executive branch or independent agencies. The aforementioned political appointees and trade negotiators are also banned from ever becoming registered agents for any foreign government or political party.

In extending these same provisions to Congress, this legislation bans Members of Congress from lobbing committees on which they served for 5 years after the end of their tenure. Congressmen also may not lobby any Member of Congress or their staff members for 2 years after leaving office. These same measures apply to congressional staff who are paid at or above Executive Schedule V. As with appointees to the executive branch, there would be a lifetime ban on Members of Congress in the representation of or political parties.

These lobbying restrictions are stringent. Some may even call them harsh and claim that they discourage people from seeking government service. To those people I say, Heaven help our democracy if we cannot find people willing to serve their country through government service without the promise of future personal gains.

The American people have spoken, and they expect a new attitude in government—an attitude which puts the common person first and removes the special interests, lobbyists, and politics of personal gain from holding sway over our Nation's Capitol. In demanding lobbying restrictions, the American people have proven they have a voice. As their elected representatives, we must not ignore that voice. My hope is that the people will keep the pressure on us until we act and hold us accountable if we do not measure up.

I hope my colleagues will study this bill closely because there will be a chance to vote on this legislation this year. I can assure my colleagues that, if it does not come to the floor in bill form, it will be offered by me as an amendment to major legislation on the floor, and it will be offered again and again until meaningful reform is enacted. As one Senator, I will make sure there are many opportunities to cast recorded votes on this issue so that the people can hold us accountable. This issue will not go away. Because we will be casting recorded votes. I earnestly solicit input from my colleagues on ways in which this legislation can be improved.

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. 36

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Government Reform Act of 1993".

SEC. 2. SPECIAL RULES FOR HIGHLY PAID EXECUTIVE APPOINTEES AND MEMBERS OF CONGRESS AND HIGHLY PAID CONGRESSIONAL EMPLOYEES.

(a) IN GENERAL.—

(1) APPEARANCES BEFORE AGENCY.— Section 207(d) of title 18, United States Code, is amended by adding at the end thereof the following:

"(3) RESTRICTIONS ON POLITICAL APPOINTEES.—(A) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who—

"(i) serves in the position of Vice President of the United States; or

"(ii) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule,

and who, after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency in which such person served within 5 years before such termination, during a period beginning on the termination of service or employment as such officer or employee and ending 5 years after the termination of service in the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

"(B) In addition to the restrictions set forth in subsections (a), (b), and (c) and paragraph (1) of this subsection, any person who is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule, and who—

"(i) after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of a department or agency with respect to which the person had substantial personal responsibility within 5 years before such termination, during a period beginning on the termination of service or employment as such employee and ending 5 years after the termination of substantial personal responsibility with respect to the department or agency, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency; or

"(ii) within 2 years after the termination of his or her service or employment as such employee, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2)(B) on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by the person described in paragraph (2)(B),

shall be punished as provided in section 216 of this title.".

(2) FOREIGN AGENTS.—Section 207(f) of title 18, United States Code, is amended by—

(A) redesignating paragraph (2) as paragraph (3);

(B) adding after paragraph (1) the following:

"(2) SPECIAL RESTRICTIONS.—Any person who—

"(A) serves in the position of Vice President of the United States;

"(B) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule;

"(C) is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule; or

"(D) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule,

and who after such service or employment acts as an agent of a foreign government or foreign political party shall be punished as provided in section 216 of this title.".

(3) TRADE NEGOTIATORS.—Section 207(b)(1) of title 18, United States Code, is amended by—

(A) inserting "(A)" after "IN GENERAL.—"; and

(B) adding at the end thereof the following:

"(B) For any person who—

"(i) is employed in a position subject to Presidential appointment in the executive branch of the United States (including any independent agency) at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule;

"(ii) is employed in a position in the Executive Office of the President at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule; or

"(iii) is a Member of Congress or employed in a position by the Congress at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule,

the restricted period after service referred to in subparagraph (A) shall be permanent.".

(4) CONGRESS.—Section 207(e) of title 18, United States Code, is amended—

(A) in paragraph (1)(A) by striking "within 1 year" and inserting "within 2 years";

(B) in paragraph (1) by adding at the end thereof the following:

"(D) Any person who is a Member of Congress and who, within 5 years after leaving the position, knowingly makes, with intent to influence, any communication to or appearance before any committee member or a staff member of any committee over which the Member had jurisdiction, on behalf of any other person (except the United States) in connection with any matter on which such former Member seeks action by the committee member or a staff member of the committee in his or her official capacity, shall be punished as provided in section 216 of this title.";

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

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

"(6) HIGHLY PAID STAFFERS.—For any person described in paragraph (2), (3), (4), or (5), employed in a position at a rate of pay equal to or greater than the rate of pay payable for level V of the Executive Schedule—

"(A) the restriction provided in paragraph (1)(A) shall apply; and

"(B) the restricted period after termination in paragraph (2), (3), (4), or (5), applicable to such person shall be 5 years.".

(b) PENALTIES.—

(1) FUTURE LOBBYING.—Section 216 of title 18, United States Code, is amended by adding at the end thereof the following:

"(d) In addition to the penalties provided in subsections (a), (b), and (c), the punishment for violations of section 207 may include a prohibition on lobbying the United States for a period of not to exceed 5 years for each violation.".

(2) USE OF PROFITS.—Section 216(b) of title 18, United States Code, is amended by adding after the first sentence the following: "Any amount of compensation recovered pursuant to the preceding sentence for a violation of section 207 shall be deposited in the general fund of the Treasury to reduce the deficit.".

SEC. 3. EFFECTIVE DATE.

The restrictions contained in section 207 of title 18, United States Code, as added by section 2 of this Act—

(1) shall apply only to persons whose service as officers or employees of the Government, or as Members of Congress terminates on or after the date of the enactment of this Act; and

(2) in the case of officers, employees, and Members of Congress described in section 207(b)(1)(B) of title 18, United States Code (as added by section 2 of this Act), shall apply only with respect to participation in trade negotiations or treaty negotiations, and with respect to access to information, occurring on or after such date of enactment.

By Mr. THURMOND:

S. 38. A bill to reform procedures for collateral review of criminal judgments, and for other purposes; to the Committee on the Judiciary.

REFORM OF INTERVENTION IN STATE PROCEEDINGS ACT

Mr. THURMOND. Mr. President, the bill I am introducing today would reform Federal habeas corpus and collateral attack procedures. This legislation will minimize Federal judicial interference with State criminal convictions and deal with common abuses typical of habeas prisoner petitions. The Senate passed a bill identical to the one I am introducing by a vote of 67 to 9 several years ago. In fact, the habeas corpus proposal which passed the Senate as an amendment to the Senate crime bill by a vote of 58 to 40 was based in large part on this legislative proposal. This legislation is identical to S. 148 which I introduced last Congress.

This bill proposes amendments to various sections of chapter 153 of title 28 of the United States Code, and a related rule of appellate procedure. Its objectives are to establish a more appropriate scope and function for Federal habeas corpus for State prisoners, accord more appropriate weight to State procedures in criminal adjudication, improve the efficiency of habeas corpus litigation and appellate review of such litigation, and effect certain corresponding improvements in the operation of collateral remedies for Federal prisoners. The proposed amendments would change the operation of Federal collateral remedies in several respects.

First, the proposed amendments would preclude granting relief with respect to matters that have been fully and fairly adjudicated in State proceedings. This important change would enhance the finality of State criminal adjudications and avoid duplicative

litigation of claims that have already been adequately considered and decided.

Second, the proposed amendments would generally bar the consideration of claims that have not been properly raised in State proceedings, provided the State has afforded the petitioner an opportunity, consistent with the requirements of Federal law, to raise his claims in the State proceedings.

Third, the proposed amendments would establish a 1 year limitation period for the filing of habeas corpus petitions by State prisoners, which would generally run from the time the prisoner exhausts his State remedies. This limitation period would bar petitions in cases in which the passage of time has made reliable adjudication of the petitioner's claim, or retrial of the petitioner, difficult or impossible. The limitation period would also advance the policies supporting the finality and repose in criminal adjudication.

Fourth, the proposed legislation would clearly state that a Federal habeas court can deny a petition on the merits without requiring prior exhaustion of State remedies. This would avoid the waste of judicial resources that result when a person presenting a frivolous petition is sent back to the State system to exhaust State remedies.

Fifth, the proposed amendments would vest in the judges of the courts of appeals exclusive authority to issue certificates of probable cause for appeal in habeas corpus proceedings. This would entrust the decision concerning the propriety of an appeal to the judges who are in the best position to determine if there is a realistic likelihood for reversal. It would also avoid duplicative consideration of the suitability of a case for appeal, first by a district judge and then by a circuit judge.

Finally, the proposed amendments would make similar changes in the law governing applications for collateral relief by Federal prisoners pursuant to 28 U.S.C. 2255 in the areas of appeal, procedural default, and time limitation.

Federal habeas corpus and collateral attack procedures are in dire need of reform. This is evidenced by the glut of habeas petitions in the Federal system and by the fact that there are over 2,600 convicted murderers sitting on death row. It is time to change the law and limit these unnecessary, frivolous appeals. Federal habeas corpus law has brought our criminal justice system into disrepute. We must pass meaningful habeas corpus reform. The Senate should consider true, tough legislation to resolve this problem.

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

S. 38

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reform of Federal Intervention in State Proceedings Act of 1993".

SEC. 2. Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) When a person in custody pursuant to the judgment of a State court fails to raise a claim in State proceedings at the time or in the manner required by State rules of procedure, the claim shall not be entertained in an application for a writ of habeas corpus unless actual prejudice resulted to the applicant from the alleged denial of the Federal right asserted and—

"(1) the failure to raise the claim properly or to have it heard in State proceedings was the result of State action in violation of the Constitution or laws of the United States;

"(2) the Federal right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"(e) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 3. Section 2253 of title 28, United State Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, but the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause.".

SEC. 4. Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND § 2255 PROCEEDINGS

"(a) Application for an Original Writ of Habeas Corpus. An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) Necessity of Certificate of Probable Cause for Appeal. In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges or as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If any appeal is taken by a State or the government or its representative, a certificate of probable cause is not required.".

SEC. 5. Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(a) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the States.";

(b) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence."; and

(c) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings.".

SEC. 6. Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"When a person fails to raise a claim at the time or in the manner required by Federal rules of procedure, the claim shall not be entertained in a motion under this section unless actual prejudice resulted to the movant from the alleged denial of the right asserted and—

"(1) the failure to raise the claim properly, or to have it heard, was the result of governmental action in violation of the Constitution or laws of the United States;

"(2) the right asserted was newly recognized by the Supreme Court subsequent to the procedural default and is retroactively applicable; or

"(3) the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence prior to the procedural default.

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

By Mr. ROTH (for himself, Mr. BAUCUS, Mr. LIEBERMAN, Mr. DURENBERGER, Mr. BRADLEY, Mr. MOYNIHAN, Mr. LEAHY, Mr. SIMON, Mr. BIDEN, Mr. HARKIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. KERRY, Mr. PELL, Mr. LAUTENBERG, Mr. AKAKA, Mr. BRYAN, Mr. WELLSTONE, Mr. JEFFORDS, Ms. MIKULSKI, and Mr. DODD):

S. 39. A bill to amend the National Wildlife Refuge Administration Act; to the Committee on Environment and Public Works.

NATIONAL WILDLIFE REFUGE ADMINISTRATION AMENDMENTS

Mr. ROTH. Mr. President, today I am introducing with 20 of my colleagues legislation that would add the coastal plain of the Arctic National Wildlife Refuge [ANWR] to the national wilderness preservation system. The Arctic refuge covers over 19 million acres, 8 million of which are designated as wilderness. Part of this area, the coastal plain, is one of America's last great wildlife refuges and one of our last unprotected ecosystems. I believe it is as valuable as any of our national parks, such as the Grand Canyon or Yellowstone.

The coastal plain of the Arctic refuge also sits atop what some speculate to be the last undeveloped onshore oil field in North America. Experts have differed about the quantity of oil contained in the Arctic refuge, but one thing is clear, we face a serious decision about whether to open this land for oil exploration and drilling. Do we drill, extracting the oil that can be found? Or do we protect this land from the ravages of drilling? I believe that a vote for this bill is a vote for future generations. The decision we make will reflect our values and determine our future.

People all across this Nation are beginning to understand that environmental decisions are long-term decisions. You don't take your remaining wilderness areas—which comprise only 2 percent of all the land in the United States—to the pawn shop for a quick shot of domestic oil.

Mr. President, mark my words, Arctic oil will not make us energy independent. It will be merely a temporary palliative. I'm no antagonist to energy development. I favor a commonsense approach to our energy needs, and that means looking to a variety of sources. But drilling for oil in the Arctic refuge is neither a common sense, nor an environmentally sound solution. The truth is, Americans can conserve as much energy as we can extract from the Arctic refuge. Let's face it—conservation is a renewable energy source. We can continue to conserve energy far beyond the time when the Arctic refuge would be drained dry of oil. But we cannot, and I emphasize this, we cannot get the Arctic refuge back once we have thrown it away. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 39

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any provisions of the National Wildlife Refuge Administration Act, a portion of the Arctic National Wildlife Refuge in Alaska comprising approximately 1,485,581 acres, as generally depicted on a map entitled "Arctic National Wildlife—1002 Area. Alternative E—Wilderness Designation October 28, 1991, and available for inspection in the offices of the Secretary of the Interior, is hereby designated as a component of the National Wilderness Preservation System.

Mr. PELL. Mr. President, I am joining in reintroducing a bill to amend the National Wildlife Refuge Administration Act and increase our protection of the fragile Arctic coastal plain wilderness—one of the world's richest ecosystems.

The Alaska lands bill provides the limited protection that the Arctic wilderness now enjoys. As an original cosponsor of that conservation bill of the century, I wholeheartedly support this measure to strengthen the protection it affords Alaska's wilderness.

I am pleased to join the senior Senator from Delaware [Mr. ROTH], the senior Senator from Montana [Mr. BAUCUS], and many of our colleagues in seeking permanent protection for the Arctic wilderness.

Our legislation would designate the Arctic coastal plain as part of the national wilderness preservation system. It would take one of our country's last great wilderness areas and put it clearly off limits to development interests.

I hope the Senate will take a commonsense approach to the Arctic coastal plain, but I am concerned that we may become embroiled in a highly emotional confrontation between wilderness preservation and energy development interests.

Such a debate is likely to obscure what I consider the most fundamental facts: Our Nation must not risk a globally irreplaceable wilderness for the long odds of finding enough oil reserves for a short-term energy fix.

Exploration for oil is a gamble and, anyone who says otherwise is not to be trusted. We should be particularly careful because the stakes we may be asked to offer are literally priceless and irreplaceable.

Let's look at the odds. The Department of the Interior has estimated there is less than 1 chance in 5 of finding an economically available supply of oil in the Arctic coastal plain.

Such long-shot odds are not justified, especially when we consider the treasure we would be surrendering.

Let's look at what's in the pot. Estimates vary widely, but the mean estimate of the recoverable oil in the Arctic coastal plain is about 3.2 billion barrels. That's about a 6-month supply of oil for the United States.

Let's look at the payoff. Oil industry experts agree it would take 7 years to see the first oil production, if any is found, and as many as 15 years to hit full production.

Let's look again at our stake. The abundance and diversity of wildlife on the Arctic coastal plain, focused in an area only slightly larger than my home State of Rhode Island, makes it one of the richest ecosystems in the world.

As one who is concerned about the need to preserve our wilderness areas in public trust, I think we would be foolish to gamble. Exploring for oil in this priceless wilderness is a sucker's bet.

Others, with the very best of motives, will argue that the risk may not be as great and the payoff may be greater.

I respect their views and understand their desire for energy reserves, but I cannot support them. We must remember the earlier assurances of safety that were exposed to the world as wishful thinking by the *Exxon Valdez.*

Although the glaring headlines of that vast spill have faded into history, the legacy of that tragedy remains. It could have been worse and, along the Arctic coastal plain, such an ecological disaster could be even more devastating.

It is my view that, instead of risking our wilderness heritage and our children's legacy, we must work even harder to foster greater energy efficiency and to encourage the development of innovative, alternative energy sources.

We must never forget our long-range duty to protect our natural heritage and we must never sacrifice that rich heritage in a blind rush for more oil to feed our profligate energy habits.

• Mr. DURENBERGER. Mr. President, I rise to support S. 39, the Arctic National Wildlife Refuge [ANWR] Act. For the third time in as many sessions, I am an original cosponsor of the legislation offered by my colleague from Delaware, Senator ROTH. This bill would designate the Arctic coastal plain wilderness within ANWR, Alaska, as a component of the national wilderness preservation system.

For me, the question of whether the United States should look for oil in ANWR is an easy one to answer for several reasons. First, Mr. President, I believe that the last undisturbed Arctic ecosystem in North America should be preserved in perpetuity so that future generations may learn and benefit from ANWR as ours has.

Second, the best estimates project that even if oil is found in ANWR, it will only provide a temporary supply of petroleum to this country. Then what? The proponents of drilling must realize that such a policy not only places an undue burden on the coastal plain of Alaska, it also perpetuates our continued off-shore interests in the areas of California and Florida, as well as maintains our lack of very important conservation initiatives. I believe that this routine has been, and continues to be, fundamentally against this country's long-term energy and economic needs.

Third, I have very serious reservations concerning the conclusion that development in ANWR could take place in an environmentally benign manner. In the short term, opening the coastal plain would irrevocably destroy that area's pristine wilderness qualities. Moreover, the potential exists for much more severe damage to the region's fish and wildlife. As we have seen, development at Prudhoe Bay has proven to be, in many instances, extremely destructive to that environment, and I refuse to believe that the same thing would not happen at ANWR.

Finally, Mr. President, this country has made only minor commitments to developing alternative and renewable energy resources. Relatively small steps have been taken to develop alternative fuels, and even they have been in the context of clean air—not energy security.

Mr. President, energy conservation is the most crucial factor of an energy policy. For more than a decade, this country's energy policies have been running on empty. As a nation, our modus operandi has been one of unlimited consumption and importation of foreign oil and this all has been underscored with the line of thinking in Congress which has been "Don't do today something that could as easily be done tomorrow."

Well Mr. President, tomorrow has finally come.

These are among the best reasons that I know of to oppose drilling in ANWR. I believe that we all have the responsibility to ourselves, to this country, and to future generations, to work as hard as we can to develop long-term, economically sound, environmentally beneficial energy policies and to conserve oil. This is not occurring nor are we moving in that direction.

Mr. President, I am not willing to live with the ramifications of opening ANWR, and I am heartened that today that we are once again sending a clear signal that we place environmental concerns above shortsighted oil development initiatives.

I am proud to again be an original cosponsor of this important legislation and I urge my colleagues to support it as well. Thank you, Mr. President, and I yield the floor.•

By Mr. THURMOND:

S. 41. A bill granting an extension of patent to the United Daughters of the Confederacy; to the Committee on the Judiciary.

EXTENSION OF PATENT TO THE UNITED DAUGHTERS OF THE CONFEDERACY

Mr. THURMOND. Mr. President, today, I rise to introduce legislation which will extend and renew the design patent for the insignia of the United Daughters of the Confederacy. This design patent was originally issued on November 8, 1998, and has been extended on numerous occasions since then. It was extended in 1926, 1941, 1955, and 1977. In November of last year the patent expired. In order to ensure continued protection for the insignia, Congress must pass this legislation. This is a noncontroversial bill. In fact, it twice passed the Senate by unanimous consent last Congress. Unfortunately, the House failed to act on either measure.

When I first introduced the bill last Congress, it was in response to a request by the president of the United Daughters of the Confederacy, June H. Leake. Mrs. Leake informed me that continued protection of this insignia is vital to her organization.

Mr. President, legislation extended the statutory period for design patents for emblems or badges of patriotic, fraternal, or religious organizations is recognized by Congress as being meritorious and is commonplace. The United Daughters of the Confederacy is the outgrowth of a number of memorial, monument, and Confederate home associations which were organized after the Civil War. It was officially formed in 1890. In fact, I have been informed that the United Daughters of the Confederacy, by way of its consolidation with the auxiliaries of the Confederate Veterans Association, is the oldest patriotic organization in our country. The organization's objectives are noble. Members work to educate others about the Civil War and they work to honor the memory of those who served and those who fell in the service of the Confederate States of America.

Mr. President, it is important that Congress continues to assist and promote patriotic organizations. Passage of this measure will help ensure that the United Daughters of the Confederacy continues to prosper.

For these reasons, I urge my colleagues to support this legislation.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 41

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a certain design patent issued by the United States Patent Office of date November 8, 1898, being patent numbered 28,611, which is the insignia of the United Daughters of the Confederacy, which was renewed and extended for a period of fourteen years by the Act entitled "An Act granting an extension of patent to the United Daughters of the Confederacy", approved November 11, 1977 (Public Law 95-168; 91 Stat. 1349), is hereby renewed and extended for an additional period of fourteen years from and after the date of enactment of this Act, with all the rights and privileges pertaining to the same, being generally known as the insignia of the United Daughters of the Confederacy.

By Mr. HELMS:

S. 43. A bill to amend title X of the Public Health Service Act to permit family planning projects to offer adoption services, and for other purposes; read the first time.

FEDERAL ADOPTION SERVICES ACT

Mr. HELMS. Mr. President, I am today introducing the Federal Adoption Services Act of 1991. This legislation which was originally proposed by our former colleagues from New Hampshire, Mr. Humphrey, would amend title X of the Public Health Services Act to allow family planning services to provide adoption services.

This legislation provides that family planning clinics may offer adoption services based on their understanding of the needs of the community as well as the ability of the individual clinic to provide those services.

As we have discovered during debates on title X, there is excessive attention paid in these programs to the prevention or spacing of pregnancies and the limiting of the size of the American family. But the debate should be about much more. It should be about the affirmation of life. That is why adoption should be a part of family planning—since the benefits are obvious for parents unable to care for children as well as for parents who are unable to have children.

More importantly, adoption is a better alternative than abortion in dealing with an unplanned pregnancy.

Mr. President, more than one-third of the women who use title X services are teenagers. If a young, unmarried teenager finds herself pregnant she may not be aware that adoption is an option.

The employees of the family planning clinic may be as poorly informed as well. The bill I am introducing would change that.

Let me be clear, no woman would be threatened or cajoled into giving up her child for adoption, but she would be allowed to make an informed, compassionate, judgment based on all of her available options.

This legislation is written to provide family planning clinics a new option. It is not my intent to force family planning clinics to provide adoption services which they are unable to offer. This legislation merely makes it clear that Federal policy will allow, and hopefully encourage, the use of adoption as a means of family planning.

Mr. President, adoption was called by a wise man, "the loving option." I have seen the joy that it has brought to my family and to many others. In a world where hundreds of children are murdered each day—some simply because their parents do not like the child's gender—why not give life a chance.

It is the responsibility of government to stand and protect the most innocent among us. Let us take up that responsibility.

I urge my colleagues to support this effort to ensure that adoption does not become a forgotten weapon in the war to protect our children.

I ask unanimous consent that the bill printed in the RECORD at the conclusion of my remarks.

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

S. 43

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Adoption Services Act of 1993".

SEC. 2. ADOPTION SERVICES.

Section 1001(a) of the Public Health Service Act (42 U.S.C. 300(a)) is amended by inserting after the first sentence the following new sentences: "Such projects may also offer adoption services. Any adoption services provided under such projects shall be nondiscriminatory as to race, color, religion, or national origin.".

By Mr. THURMOND:

S. 44. A bill to amend title 18, United States Code, to prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis; to the Committee on the Judiciary.

BANNING CONTINGENCY FEES FOR LOBBYING ACTIVITIES

Mr. THURMOND. Mr. President, today, I am introducing a bill which would prohibit any person who is being compensated for lobbying the Federal Government from being paid on a contingency fee basis. This bill is virtually identical to a bill I introduced during the final months of the 100th Congress. This legislation takes an important step toward ensuring integrity in the administration of the Federal Government.

Congress as a great responsibility to ensure integrity in the administration of the Federal Government in all its departments. This has become even more important now that we have entered the era of the $1 trillion Federal budget. Vast sums of money are appropriated by Congress for various projects and studies. Contracts worth millions of dollars are regularly entered into by Federal agencies. The competition for these funds and contracts is intense.

It is not realistic to assume that Congress can legislate integrity. However, we can, through legislation, make efforts to remove certain incentives to use undue influence and to enter into contracts which are contrary to the fiscal and ethical interests of our Nation. Accordingly, I have introduced this legislation which will prohibit payment for lobbying on a contingency fee basis.

Mr. President, I have heard reports of certain lobbying activities which greatly disturb me. Specifically, I was informed that one lobbyist approached an institution and inquired as to how much Federal money was needed to fund a particular project. When the response was $12 million, the lobbyist responded that he would ask Congress for $14 million. If successful, he would be paid $2 million. If he was unsuccessful, only a base fee would be charged. When our Nation is bridled with such a huge debt, we certainly cannot afford to borrow more money to provide such suspect incentive payments which work to further increase the deficit.

Many lobbying firms do not operate on a contingency fee basis. Yet, other firms follow this practice. The president of the American League of Lobbyists does not oppose charging a contingency fee for lobbying efforts. Hearings on these issues would be very helpful as this legislation moves through Congress. However, even if it is determined that such arrangements are rare—I take the view that even one is too much. Such arrangements are clearly wrong, and should not be tolerated.

I firmly believe that lobbying on a contingency fee basis is wrong and should not be allowed. Congress should follow the lead of most States by enacting this legislation which would prohibit such arrangements.

Mr. President, the question of the propriety of contingency fees in lobbying activities is not a new one. Common law has held such contracts unenforceable for decades. In fact, in 1916, the Supreme Court ruled on the character of such financial arrangements in the case of Crocker versus United States. The Court, quoting from a prior case, stated:

All contracts * * * should be made with those * * * who will execute them most faithfully, and at the least expense to the Government. [Contingency fee arrangements] * * * tend to introduce personal solicitation, and personal influence, as elements in the procurement of contracts; and thus directly lead to inefficiency in the public service, and to unnecessary expenditures of the public funds.

Mr. President, recognizing the improper incentives contingency fees for lobbyists have injected into Government, 35 States have laws on the books which prohibit payment for lobbying on a contingent fee basis. My home State of South Carolina has prohibited this type of lobbying since 1935.

At the Federal level, contingency fee arrangements are addressed to some extent in the executive branch. Two laws covering contracts awarded by the executive departments—41 U.S.C. 254(a) and 10 U.S.C. 2306(b)—restrict the use of "commission, percentage, brokerage or contingent fee" arrangements to secure these contracts. However, the scope of these statutes is deficient in two respects. First, the violation of these provisions carries little penalty. The Government can only annul the contract secured by a contingency fee arrangement, or deduct from the contract the full amount of the contingency fee. They carry no criminal penalties. Second, these statutes only apply to the executive branch and not to activities involving Congress.

Mr. President, the legislation I am introducing would make contingency fee arrangements to influence government action a crime under Federal law. Any person who violates the provisions of this section shall be fined up to $100,000, or imprisoned not more than 5 years, or both.

Moreover, the Attorney General is empowered to bring a civil action to recover twice the proceeds obtained by that person due to such conduct. This act is prospective in nature and would only apply to contracts entered into after enactment.

Lobbyists often provide expertise and helpful information not otherwise available. I want to be clear on this point. This is an important role for lobbyists, but I am opposed to contractual arrangements which impugn the integrity and efficiency of our system. Clearly, a person should be entitled to reasonable fees for legitimate services in presenting officials of the government with information as may apprise them of the character and value of the project or service offered, and thus enable those officers to act for the best interest of the Nation. However, the law has long recognized that contingency fees are not appropriate in some areas while appropriate in others. For instance, contingency fees in tort actions provide the poor with access to the courts and are viewed favorably. In other areas, such as criminal and domestic law, such fees are inappropriate because they introduce improper incentives into the system. Similar principles should apply to contingency fees for lobbying.

Mr. President, I urge my colleagues to support this legislation and I look forward to hearings on this important issue. The public deserves action on the part of Congress.

I ask unanimous consent that this bill be printed in its entirety following these remarks.

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

S. 44

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 11 of title 18, United States Code, is amended by—

(1) inserting between sections 219 and 223, the following new section:

"§ 220. Contingency fees in lobbying

"(a)(1) It shall be unlawful for any person to make, with intent to influence, any oral or written communication on behalf of any other person other than the United States to any department, agency, court, House of Congress, or commission of the United States, for compensation if such compensation has knowingly been made dependent—

"(A) upon any action of Congress, including but not limited to actions of either the House of Representatives or the Senate, or any committee or member thereof, or the passage or defeat of any proposed legislation;

"(B) upon the securing of an award, or upon the denial of an award of a contract or grant by establishment of the Federal Government; or

"(C) upon the securing, or upon the denial, of any Federal financial assistance or any other Federal contract or grant.

"(2) The provisions of paragraph (1) shall not apply in any case involving the collection of any amount owed on a debt or on a contract claim owed to a person by the Federal Government.

"(b) Any person who violates the provisions of this section shall be fined not more than $50,000 or imprisoned not more than two years, or both.

"(c) The Attorney General may bring a civil action in any United States district court, on behalf of the United States, against any person who engages in conduct prohibited by this section in lieu of or in addition to an action taken pursuant to subsection (b), and, upon proof of such conduct by a preponderance of the evidence, may recover twice the amount of any proceeds obtained by that person due to such conduct. Such civil action shall be barred unless the action is commenced within six years after the later of (1) the date on which the prohibited conduct occurred, or (2) the date on which the United States became or reasonably should have become aware that the prohibited conduct had occurred."; and

(2) amending the table of sections by striking out the item between the item relating to section 219 and the item relating to section 224 and inserting in lieu thereof the following:

"220. Contingency fees in lobbying.".

SEC. 2. This Act and the amendments made by this Act shall become effective on the date of enactment of this Act and shall apply to any contract entered into on or after such date of enactment.

By Mr. THURMOND:

S. 45. A bill to establish constitutional procedures for the imposition of the death penalty for terrorist murders and for other purposes; to the Committee on the Judiciary.

PROTECTION AGAINST TERRORISM ACT

Mr. THURMOND. Mr. President, today I rise to introduce a measure which responds to the increased threat of terrorism against the United States and its citizens. This bill would authorize the death penalty for terrorist murders—committed either here in the United States or abroad. The measure also enhances penalties for terrorism in cases where death does not result. In addition, this bill would enhance the Government's ability to remove known terrorist aliens from the United States.

Saddam Hussein, in the first days following Desert Storm, called for the international network of terrorists to strike out against the United States and its people. Congress must respond to this threat. Acts of international terrorism against the citizens of the United States must not be permitted to go unpunished. Terrorism—the heinous, politically motivated acts carried out against the world's innocent—must be brought to an end. We must not allow these vicious murders to hide behind a veil of political struggle and spill innocent American blood without facing severe punishment.

Mr. President, this bill would amend title 18 to authorize a sentence of death for a terrorist murder committed against any person inside the United States or committed against United States nationals outside the United States. In order for the death penalty to be sought, the Attorney General would have to certify that the murder was a terrorist act intended to coerce, intimidate, or retaliate against a Government or a civilian population.

Currently, numerous Federal statutes provide that a sentence of death may be imposed if a person is found guilty. However, the reality is that the death penalty may not be imposed for these offenses because constitutional procedures for imposing such a sentence have not existed. In addition to this bill, I am also introducing a measure which would establish the necessary constitutional procedures for the implementation of a comprehensive Federal death penalty. Although I strongly believe that Congress should pass a comprehensive death penalty measure, the unique situation which confronts this Nation dictates that we move swiftly to pass a terrorism death penalty bill. Congress should ensure that those who respond to Saddam's calls for terrorism pay the ultimate price.

Mr. President, this measure also enhances the penalties for other terrorist acts. For example, the maximum penalty for those who engage in an attempted act of terrorism is increased from 20 to 35 years imprisonment. In addition, if an individual engages in physical violence with the intent to cause serious bodily injury and such injury does result, then that individual will face up to 10 years imprisonment.

Mr. President, according to the Federal Bureau of Investigation, there are numerous known operatives for international terrorist organizations currently residing in the United States. Congress must respond to this threat by ensuring that these individuals pay the ultimate price if they choose to act. Furthermore, Congress should assist the administration in its efforts to remove these aliens from our soil. I have included in this bill a measure which the FBI has requested that will amend current law to facilitate the removal of known terrorists from the United States. Under current law, the Federal Government finds it difficult to remove these terrorists from our country due to cumbersome deportation procedures. Meanwhile, these dangerous individuals are permitted to roam our streets and plan their vicious cowardly acts. This bill also includes a provision requested by the FBI which amends current law to enhance its ability to identify the subscriber to a phone company or other communications facility if he or she has been in contact with a foreign power or agent of a foreign power. In other words, it will facilitate the FBI's ability to learn the identity of individuals who have been in telephone contact with known terrorists.

Mr. President, the FBI has responded well to the threat of terrorism, both domestically and abroad. Congress must strengthen the ability of the FBI to deter terrorist activity. This bill would give those responsible for protecting America from terrorism the tools they need to remove known terrorists—those who have previously committed vicious acts in other countries—from our soil.

In summary, terrorism has plagued the world for many years. Increasingly, the United States has been the focus of such acts. For example, no one can forget the 241 U.S. military servicemen killed in Beirut by a suicide truck bomber in October 1983 or the innocent Americans killed in the December 1988 bombing of Pan Am flight 103 over Scotland. In 1991, a terrorist accidentally detonated a bomb, killing himself, on his way to plant it in a U.S. Government building in Manila. All of these incidents, combined with the Butcher of Baghad's call to terrorism, clearly illustrate the fact that there is, indeed, an increased threat of terrorism against our people.

Mr. President, this bill will send a strong signal to those international terrorist groups that choose to make victims of innocent Americans. That message is, "If you choose to prey upon innocent Americans, you will pay the supreme price—your life." We simply cannot hesitate any longer to ensure that terrorist acts will be dealt with harshly.

In closing, Saddam Hussein has made it clear that he is unmoved by human decency and encourages acts of terrorism. His amoral acts of gassing his own people, dropping Scud missiles on Israeli civilians, and his threats during the Gulf conflict to use American POW's as human shields illustrate his barbarism. Congress must act to deter and punish those who commit terrorism and take the lives of innocent Americans. Those who are known terrorists must not be permitted to lurk among us. Instead, they must be removed from our soil. In addition, those who would commit vicious, brutal acts must pay the ultimate price. We must treat terrorists for what they are—murderers—who should face the death penalty for their heinous crimes.

For these reasons, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 45

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection Against Terrorism Act of 1993".

TITLE I—"TERRORISM DEATH PENALTY ACT OF 1993".

SEC. 101. DEATH PENALTY FOR TERRORIST ACTS.

(a) OFFENSE.—Subsections 2331 (a) through (c) of title 18 of the United States Code are amended to read as follows:

"(a) HOMICIDE.—Whoever kills a person while such person is inside the United States, or kills a national of the United States, while such national is outside the United States, shall—

"(1)(A) if the killing is a first degree murder as defined in section 1111(a) of this title, be punished by death or imprisonment for any term of years or for life, or be fined under this title, or both; and

"(B) if the killing is a murder other than a first degree murder as defined in section 1111(a) of this title, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned;

"(2) if the killing is a voluntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than thirty years, or both; and

"(3) if the killing is an involuntary manslaughter as defined in section 1112(a) of this title, be fined under this title or imprisoned not more than ten years, or both.

"(b) ATTEMPT OR CONSPIRACY WITH RESPECT TO HOMICIDE.—Whoever attempts to kill, or engages in a conspiracy to kill, any human being inside the United States or any national of the United States while such national is outside the United States shall—

"(1) in the case of an attempt to commit a killing that is a murder as defined in this chapter, be fined under this title or imprisoned not more than thirty-five years, or both; and

"(2) in the case of a conspiracy by two or more persons to commit a killing that is a murder as defined in section 1111(a) of this title, if one or more of such persons do any overt act to effect the object of the conspiracy, be fined under this title or imprisoned for any term of years or for life, or both so fined and so imprisoned.

"(c) OTHER CONDUCT.—Whoever engages in physical violence—

"(1) with intent to cause serious bodily injury to a person inside the United States, or a national of the United States while such national is outside the United States; or

"(2) with the result that serious bodily injury is caused to a person inside the United States, or to a national of the United States while such national is outside the United States;

shall be fined under this title or imprisoned not more than ten years, or both".

(b) DEATH PENALTY.—Section 2331 of title 18 of the United States Code, is amended by adding at the end thereof the following:

"(f) DEATH PENALTY PROCEDURES.—

"(1) SENTENCE OF DEATH.—A defendant who has been found guilty of an offense described in subsection (a)(1)(A), if the defendant, as determined beyond a reasonable doubt at a hearing under paragraph 3—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act.

shall be sentenced to death if, after consideration of the factors set forth in paragraph (2) in the course of a hearing held pursuant to paragraph (3) it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than sixteen years of age at the time of the offense.

"(2) FACTORS TO BE CONSIDERED IN DETERMINING WHETHER A SENTENCE OF DEATH IS JUSTIFIED—

"(A) MITIGATING FACTORS.—In determining whether a sentence of death is justified, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(i) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(ii) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(iii) the defendant was an accomplice and participation in the offense was relatively minor.

The jury, or if there is no jury, the court, shall consider whether any other mitigating factor exists.

"(B) AGGRAVATING FACTORS.—In determining whether a sentence of death is justified, the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(i) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(ii) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(iii) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

"(iv) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(v) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(vi) the defendant procured the commission of the offense by payment or promise of payment of anything of pecuniary value;

"(vii) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(viii) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(ix) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(x) the victim was particularly vulnerable due to old age, youth or infirmity, the defendant committed the offense against—

"(I) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(II) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(III) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(iv) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(aa) while he is engaged in the performance of his official duties;

"(bb) because of the performance of his official duties; or

"(cc) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(3) SPECIAL HEARING TO DETERMINE WHETHER A SENTENCE OF DEATH IS JUSTIFIED.—

"(A) NOTICE BY THE GOVERNMENT.—If the attorney for the Government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(i) stating that the Government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the Government will seek the sentence of death; and

"(ii) setting forth the aggravating factor or factors that the Government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(B) HEARING BEFORE A COURT OR JURY.—If the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in paragraph (1), the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(i) before the jury that determined the defendant's guilt;

"(ii) before a jury impaneled for the purpose of the hearing if—

"(I) the defendant was convicted upon a plea of guilty;

"(II) the defendant was convicted after a trial before the court sitting without a jury;

"(III) the jury that determined the defendant's guilt was discharged for good cause; or

"(IV) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(iii) before the court alone, upon the motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (3)(b)(2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(C) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under paragraph (1), no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under paragraph (2). Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(D) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under paragraph (2). The jury must find the existence of an aggravating factor by a unanimous vote although it is unnecessary that there be a unanimous vote on any specific aggravating factor if a majority of the jury finds the existence of such a specific factor. A finding with respect to a mitigating factor may be made by one or more members of the jury and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this section, regardless of the number of jurors who consider that the factor has been established.

"(E) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If an aggravating factor required to be considered under subparagraph (2)(c) is found to exist; the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court shall return a finding as to whether a sentence of death is justified.

"(F) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subparagraph (E), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subparagraph (E), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"(4) IMPOSITION OF A SENTENCE OF DEATH.—Upon a finding under subparagraph (3)(E) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under subparagraph (3)(E) that a sentence of death is not justified, or under subparagraph (3)(E) that no aggravating factor required to be found exsits, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment the court may impose a sentence of life imprisonment without parole.

"(5) REVIEW OF A SENTENCE OF DEATH.—

"(A) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(B) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(i) the evidence submitted during the trial;

"(ii) the information submitted during the sentencing hearing;

"(iii) the procedures employed in the sentencing hearing; and

"(iv) the special findings returned under subparagraph (3)(D).

"(C) DECISION AND DISPOSITION.—

"(i) If the court of appeals determines that—

"(I) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(II) the information supports the special finding of the existence of an aggravating factor required to be considered under paragraph (2); it shall affirm the sentence.

"(ii) In any other case, the court of appeals shall remand the case for reconsideration under paragraph (3).

"(iii) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"(6) IMPLEMENTATION OF A SENTENCE OF DEATH.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"(7) USE OF STATE FACILITIES.—

"(A) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(B) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the em-

ployee. For purposes of this subsection, the term 'participation in execution' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

TITLE II—TERRORIST ALIEN REMOVAL

SEC. 201. This Act may be cited as the "Terrorist Alien Removal Act of 1993".

SEC. 2. The Congress finds that (a) Terrorist groups have been able to create significant infrastructures and cells in the United States among persons who are in the United States either temporarily, as students or in other capacities, or as permanent resident aliens.

(b) International terrorist groups that sponsor these infrastructures were responsible for—

(1) conspiring to bomb the Turkish Honorary Consulate in Philadelphia, Pennsylvania in 1982;

(2) hijacking Trans World Airlines Flight 847 during which a United States Navy diver was murdered in 1985;

(3) hijacking Egypt Air Flight 648 during which three Americans were killed in 1985;

(4) murdering an American citizen aboard the Achille Lauro cruise liner in 1985;

(5) hijacking Pan Am Flight 73 in Karachi, Pakistan, in which forty-four Americans were held hostage and two were killed in 1986;

(6) conspiring to bomb an Air India aircraft in New York City in 1986;

(7) attempting to bomb the Air Canada cargo facility at the Los Angeles International airport in 1986; and

(8) numerous bombings and murders in Northern Ireland over the past decade.

(c) Certain governments and organizations have directed their assets in the United States to take measures in preparation for the commission of terrorist acts in this country.

(d) Present immigration laws have not been used to any significant degree by law enforcement officials to deport alien terrorists because compliance with these laws with respect to such aliens would compromise classified intelligence sources and information. Moreover, appellate procedures routinely afforded aliens following a deportation hearing frequently extend over several years resulting in an inability to remove expeditiously aliens engaging in terrorist activity.

(e) Present immigration laws are inadequate to protect the national security of the United States from terrorist attacks by certain aliens. Therefore, new procedures are needed to remove alien terrorists from the United States and thus reduce the threat that such aliens pose to the national security and other vital interests of the United States.

SEC. 203. (a) Subsection 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)) is amended by adding at the end thereof a new paragraph 21 as follows:

"(21) either prior or subsequent to entry is engaging in or has engaged in terrorist activity.".

(b) Subsection 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended by adding at the end thereof the following new paragraphs:

"(43) The term 'terrorist activity' means any activity which is unlawful under the laws of the place where it is committed, or which, if committed in the United States would have been unlawful under the laws of the United States or of any State and which involves—

"(A) the hijacking of an aircraft, vessel, or vehicle;

"(B) the sabotage of an aircraft, vessel, or vehicle;

"(C) the seizing or detaining and threatening to kill, injure, or continue to detain another person in order to compel a third person or governmental organization to do or abstain from doing any act as an explicit or implicit condition for the release of the person detained or seized;

"(D) a violent attack upon the person or liberty of an 'internationally protected person' as defined in 18 U.S.C. 1116(b)(4);

"(E) the use of any explosive, biological agent, chemical agent, nuclear weapon or device, or firearm with intent to endanger, directly or indirectly, the safety of people or cause substantial damage to property;

"(F) an assassination; or

"(G) any threat, attempt, or conspiracy to do any of the foregoing.

"(44) The term 'engage in a terrorist activity' means to commit an act of terrorist activity or to do an act which the actor knows, or reasonably should know, affords material support to any individual or enterprise in conducting terrorist activity at any time including, but not limited to—

"(A) the preparation and planning of terrorist activity;

"(B) the gathering of intelligence on potential targets for terrorist activity;

"(C) the providing of any type of material support including but not limited to a safe house, transportation, funds, false identification, weapon, or explosive to any individual who the actor knows or has reason to believe has committed or plans to commit an act of terrorist activity;

"(D) the soliciting of funds or other things of value for terrorist activity or for any organization which engages in or which has engaged in terrorist activity; or

"(E) the solicitation of any individual for membership in a terrorist enterprise;

The term does not include lawful speeches, writings, or attendance and participation in peaceful public assemblies; *Provided, however*, That evidence of any speech, writing, or participation in any public assembly may be used to show the actor's awareness of the unlawful methods of an individual or enterprise conducting terrorist activity.

"(45) The term 'individual' means a human being.

"(46) The term 'enterprise' means an organization or government.".

SEC. 204. The Immigration and Nationality Act is amended by adding at the end thereof a new title V as follows:

"TITLE V—REMOVAL OF ALIEN TERRORISTS

"Sec.
"501 (adds 8 U.S.C. §1601). Applicability.
"502 (adds 8 U.S.C. §1602). Special Removal Hearing.
"503 (adds 8 U.S.C. §1603). Designation of Judges.
"504 (adds 8 U.S.C. §1604). Miscellaneous Provisions.

"§ 501. Applicability

"(a) The provisions of this title may be followed in the discretion of the Department of Justice whenever the Department of Justice has information that an alien described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) is subject to deportation because of that paragraph.

"(b) Whenever an official of the Department of Justice files, under section 502, an application with the court established under section 503 for authorization to seek removal pursuant to the provisions of this title, the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title. Except as they are specifically referenced, no other provisions of the Immigration and Nationality Act shall be applicable. An alien subject to removal under these provisions shall have no right of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act or otherwise for national security purposes, nor shall such alien have the right to seek suppression of evidence derived in such manner. Further, the Government is authorized to use, in the removal proceeding, the fruits of electronic surveillance authorized under the Foreign Intelligence Surveillance Act without regard to subsections 106 (c), (e), (f), (g), and (h) of that Act.

"(c) This title is enacted in response to findings of Congress that aliens described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) represent a unique threat to the security of the United States. It is the intention of Congress that such aliens be promptly removed from the United States following—

"(1) a judicial determination of probable cause to believe that a person is such an alien; and

"(2) a judicial determination pursuant to the provisions of this title that an alien is removable on the grounds that he is an alien described in paragraph 21 of subsection 241(a) (8 U.S.C. 1251(a)(21));

and that such aliens not be given a deportation hearing and are ineligible for any discretionary relief from deportation and for relief under subsection 243(h) of the Immigration and Nationality Act.

"§ 502. Special Removal Hearing

"(a) Whenever removal of an alien is sought pursuant to the provisions of this title, a written application upon oath or affirmation shall be submitted in camera and ex parte to the court established under section 503 for an order authorizing such a procedure. Each application shall require the approval of the Attorney General, the Deputy Attorney General, or the Associate Attorney General based upon his finding that it satisfies the criteria and requirements for such application as set forth in this title. Each application shall include—

"(1) the identity of the Department of Justice attorney making the application;

"(2) the approval of the Attorney General, the Deputy Attorney General, or the Associate Attorney General for the making of the application;

"(3) the identity of the alien for whom authorization for the special removal procedure is sought; and

"(4) a statement of facts and circumstances relied on by the Department of Justice to establish that—

"(A) an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) is physically present in the United States, and

"(B) with respect to such alien, adherence to the provisions of title II of this Act regarding the deportation of aliens would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information.

"(b) The application shall be filed under seal with the court established under section 503. The Attorney General may take into custody any alien with respect to whom such an application has been filed and, notwith-

standing any other provision of law, may retain such an alien in custody in accordance with the procedures authorized by this title.

"(c) In accordance with the rules of the court established under section 503, the judge shall consider the application and may consider other information presented under oath or affirmation at an in camera and ex parte hearing on the application. A verbatim record shall be maintained of such a hearing. The application and any other evidence shall be considered by a single judge of that court who shall enter an ex parte order as requested if he finds, on the basis of the facts submitted in the application and any other information provided by the Department of Justice at the in camera and ex parte hearing, there is probable cause to believe that—

"(1) the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)); and

"(2) adherence to the provisions of title II of this Act regarding the deportation of the identified alien would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement or disclose a confidential source of information.

"(d)(1) In any case in which the application for the order is denied, the judge shall prepare a written statement of his reasons for the denial and the Department of Justice may seek a review of the denial by the Court of Appeals for the Federal Circuit by notice of appeal which must be filed within twenty days. In such a case the entire record of the proceeding shall be transmitted to the Court of Appeals under seal and the Court of Appeals shall hear the matter ex parte.

"(2) If the Department of Justice does not seek review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II of this Act as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(3) If the application for the order is denied because the judge has not found probable cause to believe that the alien who is the subject of the application has been correctly identified or is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)) and the Department of Justice seeks review, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II of this Act as an alien subject to deportation, in which case such alien shall be treated in accordance with the provisions of this Act concerning the deportation of aliens simultaneously with the application of this Title.

"(4) If the application for the order is denied because, although the judge found probable cause to believe that the alien who is the subject of the application has been correctly identified and is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)), the judge has found that there is not probable cause to believe that adherence to the provisions of title II of this Act regarding the deportation of the identified alien would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in subsection 3142 (b) and (c)(1)(B)(i)–(xiv) of title 18 that will reasonably assure the appearance of the alien at any future proceeding pursuant to this title and will not endanger the safety of any other person or the community, but if the judge finds no such condition or combination of conditions the alien shall remain in custody until the completion of any appeal authorized by this title. The provisions of sections 3145–3148 of title 18 pertaining to review and appeal of a release or detention order, penalties for failure to appear, penalties for an offense committed while on release, and sanctions for violations of a release condition shall apply to an alien to whom the previous sentence applies and—

"(A) for purposes of section 3145 an appeal shall be taken to the Court of Appeals for the Federal Circuit; and

"(B) for purposes of section 3146 the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

"(e)(1) In any case in which the application for the order authorizing the special procedures of this title is approved, the judge who granted the order shall consider separately each item of evidence the Department of Justice proposes to introduce in camera and ex parte at the special removal hearing. The judge shall authorize the introduction in camera and ex parte of any item of evidence for which the judge determines that the introduction other than in camera and ex parte would tend to harm the national security of the United States, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source of information. With respect to any evidence which the judge authorizes to be introduced in camera and ex parte, the judge shall cause to be prepared and shall sign, and the Department of Justice shall cause to be delivered to the alien, either—

"(A) a written summary which shall be sufficient to inform the alien of the general nature of the evidence that he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)) and to permit the alien to marshal the facts and prepare a defense, but which shall not tend to harm the national security, adversely affect foreign relations, reveal an investigative technique important to efficient law enforcement, or disclose a confidential source; or

"(B) if necessary to prevent serious harm to the national security or death or serious bodily injury to any person, a statement informing the alien that no such summary is possible.

"(2) The Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the Federal Circuit of any determination by the judge pursuant to paragraph (1)—

"(A) concerning whether an item of evidence may be introduced in camera and ex parte;

"(B) concerning the contents of any summary of evidence to be introduced in camera and ex parte prepared pursuant to subparagraph (e)(1)(A); or

"(C) ruling that no summary of evidence to be introduced in camera and ex parte is possible pursuant to subparagraph (e)(1)(B).

In any interlocutory appeal taken pursuant to this paragraph, the entire record, including any proposed order of the judge or summary of evidence, shall be transmitted to the Court of Appeals under seal which shall hear the matter ex parte. The Court of Appeals shall consider the appeal as expeditiously as possible.

"(f) In any case in which the application for the order is approved the special removal hearing authorized by this section shall be conducted for the purpose of determining if the alien to whom the order pertains should be removed from the United States on the grounds that he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)). In accordance with subsection (e), the alien shall be given reasonable notice of the nature of the charges against him. The alien shall be given notice, reasonable under all the circumstances, of the time and place at which the hearing will be held. The hearing shall be held as expeditiously as possible.

"(g) The special removal hearing shall be held before the same judge who granted the order pursuant to subsection (e) unless that judge is deemed unavailable due to illness or disability by the chief judge of the court established pursuant to section 503, or has died. A decision by the chief judge pursuant to the preceding sentence shall not be subject to review by either the alien or the Department of Justice.

"(h) The hearing shall be open to the public. The alien shall have a right to be present as such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent him. Such counsel shall be appointed by the judge pursuant to the plan for furnishing representation for any person financially unable to obtain adequate representation for the district in which the hearing is conducted as provided for in section 3006A of title 18, all provisions of that section shall apply, and for purposes of determining the maximum amount of compensation, the matter shall be treated as if a felony was charged. The alien may be called as a witness by the Department of Justice. The alien shall have a right to introduce evidence on his own behalf. Except as provided in subsection (j), the alien shall have a reasonable opportunity to examine the evidence against him and to cross-examine any witnesses. A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept. The decision of the judge shall be based only on the evidence introduced at the hearing, including evidence introduced under subsection (j).

"(i) At any time prior to the conclusion of the hearing, either the alien or the Department of Justice may request the judge to issue a subpoena for the presence of a named witness (which subpoena may also command the person to whom it is directed to produce books, papers, documents, or other objects designated therein) upon a satisfactory showing that the presence of the witness is necessary for the determination of any material matter. Such a request may be made ex parte except that the judge shall inform the Department of Justice of any request for a subpoena by the alien for a witness or material if compliance with such a subpoena would reveal evidence or the source of evidence which has been introduced, or which the Department of Justice has received permission to introduce, in camera and exparte pursuant to subsection (j), and the Department of Justice shall be given a reasonable opportunity to oppose the issuance of such a subpoena. If an application for a subpoena by the alien also makes a showing that the alien is financially unable to pay for the attendance of a witness so requested, the court may order the costs incurred by the process and the fees of the witness so subpoenaed to be paid for from funds appropriated for the

enforcement of title II of this Act. A subpoena under this subsection may be served anywhere in the United States. A witness subpoenaed under this subsection shall receive the same fees and expenses as a witness subpoenaed in connection with a civil proceeding in a court of the United States. Nothing in this subsection is intended to allow an alien to have access to classified information.

"(j) Evidence which has either been summarized pursuant to subsection (e)(1)(A) or for which no summary has been deemed possible pursuant to subsection (e)(1)(B) shall be introduced (either in writing or through testimony) in camera and ex parte and neither the alien, nor the public shall be informed of such evidence or its source other than through reference to the summary provided pursuant to subsection (e)(1)(A) or to the explanation that no summary could be provided pursuant to subsection (e)(1)(B). Notwithstanding the previous sentence, the Department of Justice may, in its discretion, elect to introduce such evidence in open session.

"(k) Evidence introduced at the hearing, either in open session or in camera and ex parte may, in the discretion of the Department of Justice, include all or part of the information presented under subsections (a) through (c) used to obtain the order for the hearing under this section.

"(l) Following the receipt of evidence, the attorney for the Department of Justice and for the alien shall be given fair opportunity to present argument as to whether the evidence is sufficient to justify the removal of the alien. The attorney for the Department of Justice shall open the argument. The attorney for the alien shall be permitted to reply. The attorney for the Department of Justice shall then be permitted to reply in rebuttal. The judge may allow any part of the argument that refers to evidence received in camera and ex parte to be heard in camera and ex parte.

"(m) The Department of Justice has the burden of showing by clear and convincing evidence that the alien is subject to removal because he is an alien as described in paragraph 21 of subsection 241(a) of this Act (8 U.S.C. 1251(a)(21)). If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed.

"(n)(1) At the time of rendering a decision as to whether the alien shall be removed, the judge shall prepare a written order containing a statement of facts found and conclusions of law. Any portion of the order that would reveal the substance or source of evidence received in camera and ex parte pursuant to subsection (j) shall not be made available to the alien or the public.

"(2) The decision of the judge may be appealed by either the alien or the Department of Justice to the Court of Appeals for the Federal Circuit by notice of appeal which must be filed within twenty days, during which time such order shall not be executed. In any case appealed pursuant to this subsection, the entire record shall be transmitted to the Court of Appeals and information received pursuant to subsection (j), and any portion of the judge's order that would reveal such information or its source, shall be transmitted under seal. The Court of Appeals shall consider the case as expeditiously as possible.

"(3) In an appeal to the Court of Appeals pursuant to either subsections (d) or (e) or this subsection, the Court of Appeals shall review questions of law de novo but a prior finding on any question of fact shall not be set aside unless such finding was clearly erroneous.

"(o) If the judge decides, pursuant to subsection (n), that the alien should not be removed, the alien shall be released from custody unless such alien may be arrested and taken into custody pursuant to title II of this Act as an alien subject to deportation in which case, for purposes of detention, such alien may be treated in accordance with the provisions of this Act concerning the deportation of aliens.

"(p) Following a decision by the Court of Appeals pursuant to either subsection (d) or subsection (n), either the alien or the Department of Justice may petition the Supreme Court for a writ of certiorari. In any such case, any information transmitted to the Court of Appeals under seal shall, if such information is also submitted to the Supreme Court, be transmitted under seal.

"§ 503. Designation of Judges

"(a) The Chief Justice of the United States shall publicly designate five district court judges from five of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all matters and proceedings authorized by section 502. One of the judges so appointed shall be publicly designated as the presiding judge by the Chief Justice. The presiding judge shall promulgate rules to facilitate the functioning of the court and shall be responsible for assigning the consideration of cases to the various judges.

"(b) Proceedings under section 502 shall be conducted as expeditiously as possible. The Chief Justice, in consultation with the Attorney General and other appropriate Federal officials, shall, consistent with the objectives of this title, provide for the maintenance of appropriate security measures for applications for ex parte orders to conduct the special removal hearing authorized by section 502, the orders themselves, evidence received in camera and ex parte, and other matters as necessary to protect information concerning matters before the court from harming the national security of the United States, adversely affecting foreign relations, revealing investigative techniques, or disclosing confidential sources of information.

"(c) Each judge designated under this section shall serve for a term of five years and shall be eligible for redesignation except that the four associate judges first designated under subsection (a) shall be designated for terms of from one to four years so that one term expires each year.

"§ 504. Miscellaneous Provisions

"(a)(1) Following a determination pursuant to this title that an alien shall be removed, and after the conclusion of any judicial review thereof, the Attorney General may retain the alien in custody, or if the alien was released pursuant to subsection 502(o) may return the alien to custody, and shall cause the alien to be transported to any country which the alien shall designate provided such designation does not, in the Attorney General's judgment, impair any treaty (including a treaty pertaining to extradition) obligation of the United States or otherwise adversely affect the foreign policy of the United States.

"(2) If the alien refuses to chose a country to which he wishes to be transported, or if the Attorney General determines that removal of the alien to a selected country would impair a treaty obligation or adversely affect foreign policy, the Attorney General shall cause the alien to be transported to any country willing to receive such alien.

"(3) Before an alien is transported out of the United States pursuant to paragraph (1) or (2) or pursuant to an order of exclusion because such alien is excludable under paragraph 34 of subsection 212(a) of this Act (8 U.S.C. 1182(a)(34)), he or she shall be photographed and fingerprinted, and shall be advised of the provisions of subsection 276(b) of this Act (8 U.S.C. 1326(b)).

"(4) If no country is willing to receive such an alien, the Attorney General may, notwithstanding any other provision of law, retain the alien in custody. The Attorney General shall make periodic efforts to reach agreement with other countries to accept such an alien and shall submit a written report on his efforts to obtain such an agreement to the alien at least every six months. Any alien in custody pursuant to this subsection shall be released from custody solely at the discretion of the Attorney General and subject to such conditions as the Attorney General shall deem appropriate. The actions of the Attorney General pursuant to this subsection shall not be subject to judicial review, including application for a writ of habeas corpus except for a claim that his rights under the Constitution are being violated by continued detention. Jurisdiction over any such challenge shall lie exclusively in the Court of Appeals for the Federal Circuit.

"(b)(1) Notwithstanding the provisions of subsection (a), the Attorney General may hold in abeyance the removal of an alien who has been ordered removed pursuant to this title to allow the trial of such alien on any federal or State criminal charge and the service of any sentence of confinement resulting from such a trial.

"(2) Pending the commencement of any service of a sentence of confinement, by an alien described in paragraph (1), such an alien shall remain in the custody of the Attorney General, unless the Attorney General determines that temporary release of the alien to the custody of State authorities for confinement in a State facility is appropriate and would not endanger national security or public safety.

"(3) Following the completion of a sentence of confinement by an alien described in paragraph (1) or following the completion of State criminal proceedings which do not result in a sentence of confinement of an alien released to the custody of State authorities pursuant to paragraph (2), such an alien shall be returned to the custody of the Attorney General who shall proceed to carry out the provisions of subsection (a) concerning removal of the alien.

"(c) For the purposes of sections 751 and 752 of title 18, an alien in the custody of the Attorney General pursuant to this title shall be considered as being committed to the custody of the Attorney General by virtue of an arrest on a charge of felony.

"(d)(1) An alien in the custody of the Attorney General pursuant to this title shall be given reasonable opportunities to communicate with and receive visits from members of his or her family, and to contact, retain, and communicate with an attorney.

"(2) An alien in the custody of the Attorney General pursuant to this title shall have the right to contact an appropriate diplomatic or consular official of the alien's country, or an official of any country providing representation services for that country. The Attorney General shall notify the appropriate embassy of the alien's detention.".

SEC. 205. Subsection 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended by adding at the end thereof a new paragraph 34 as follows:

"(34) Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe are engaging in, have engaged in, or probably would, after entry, engage in terrorist activity.".

SEC. 206. (a) Subsection 235(c) if the Immigration and Nationality Act (8 U.S.C. 1225(c)) is amended by striking out "or (29)" and inserting in lieu thereof "(29), or (34)".

(b) Section 106(b) (8 U.S.C. 1105a(b)) of the Immigration and Nationality Act is amended by adding at the end thereof the following sentence: "Jurisdiction to review an order entered pursuant to the provisions of section 235(c) of this Act concerning an alien excludable under paragraph 34 of subsection 212(a) (8 U.S.C. 1182(a)) shall rest exclusively in the United States Court of Appeals for the Federal Circuit.".

SEC. 207. Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by inserting "(a)" before the phrase "Any alien who" at the beginning thereof and by adding a new subsection (b) as follows:

"(b) Any alien who has been excluded from the United States pursuant to subsection 235(c) of the Immigration and Nationality Act (8 U.S.C. 1225(c)) because such alien was excludable under paragraph 34 of subsection 212(a) of said Act (8 U.S.C. 1182(a)(34)) or has been removed from the United States pursuant to the provisions of title V of the Immigration and Nationality Act and who thereafter, without the permission of the Attorney General, enters the United States or attempts to do so shall be imprisoned for a period of ten years which sentence shall not run concurrently with any other sentence and fined in accordance with the provisions of title 18, United States Code.".

SEC. 208. Subsection 106(a) (8 U.S.C. 1105a(a)) of the Immigration and Nationality Act is amended by—

(1) striking from the end of paragraph 8 "; and" and inserting a period; and

(2) striking paragraph (9).

TITLE III—COUNTERINTELLIGENCE ACCESS TO TELEPHONE TOLL AND TRANSACTIONAL RECORDS

SEC. 301. Section 2709 of title 18 of the United States Code is amended by—

(1) striking out subsections (b) and (c); and

(2) inserting the following new subsections (b) and (c)

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may:

"(1) request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity about whom information is sought or pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801); and

"(2) request subscriber information regarding a person or entity if the Director certifies in writing to the wire or electronic communications service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) that information available to the Federal Bureau of Investigation indicates there is reason to believe that communication facilities registered in the name of the person or entity have been used; through the services of such provider, in communication with a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).".

"(c) PENALTY FOR DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information under this section. Violators of this section shall be subject to penalty under section 3571 of this title.".

By Mr. THURMOND:

S. 46. A bill to provide that a justice or judge convicted of a felony shall be suspended from office without pay; to the Committee on the Judiciary.

SUSPENSION OF CONVICTED JUDGES FROM OFFICE WITHOUT PAY

Mr. THURMOND. Mr. President, today I am introducing legislation which provides that a justice or judge convicted of a felony shall be suspended from office without pay pending the disposition of impeachment proceedings.

I believe that the citizens of the United States will agree that those who have been convicted of felonies should not be allowed to continue to occupy positions of trust and responsibility in our Government. Nevertheless, under current constitutional law it is possible for judges to continue to receive a salary and to still sit on the bench and hear cases even after being convicted of a felony. If they are unwilling to resign, the only method which may be used to remove them from the Federal payroll is impeachment.

Currently, the Congress has the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. Even when a court has already found an official guilty of a serious crime, Congress must then essentially retry the official before he or she can be removed from the Federal payroll. The impeachment process is typically very time consuming and can occupy a great deal of the resources of Congress.

Mr. President, one way to solve this problem would be to amend the Constitution. Today, I am also introducing a Senate resolution providing for forfeiture of office by Government officials and judges convicted of felonies. While I believe that a constitutional amendment may be the best solution to the problem, I am also introducing this statutory remedy to address the current situation.

This legislation will provide that a judge convicted of a felony shall be suspended from office without pay pending the disposition of impeachment proceedings. The framers of the Constitution could not have intended convicted felons to continue to serve on the bench and to receive compensation once they have violated the law and the trust of the people.

Mr. President, I urge my colleagues to carefully consider this legislation and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

S. 46

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of title 28, United States Code, is amended by—

(1) inserting "(a)" before "Whenever the";

(2) adding at the end thereof the following:

"(b) Justices of Supreme Court shall hold office during good behavior.

"(c) For purposes of the tenure or appointment of a justice, 'good behavior' shall not include any offense committed by a justice if the conviction of such offense is punishable by death or imprisonment for a term exceeding one year. Any justice so convicted shall be suspended from office without pay pending the disposition of impeachment proceedings.

SEC. 2. Sections 44(b) and 134(a) of title 28, United States Code, are each amended by adding at the end thereof the following: "For purposes of the tenure or appointment of a judge, 'good behavior' shall not include any offense committed by a judge if the conviction of such offense is punishable by death or imprisonment for a term exceeding one year. Any judge so convicted shall be suspended from office without pay pending the disposition of impeachment proceedings.".

By Mr. THURMOND:

S. 47. A bill to amend title 28, United States Code, to provide special habeas corpus procedures in capital cases; to the Committee on the Judiciary.

SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

Mr. THURMOND. Mr. President, I rise today to introduce the legislative recommendations of the Ad Hoc Committee on Federal Habeas Corpus in Capital Cases chaired by former Associate Supreme Court Justice Lewis Powell. This committee, commonly referred to as the Powell committee, was formed by Chief Justice William Rehnquist in June 1988. The Powell committee was charged with inquiring into the "necessity and desirability of legislation directed toward avoiding delay and the lack of finality" in capital cases in which the prisoner had or had been offered counsel. Pursuant to the Chief Justice's request, the Powell committee has made its recommendations and has proposed a legislative remedy to the problem of habeas corpus review in capital cases. It is these recommendations I introduce today. While I have introduced and fought for tougher reform than that recommended by the Powell committee, it is necessary that this bill be introduced so that their recommendations may be considered.

This Nation is facing a crisis in its criminal justice system. Federal ha-

beas corpus and collateral attack procedures are in dire need of reform. This is evidenced by the glut of habeas petitions in the Federal system. The large increases in the number of habeas corpus filings, many of which are frivolous and used as a delaying tactic, require that legislation be enacted to address this problem.

Habeas petitions have grown by vast numbers in recent years. The problem of these numerous filings is compounded by the extraordinary delay in habeas corpus filings. The result is a criminal justice system which is overburdened with piecemeal and repetitious litigation and years of delay between sentencing and a final judicial resolution of the criminal matter.

Mr. President, I would like to discuss a particular case which exemplifies the problem of habeas corpus abuse. In February 1979, Ronald Woomer went on an 8 hour crime spree in South Carolina. By the time he was finished, four people were murdered. Woomer, who had never disputed his guilt, was convicted of murder and sentenced to death that summer. It took over 11 years for his execution to be carried out. His case went to the Supreme Court of the United States four times. The Woomer case is a prime example of the obstruction of justice and inordinate delay surrounding these habeas corpus cases.

Mr. President, it is appropriate that the Powell committee recommendation be before the Senate for consideration. This legislation I am introducing today proposes new statutory procedures for Federal habeas corpus review of capital sentences. The Powell committee proposal is aimed at achieving the following goal: Capital cases should be subject to one complete and fair course of collateral review in the State and Federal system, free from the time pressure of impending execution, and with the assistance of competent counsel for the defendant. Once this appropriate, fair review is completed, the criminal process should be brought to a conclusion.

This proposal allows a State to bring capital litigation by its prisoners within the new statute by providing competent counsel for inmates on State collateral review. Participation in the new procedures is optional with the States. This legislation also provides for a 6-month period within which a Federal habeas petition must be filed. This 6-month period begins to run on the appointment of counsel for the prisoner and is tolled during the pendency of all State court proceedings. In addition, this legislation provides for an automatic stay of execution, which is to remain in place until Federal habeas proceedings are completed. This provision ensures that habeas claims not be considered by a court under the time pressure of an impending execution.

In summary, this proposal attempts to balance the need for finality in death penalty cases with the requirement that a defendant have a fair examination of his claims. Thereafter, if the conviction and sentence are found to be appropriate, judicial proceedings will be at an end, absent any exceptional developments in the defendants case.

In closing, we cannot continue to delay action on legislation to correct the growing problem in habeas corpus cases. Criminal cases must be brought to a close. Endless consideration of issues that have no merit in criminal cases and are filed only for purposes of delay must be eliminated from our judicial system. The principles of justice, upon which our criminal system is based, demands that we take action to address the habeas problem.

For these reasons I urge my colleagues to carefully consider this measure.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD immediately following my remarks.

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

S. 47

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

SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

(a) Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State post-conviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State to have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation, and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record—

"(1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner—

"(A) is indigent and has accepted the offer; or

"(B) is unable competently to decide whether to accept or reject the offer;

"(2) finding, after a hearing, if necessary, that the prisoner has rejected the offer of counsel and made the decision with an understanding of its legal consequences; or

"(3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral post-conviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This subsection shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order pursuant to section 2256(c) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application must recite that the State has invoked the post-conviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title; or

"(2) upon completion of district court and court of appeals review under section 2254 of this title, the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title, in the presence of counsel and after having been advised of the consequences of making the waiver.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter

shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact that the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"(a) Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 180 days after the filing in the appropriate State court of record of an order issued in compliance with section 2256(c) of this title. The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) subject to subsection (b), during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction; and

"(3) during an additional period not to exceed 60 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 180-day period established by this section.

"(b)(1) The time requirement established by subsection (a) shall be continuously tolled under paragraph (2) of that subsection from the date the State prisoner initially files for post-conviction review until the date of final disposition of the case by the highest court of the State so long as all State filing rules are timely met.

"(2) Tolling shall not occur under subsection (a)(2) during the pendency of a petition for certiorari before the Supreme Court following State post-conviction review.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) When a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall—

"(1) determine the sufficiency of the evidentiary record for habeas corpus review based on the claims actually presented and litigated in the State courts, unless the prisoner shows that the failure to raise or develop a claim in the State courts—

"(A) was the result of State action in violation of the Constitution or laws of the United States;

"(B) was the result of a recognition by the Supreme Court of a new Federal right that is retroactively applicable; or

"(C) is due to the fact that the claim is based on facts that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State post-conviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the merits of the claims properly before it.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.".

By Mr. HELMS:

S. 48. A bill to protect the lives of unborn human beings, and for other purposes; read the first time.

UNBORN CHILDREN'S CIVIL RIGHTS ACT

Mr. HELMS. Mr. President, I am again introducing a bill which I have introduced in the three prior Congresses. It is entitled the Unborn Children's Civil Rights Act. If enacted, this bill would take a first step in overcoming the Roe versus Wade decision.

Specifically, this bill would accomplish four things.

First, it would put Congress clearly on record as finding that abortion takes the life of an unborn child, that the Constitution sanctions no right to abortion and that Roe versus Wade was erroneously decided.

Second, it would prohibit congressional appropriations from being used to pay for or to promote abortion. In this regard, it permanently defunds abortion, thereby relieving Congress of annual fights over abortion restrictions in appropriations bills.

Third, it would end certain indirect funding for abortion by prohibiting discrimination, at federally funded institutions, against individuals who object in conscience to abortion and by curtailing attorneys' fees in abortion-related cases.

Fourth, it would provide for appeals to the Supreme Court as a right if a Federal court declares State restrictions on abortion unconstitutional. As a practical matter, this provision will assure Supreme Court reconsideration of the abortion issue in the future.

Mr. President, there's the old adage, "Those who cannot remember the past are condemned to repeat it." All of us have heard those words, but many in our Government have refused to heed them. Only 45 years after hundreds of thousands of European Jews and other civilians died at the hands of Hitler's Nazis, we have forgotten the critical lesson of that atrocity—that all human life is sacred regardless of color, race, religion, or physical, or mental capabilities of that human being.

We are today reliving the Holocaust. We know it by a different name. It is call abortion. Yet, the same fate that was met by millions of Jews is being met by millions of unborn children right here in this country. At latest count, over 22 million unborn children—the most innocent of human life—have been murdered.

Abortion has become a tool of convenience, Mr. President. We have slipped so far down the slippery slope that now children are being aborted because they do not have the desired hair color, sex, physical attributes, or mental capabilities. The same excuses for murdering countless Jews are now being used to justify the murder of the most innocent and helpless members of humanity.

Mr. President, Roe versus Wade was, simply put, an unconstitutional decision. It has no foundation whatsoever in the text or history of the Constitution. It was invented out of whole cloth. As Justice White said in his dissent, Roe was an exercise in raw judicial power.

How has it endured for 17 long years? Why do we permit some 4,000 unborn babies to perish every day through legalized abortion?

The answer is woefully simple, Mr. President. Even though Roe versus Wade is an unconstitutional decision, Congress has been unwilling to right the wrong—to exercise its powers to check and balance a usurping Supreme Court which has destroyed the right to life of the most defenseless among us. The powers exist, but Congress has nonetheless permitted Roe to stand because many Members of Congress are apparently committed to legalized abortion. These Members share the same antihistorical, secularized, liberal view of law and public order as the activist justices who gave us Roe versus Wade in the first place.

In their view—with which I disagree—the Ten Commandments are not the eternal rules of Almighty God and the source of authority for human law, but the transitory precepts of a bygone age in need of periodic updating by wiser heads here on Earth. Of course, human nature being what it is, there is never any shortage of wiser heads.

Mr. President, for these reasons, Roe versus Wade still stands and the holocaust continues. It is not the Constitution or our system of government which is at fault. Ample means exist within them, even apart from a constitutional amendment, to overturn Roe. The fault, on the part of Members of Congress, lies in a failure of intellect to perceive the true nature of abortion and a failure of will to do something about it. These are the ingredients which perpetuate the travesty of Roe versus Wade.

But, Mr. President, this Senator from North Carolina is ever hopeful that, with God's help and human effort, hearts and minds—even in Congress—will change. Enactment of the Unborn Children's Civil Rights Act, certainly would be a step in the right direction. I urge Senators to seek its early enactment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately after my remarks.

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

S. 48

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unborn Children's Civil Rights Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) scientific evidence demonstrates that abortion takes the life of an unborn child who is a living human being;

(2) a right to abortion is not secured by the Constitution; and

(3) in the cases of Roe v. Wade, 410 U.S. 113 (1973) and Doe v. Bolton, 410 U.S. 179 (1973) the Supreme Court erred in not recognizing the humanity of the unborn child and the compelling interest of the States in protecting the life of each person before birth.

SEC. 3. PROHIBITION ON USE OF FUNDS FOR ABORTION.

No funds appropriated by Congress shall be used to take the life of an unborn child, except that such funds may be used only for those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 4. PROHIBITION ON USE OF FUNDS TO ENCOURAGE OR PROMOTE ABORTION.

No funds appropriated by Congress shall be used to promote, encourage, counsel for, refer for, pay for (including travel expenses), or do research on, any procedure to take the life of an unborn child, except that such funds may be used in connection with only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 5. PROHIBITION ON ENTERING INTO CERTAIN INSURANCE CONTRACTS.

Neither the United States, nor any agency or department thereof shall enter into any contract for insurance that provides for payment or reimbursement for any procedure to take the life of an unborn child, except that the United States, or an agency or department thereof may enter into contracts for payment or reimbursement for only those medical procedures required to prevent the death of either the pregnant woman or her unborn child so long as every reasonable effort is made to preserve the life of each.

SEC. 6. LIMITATIONS ON RECIPIENTS OF FEDERAL FUNDS.

No institution, organization, or other entity receiving Federal financial assistance shall—

(1) discriminate against any employee, applicant for employment, student, or applicant for admission as a student on the basis of such person's opposition to procedures to take the life of an unborn child or to counseling for or assisting in such procedures;

(2) require any employee or student to participate, directly or indirectly, in a health insurance program which includes procedures to take the life of an unborn child or which provides counseling or referral for such procedures; or

(3) require any employee or student to participate, directly or indirectly, in procedures to take the life of an unborn child or in counseling, referral, or any other administrative arrangements for such procedures.

SEC. 7. LIMITATION ON CERTAIN ATTORNEY'S FEES.

Notwithstanding any other provision of Federal law, attorneys' fees shall not be allowable in any civil action in Federal court involving, directly or indirectly, a law, ordinance, regulation, or rule prohibiting or restricting procedures to take the life of an unborn child.

SEC. 8. APPEALS OF CERTAIN CASES.

Between the first and second paragraphs of section 1252 of title 28, United States Code, insert the following new paragraph:

"Notwithstanding the absence of the United States as a party, if any State or any subdivision of any State enforces or enacts a law, ordinance, regulation, or rule prohibiting procedures to take the life of an unborn child, and such law, ordinance, regulation, or rule is declared unconstitutional in an interlocutory or final judgment, decree, or order of any court of the United States, any party in such a case may appeal such case to the Supreme Court, notwithstanding any other provision of law.".

By Mr. THURMOND (for himself and Mr. DECONCINI):

S. 49. A bill to establish constitutional procedures for the imposition of the sentence of death; to the Committee on the Judiciary.

FEDERAL DEATH PENALTY ACT

Mr. THURMOND. Mr. President, as the 103d Congress convenes, I am introducing a bill that establishes constitutional procedures for the imposition of the death penalty and provides the death penalty for certain Federal offenses. The death penalty is not a new issue for the Senate. Last Congress, as part of the Biden-Thurmond Violent Crime Control Act of 1991, legislation similar to this measure passed the Senate and passed the House. Yet, the Congress failed to send this tough proposal to the President. The need for a comprehensive Federal death penalty is clear in light of the serious violent crime problem our Nation faces. In 1988, legislation was enacted which provides constitutional procedures for the implementation of the death penalty in limited cases involving certain drug related murders and killing of law enforcement officers.

Regarding constitutional procedures, this bill provides procedures similar to those put in place by the death penalty included in the drug bill. Currently, numerous Federal statutes provide that a sentence of death may be imposed if a person is found guilty. However, the reality is that the death penalty cannot be imposed because constitutional procedures for imposing such a sentence have not existed. The 1972 Supreme Court decision of Furman versus Georgia rendered the Federal death penalty procedures unconstitutional. Subsequently, in a series of landmark decisions handed down in 1976, the Supreme Court determined that the death penalty was constitutional when imposed under certain procedures specifically designed to guard against the jury using its unfettered discretion. The Supreme Court has subsequently handed down numerous decisions clarifying the circumstances and means by which the death penalty may be implemented.

In the past, I have undertaken numerous efforts in the Senate to establish procedures which satisfy the constitutional standards set by the Supreme Court. The bill I am offering today comports with the constitutional requirements outlined by the Supreme Court and establishes the procedures for the imposition of the death penalty for the numerous Federal crimes that currently authorize a sentence of death.

Briefly, I will discuss these procedures. The bill mandates a bifurcated process which the factfinder must follow when determining whether a sentence of death is justified. This process consists of a first hearing to determine the guilt or innocence of the defendant and a second hearing to determine whether the death penalty should be imposed if the defendant is found guilty.

Additionally, this bill requires that in order to seek a sentence of death, the Government must give notice to the defendant within a reasonable time before the trial is initiated. The Government must also identify in that notice the statutory aggravating factors it intends to prove. As well, the sentencing hearing would be held before the same jury which determined the guilt of the defendant, unless the defendant requests and the Government agrees to have the hearing before the trial judge alone.

The factfinder, whether the jury or judge, in its deliberation following the sentencing hearing, would have to make a series of determinations before a sentence of death could be imposed. First, depending upon the crime involved, the factfinder must determine that special threshold requirements exist, such as the defendant intentionally killed the victim or the defendant intentionally engaged in conduct which the defendant knew would create a grave risk of death to a person. If none are found to exist, a sentence other than death would have to be imposed. Second, if the required threshold factors are found to exist, the factfinder would have to make a special finding as to the existence of a statutory aggravating factor presented at the sentencing hearing. All members of the jury must find the existence of at least one aggravating factor, although they need not agree upon the

same one, in order to move onto a final weighing process. If any one member of the jury fails to find the existence of an aggravating factor, a sentence other than death would have to be imposed. Only those aggravating factors found to exist by a majority of the jury may be considered in the final weighing process.

Finally, the deliberation moves to the third step, the final weighing process. Here the jury or judge will weigh all of the aggravating factors against all the mitigating factors to determine whether the aggravating factors sufficiently outweigh the mitigating factors. During this final process, any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of the final weighing as to whether the death penalty should be applied, regardless of the number of jurors who believe the factor has been established. If the jury or judge does in fact determine that the aggravating factors sufficiently outweigh the mitigating factors, a death sentence could then be appropriately imposed.

As well as applying these constitutional procedures to crimes where the death penalty is already authorized, this bill authorizes the death penalty for the following offenses: First, certain attempts to assassinate the President; second, murder by a Federal prisoner serving a life term in a Federal correctional institution; third, hostage taking situations where death results to the hostage, or to a person attempting to rescue a hostage or apprehend the hostage takers; fourth, murder for hire and murder in aid of racketeering activity; and fifth, genocide where death results.

In closing, the death penalty is a familiar issue to the Senate. The last two Congresses have witnessed the Senate and the House each pass comprehensive death penalty proposals only to see them gutted by liberal death penalty opponents during conference. We should not hesitate any longer. The law abiding citizens—the good people of America—demand action and they demand it now. I urge my colleagues to taken action on this bill.

Mr. President, I ask that the full text of this bill be printed in the CONGRESSIONAL RECORD.

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

S. 49

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Death Penalty Act of 1993".

SEC. 2. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(c) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(1) intentionally killed the victim;

"(2) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(3) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(4) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified; provided that no person may be sentenced to death who was less than 16 years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) the defendant's mental capacity was significantly impaired, although the impairment was not such as to constitute a defense to prosecution;

"(2) the defendant was under unusual and substantial duress, although not such duress as would constitute a defense to prosecution; and

"(3) the defendant was an accomplice whose participation in the offense was relatively minor.

The jury, or if there is no jury, the court, shall consider whether any other mitigating factor exists.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the defendant has previously been convicted of another offense involving espionage or treason for which either a sentence of life imprisonment or death was authorized by statute;

"(2) in the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security; and

"(3) in the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591(b) or (c), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) the death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n)) (aircraft piracy);

"(2) the defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute;

"(3) the defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person;

(4) the defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense;

"(5) the defendant committed the offense in an especially heinous, cruel, or depraved manner;

"(6) the defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value;

"(7) the defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value;

"(8) the defendant committed the offense after planning and premeditation to cause the death of a person or commit an act of terrorism;

"(9) the defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance;

"(10) the victim was particularly vulnerable due to old age, youth, or infirmity;

"(11) the defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a

sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise;

"(12) the defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if he is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, he shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the goverment believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposes to prove as justifying a sentence of death.

The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. Any other information relevant to a mitigating or aggravating factor may be presented by either the attorney for the government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return a special finding as to each mitigating and aggravating factor, concerning which information is presented at the hearing, required to be considered under section 3592. The jury must find the existence of an aggravating factor by a unanimous vote, although it is unnecessary that there be a unanimous vote on any specific or aggravating factor if a majority of the jury finds the existence of such a specific factor. A finding with respect to a mitigating factor may be made by one or more members of the jury and any member of the jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this section, regardless of the number of jurors who consider that the factor has been established.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(a), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (b) or (c), an aggravating factor required to be considered under section 3592(c) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether all the aggravating factors found to exist sufficiently outweigh all the mitigating factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall return a finding as to whether a sentence of death is justified.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, national origin, creed, or sex of the defendant. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, national origin, creed, or sex of the defendant was not involved in reaching the juror's individual decision.

"§ 3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Upon a finding under section 3593(e) that a sentence of death is not justified, or under section 3593(d) that no aggravating factor required to be found exists, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of an aggravating factor required to be considered under section 3592;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the latter State in the manner prescribed by such law. A sentence of death shall not be carried out upon a woman while she is pregnant.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

(b) REPEAL.—Sections 3566 and 3567 of title 18, United States Code, are hereby repealed.

(c) AMENDMENTS TO CHAPTER ANALYSIS.—(1) The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence ..... 3591".

(2) The section analysis of chapter 227 of title 18, United States Code, is amended by amending the items relating to sections 3566 and 3567 to read as follows:

"3566. Repealed.
"3567. Repealed.".

SEC. 3. CONFORMING CHANGES IN TITLE 18.

(a) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(b) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence of cryptographic information; or any other major weapons system or major element of defense strategy.".

(c) EXPLOSIVE MATERIALS.—(1) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(2) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(3) Section 844(i) of title 18, United States Code, is amended by striking the words "as provided in section 34 of this title".

(d) MURDER.—(1) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(2) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(e) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(f) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(g) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

(h) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(i) BANK ROBBERY.—Section 2113(e) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(j) HOSTAGE TAKING. Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(k) RACKETEERING.—(1) Section 1952A(a) of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(2) Section 1952B(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(l) GENOCIDE.—Section 1091(b)(1) of title 18, United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, a fine of not more than $1,000,000, or imprisonment for life or a sentence of death.".

SEC. 4. CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1473), is amended by striking subsection (c).

SEC. 5. CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by striking subsections (g) through (r).

SEC. 6. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 7. MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of parole.

"(b) For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murders' means committing first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

By Mr. WARNER (for himself, Mr. ROBB, Mr. GRAMM, and Mr. DANFORTH):

S. 50. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson; to the Committee on Banking, Housing, and Urban Affairs.

JEFFERSON COMMEMORATIVE COIN ACT OF 1993

• Mr. WARNER. Mr. President, I rise today to introduce legislation to authorize the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of Thomas Jefferson.

Last Congress, I introduced legislation to authorize the creation of a Federal commission to assist in the planning of the celebration commemorating Jefferson's birth. This bill was signed into law by President Bush on August 17, 1992. The Jefferson Commemorative Coin Act of 1993 will serve as an accompaniment to this effort.

Passage of this bill would allow citizens the opportunity to honor Thomas Jefferson by purchasing a commemorative coin, the design of which will be emblematic of a Jefferson profile and frontal view of his home, Monticello.

It is important to realize the continued great popularity of Jefferson and Monticello not only in our country but throughout the world. In the past 3 years alone, Monticello has been visited by 10 heads of state. As the President of Bulgaria, stated "Jefferson is the father of the democratic movement." And of course just this past Sunday, President Clinton began his trip to Washington with a visit and tour of Monticello.

The proceeds from the sale of the coin would be dedicated to the restoration and preservation of Jefferson's homes at both Monticello and Poplar Forest, and for the educational programs of the International Center for Jefferson Studies. Poplar Forest, located in Bedford, VA, is one of the two homes designed and built by Jefferson for his own use. Privately owned since Jefferson created it, Poplar Forest became endangered in 1984. The nonprofit Corporation for Jefferson's Poplar Forest was created after a small group of private citizens raised adequate funds to purchase the threatened landmark. The Corporation is now endeavoring to raise additional funds to restore and maintain the home. The sales from this commemorative coin would greatly aid in the mission to restore Poplar Forest to its former glory.

The International Center for Jefferson Studies is planned as a hub of scholarship and teaching in all areas that were of interest to Thomas Jefferson during his extraordinary life, including architecture, archaeology, horticulture, law, and political philosophy. The center will be a permanent expression of the commemorative celebrations of 1993—celebrations designed to promulgate his legacy both nationally and internationally.

I believe no other American is more deserving of being honored with a commemorative coin than Thomas Jefferson: the third President of the United States, Vice President to John Adams; the first Secretary of State; Commissioner to France; author of the Declaration of Independence, Governor of Virginia; and author of the preamble to the Virginia Constitution for Religious Freedom.

I respectfully ask each of my colleagues to cosponsor this worthwhile legislation.●

By Mr. FEINGOLD:

S. 51. A bill to consolidate overseas broadcasting services of the U.S. Government, and for other purposes; to the Committee on Foreign Relations.

OVERSEAS BROADCASTING CONSOLIDATION AND DEFICIT REDUCTION ACT

● Mr. FEINGOLD. Mr. President, I am today introducing S. 51, the Overseas Broadcasting Consolidation and Deficit Reduction Act, legislation designed to bring about a consolidation of certain overseas broadcasting activities funded by the United States and termination of several overseas broadcasting projects.

This legislation is based upon a proposal for reducing Federal expenditures in overseas broadcasting services which was outlined by the Congressional Budget Office in its February 1992 report on options for reducing the Federal deficit. Several of the provisions in this measure were also recommended by a nonpartisan commission, the U.S. Advisory Commission on Public Diplomacy, in a report released in August 1992, calling for major changes in U.S. international broadcasting.

The Overseas Broadcasting Consolidation and Deficit Reduction Act, as I will discuss in detail in a moment, does three things: First, it provides for the consolidation of United States overseas broadcasting activities now conducted through two separate agencies, the independent Board for International Broadcasting which administers Radio Free Europe and Radio Liberty, and the Bureau of Broadcasting within the U.S. Information Agency [USIA] which oversees the operation of the Voice of America and various television broadcasting services funded by the Federal Government; second, it terminates authority for USIA to operate two television services, WORLDNET and TV Marti; and third, it provides for termination of further expenditures on a radio transmitting facility in Israel.

The purpose of this measure is simple. The United States cannot afford to continue to operate its overseas broadcasting services without regard to the fiscal constraint facing this Nation. Just as every American family must review its annual expenditures to determine where savings can be achieved, Congress must do the same. The changes I am proposing were estimated by the Congressional Budget Office to save the American taxpayers approximately $1 billion over the next 5 years. They are also changes which experts have recommended should be done to reflect the changing political environment throughout the world and the reduced need for separate broadcasting services in Eastern Europe and the former Soviet Union. Duplication and overlapping services that might have somehow been justifiable in the past simply cannot be sustained in light of today's fiscal and political realities.

CONSOLIDATION OF BROADCASTING SERVICES

Mr. President, I want to discuss briefly some of the history behind the overseas broadcasting services currently being funded by the U.S. Government and some of the factors which have increasingly led to recommendations for consolidation and restructuring of these services.

The Voice of America [VOC] is, of course, the principal overseas broadcasting service carrying news and U.S. related information to audiences worldwide. VOA celebrated its 50th anniversary last year of carrying America's voice to the world. VOA currently offers newscasts in 47 languages worldwide with an annual operating budget for fiscal year 1993 of $226 million.

In addition to VOA, the Federal Government has appropriated for 1993 an almost identical amount, $220 million, to operate two radio systems, Radio Free Europe and Radio Liberty. Unlike the VOA which is broadcast worldwide, Radio Free Europe and Radio Liberty are aimed exclusively at Eastern Europe and the former Soviet republics. These two radio services, originally supported by funding through the CIA, were established in 1949 and 1953. They are currently operated out of an independent Federal agency, the Board for International Broadcasting. Nearly $2 million goes annually for the administrative costs of operating the Board for International Broadcasting.

Radio Free Europe and Radio Liberty were originally designed to serve a different function from that of VOA. While VOA transmits news and information from the United States throughout the world, Radio Free Europe and Radio Liberty were established to provide surrogate broadcasting services; that is, providing local news in countries where no domestic free press existed. Both stations, headquartered in Munich, Germany, were designed to transmit behind the Iron Curtain. Both played a tremendous role in providing a critical source of news and information to people in Communist countries and helped set in motion the forces which have changed the course of history.

The leaders of the new democratic governments in Eastern Europe are uniform in their praise, rightly so, of the role that Radio Free Europe and Radio Liberty played in bringing about the dramatic changes in Eastern Europe.

Vaclev Havel noted that Radio Free Europe straightened up the backbone of the trod down and doubting people, it strengthened their national self-consciousness and gave them hope for the future. Lech Walesa, writing to President Bush, said that along with Solidarity, Radio Free Europe "played a vital role in overthrowing communism and creating the democratic system in Poland and the neighboring countries." And nominating them for the Nobel Peace Prize, Estonian Foreign Minister Lennar Meri said that Radio Free Europe/Radio Liberty helped the rebirth of democracy.

But Mr. President, changes has taken place. With the help of Radio Free Europe/Radio Liberty, the Iron Curtain has fallen. The question we must face in 1993 is whether the status quo can be justified given the realities of the world, and Eastern Europe in particular.

The Chicago Tribune, in a September 21, 1992, editorial, observed that it is

difficult to justify the continued operation of these two radio services at a cost of over $200 million per year, as it would be to sustain American troops and weaponry in Europe at the cold war levels. Even a New York Times editorial, published on September 8, 1992, which labeled calls for termination of Radio Free Europe and Radio Liberty as premature, observed that while the stations ought not be abandoned in the next year or two, their payrolls and programming can be trimmed now. I ask unanimous consent that both editorials be printed in the RECORD at the conclusion of my remarks along with a August 8, 1992, editorial from the Boston Globe which also supported a reordering of resources in overseas broadcasting services.

Mr. President, it is clear that just as we are reassessing the need to maintain American military forces in this region of the world, we must reassess in a realistic way the continuing need for three separate radio broadcasting services in Eastern Europe and two administrative agencies in Washington to oversee these services.

That was the unanimous conclusion also reached by the U.S. Advisory Commission on Public Diplomacy in a report it issued last August. This commission concluded that Radio Free Europe and Radio Liberty have served the Nation well, but the duplication of services is no longer justifiable. It recommended an orderly phaseout, not overnight, but beginning now.

Mr. President, the legislation that I am introducing today does not terminate authority to operate Radio Free Europe or Radio Liberty. It simply transfers authority to operate these services into the Bureau of Broadcasting within USIA and abolishes the separate administrative entity, the Board for International Broadcasting, which now costs the U.S. taxpayers some $2 million a year. Whatever arguments there may be for maintaining certain functions provided by these radio services can hardly be made for maintaining a separate administrative structure here in Washington.

Consolidation of planning and programming for all of the federally funded broadcasting services in one central agency makes sense in a number of ways. A recent report by the Congressional Research Service, U.S. International Broadcasting: An Assessment for Reform, noted the frustrations that already exist over the lack of coordination and overall strategy in our activities in this area. For example, in one case described, VOA placed high priority on the construction of a new relay facility in Morocco to improve its short-wave broadcasts into Eastern Europe, while 375 miles away, Radio Free Europe/Liberty was also constructing new transmitters for broadcast into the same Eastern European areas. Moreover, the report noted, while both radio services were increasing their short-wave capacity in Europe, where the short-wave audience is declining, capability in Africa, which has one of the largest short-wave audiences in the world, was declining.

Others have pointed out the need to increase services in Asia, particularly in China. I know that there is strong support for some form of Radio China, and there certainly is a compelling argument to enhance our efforts in that area of the world. Consolidation of radio services in one agency will allow for more realistic allocation of scarce resources, as well as reduce unnecessary expenditures.

Mr. President, in order to facilitate this process, my legislation requires USIA develop a plan for the orderly consolidation of the overseas broadcasting services and phasing out of duplicative and redundant services over a 3-year period. The plan is to be submitted to the appropriate committees of Congress within 9 months of the date of enactment of the legislation. The bill provides for termination of the Board for International Broadcasting and transfer of authority to operate Radio Free Europe/Radio Liberty to the Bureau of Broadcasting within USIA 3 months after submission of this plan. A number of critical issues regarding exactly how these services should be consolidated and how the distinct features of each of the radio services, particularly the research capacities of the surrogate services, will be maintained should be addressed in the development of this plan.

I recognize that there are concerns about the fragile hold that democracy has in Eastern Europe and concerns that termination of these specialized radio services may be premature. But these radio services were not intended to support struggling democracies. They were intended, frankly, to undermine totalitarian regimes that exercised complete control over the flow of information. Those regimes are gone for now and if they reappear, Radio Free Europe and Radio Liberty can be reinvigorated under the auspices of the Voice of America which would continue to operate in Europe under my proposal.

But the status quo of overlapping and redundant broadcasting services cannot continue. We need to begin now to plan carefully for implementation of significant changes in our activities and expenditures in this area.

Mr. President, while there is broad support for reordering our priorities and expenditures in the area of international broadcasting, there are some who will fight strenuously against any changes. I have already heard arguments against any consolidation of broadcasting activities in Europe ranging from concerns about the cost of paying unemployment benefits to foreign nationals working in Munich to claims that maintaining duplicative services is necessary in the event of equipment failures. Some of these arguments may have some merit. Indeed, there is undoubtedly an argument that can be made for every item in the Federal budget and some groups who will argue strenuously to maintain the status quo for every line item.

But the simple reality is that we cannot afford to continue with the status quo. Just as every American family is forced to establish budget priorities, the Federal Government must do the same. Maintaining a duplicative and redundant overseas broadcasting structure is no longer a luxury America can afford.

TERMINATION OF ISRAEL RELAY STATION

Mr. President, let me move to the second part of the Overseas Broadcasting Consolidation and Deficit Reduction Act, the termination of the Israel relay station for Voice of America, Radio Free Europe, and Radio Liberty.

This massive, 16 transmitter, 2,000-acre relay station was originally proposed as a way to overcome jamming in Eastern Europe and the Soviet Union. With the end of the cold war, though, the former Soviet bloc countries no longer jam our radio signals, and the need for such a project has disappeared.

Beyond the price we pay to sustain this cold war dinosaur during a time of enormous budget imbalance, there are other costs as well. As a November 27 1992, article in the New York Times pointed out, environmentalists have argued against the project. Sitting astride one of the major flyways linking Europe and Asia to Africa, the relay station could have a detrimental effect on bird life. Further, because constructing the relay station will necessitate moving an air force training zone to a tract of Negev Desert wilderness, environmentalists fear possible damage to animal and plant life.

The New York Times article also quotes local residents who have concerns about the unknown effects the massive electromagnetic radiation coming from the relay station will have on them, and quotes a former Israeli Government official as saying that neither the Israeli nor American Governments are interested in the project any more, but that it continues to run on bureaucratic inertia.

I ask unanimous consent that the November 27 New York Times article be printed in the RECORD at the conclusion of my remarks.

Mr. President, the U.S. Advisory Commission on Public Diplomacy, in its August 1992 report, recommend that we terminate the Israel relay station. The Commission noted that a less costly, possibly more effective and politically sensitive alternative is now supported by Voice of America. A site in Kuwait has been developed that broadcasts more clearly over water, and will be able to reach Africa and the old So-

viet bloc countries with both shortwave and AM broadcasts, a critical advantage at a time when, according to the Advisory Commission report, shortwave listnership is plummeting.

The Congressional Budget Office similarly identified this relay station as a candidate for termination in its 1992 proposal for cutting back spending in the overseas broadcasting field.

Mr. President, by terminating the troublesome relay station in Israel and pursuing the Kuwait alternative, we save the taxpayers money, let the Voice of America do its job better, and avoid possible damage to the environment. Alone, any of those reasons might be sufficient to terminate the relay station; taken together, they are a compelling justification.

TERMINATION OF WORLDNET AND TV MARTI

Mr. President, let me touch on the final provision of the Overseas Broadcasting Consolidation and Deficit Reduction Act, namely the termination of authority for USIA to operate two television services, WORLDNET and TV Marti. The Federal Government will spend $24 million in fiscal year 1993 for WORLDNET and close to $20 million for TV Marti.

Though the impact on the Federal budget may be smaller than other sections of this act, the elimination of these two television services has a significance more important than the millions of dollars of tax revenue it will save. Terminating these two programs will demonstrate our willingness to end Government programs that are not getting the job done.

And, Mr. President, WORLDNET and TV Marti are not getting the job done.

My good friend and distinguished colleague, the Senator from Pennsylvania [Mr. WOFFORD], has been one of the principal advocates for eliminating WORLDNET, the program conceived as the television network of the U.S. Government. Two years ago, he offered an amendment, which received substantial support, to terminate WORLDNET's authorization. As Senator WOFFORD so forcefully argued, WORLDNET is a costly governmental experiment that has never worked, but has been impossible to eliminate.

WORLDNET has neither viewers to receive our Government's message, nor, apparently, willing and enthusiastic messengers to deliver it.

In response to the obviously inflated claims of total WORLDNET viewers, Congress mandated an independent survey that revealed fewer than one actual viewer for every 100 claimed. In some areas, the survey failed to unearth even a single viewer during certain time slots.

But the apathy of the viewership is matched by those who are responsible for articulating official U.S. policy. As Senator WOFFORD noted in July 1991 during the floor debate on his amendment to eliminate WORLDNET, then Secretary of State James A. Baker III had failed to appear on the Government network, and instead chose to speak to the rest of the world on CNN and other private television networks when he wanted to communicate our Government's policy. Though Baker has since appeared on WORLDNET, his perfunctory appearance does not alter the clear preference State Department officials and others have exhibited for CNN and other networks over WORLDNET.

This preference is reasonable. People watch CNN; they do not watch WORLDNET.

Mr. President, we should be reasonable as well and eliminate this ineffective program.

Mr. President, let us also put an end to TV Marti.

TV Marti was intended to broadcast news, commentary, and other information into Cuba to promote the cause of freedom. That noble mission has been thwarted in part because of the fragile nature of the broadcasting systems, in part because of restrictions imposed by international broadcasting law, and in part by Castro's jamming of TV Marti programming.

That the Cuban dictator feels compelled to block this programming exposes the underlying weakness of his rule. However, as the GAO observed, U.S. diplomats in Havana reported that the jamming of TV Marti has effectively limited viewership to between 50,000 and 70,000.

Beyond Castro's mischief, TV Marti is seriously limited by bad weather. On at least one occasion, the giant blimp that reflects the beamed television signal into Cuba has broken loose of its tether. A spokesman for TV Marti was quoted in the January 18, 1991, edition of the Washington Post conceding that bad weather prevents TV Marti's transmitter from operating about 20 percent of the time. No firm I know could do business if they were down 1 day in every 5. Certainly no radio or television operation could hope to develop a loyal following under such conditions.

I ask unanimous consent that the January 18, 1991, edition of the Washington Post article be printed in the RECORD at the conclusion of my remarks.

Mr. President, many others with far more experience in the field of international broadcasting have called for an end to TV Marti. In their December 1991 report, the President's Task Force on U.S. Government International Broadcasting called for the termination of TV Marti unless its hours of transmission could be expanded and improved—unlikely given the Castro regime's actions. The United States Advisory Commission on Public Diplomacy, in its report released in August 1992, also recommended that TV Marti be terminated, noting that unlike Radio Marti with its significant Cuban audience, its television cousin was simply not cost-effective.

Mr. President, the goal of opening up communications with the people of Cuba is commendable, but let us pursue more productive alternatives. In a February 1990 editorial, the Chicago Tribune listed several, including working toward a television news program exchange and facilitating computer and fax links. There are certainly others.

Let us pursue those more cost-effective approaches rather than blindly adhering to an expensive program that has failed to accomplish the mission for which it was created.

CONCLUSION

Mr. President, during my campaign for the Senate, I presented an 82-point plan for deficit reduction, based upon options such as those outlined by the Congressional Budget Office in its February 1992 report to Congress on ways to cut the Federal deficit. Many of those proposals involve relatively small annual reductions. In the case of the overseas broadcasting, the savings amount to several hundred million dollars per year—a tiny amount in a trillion dollar budget. But over a 5-year period, these changes would result in roughly $1 billion in savings to the Federal taxpayers.

If we are going to reduce the Federal deficit, we must begin now. My introduction of this measure today as the first bill I have introduced in the U.S. Senate is part of my commitment to work steadily to achieve significant deficit reduction. Enactment of this bill will allow us to eliminate duplicative and redundant services and make more effective use of scarce resources. I plan to work hard to achieve these goals in this and other areas of the Federal budget.

I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks.

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

S. 51

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Overseas Broadcasting Consolidation and Deficit Reduction Act of 1993".

TITLE I—REDUCTION IN GOVERNMENT-FUNDED RADIO AND TELEVISION BROADCASTING OVERSEAS

SEC. 101. PROHIBITION ON USE OF FUNDS FOR ISRAEL RADIO TRANSMITTER FACILITY.

None of the funds appropriated or otherwise made available under any provision of law may be used for the design, construction, or operation of a radio transmitter facility in Israel.

SEC. 102. TERMINATION OF USIA TELEVISION MARTI PROGRAM.

(a) REPEAL.—Part D of title II of the Foreign Relations Authorization Act, Fiscal

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Years 1990 and 1991 (Public Law 101-246), relating to television broadcasting to Cuba, is repealed.

(b) CONFORMING AMENDMENTS.—Section 5 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465c) is amended—

(1) in subsection (a), by striking "Advisory Board for Cuba Broadcasting" and inserting "Advisory Board for Radio Broadcasting to Cuba";

(2) in subsection (b), by striking "the Television Broadcasting to Cuba Act"; and

(3) by amending subsection (d) to read as follows:

"(d) The head of the Cuba Service shall serve, ex officio, as a member of the Board.".

(c) REFERENCES.—A reference in any provision of law to the "Advisory Board for Cuba Broadcasting" shall be considered to be a reference to the "Advisory Board for Radio Broadcasting to Cuba".

SEC. 103. TERMINATION OF AUTHORITY OF USIA SATELLITE AND TELEVISION.

(a) REPEAL.—Section 505 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1464a) is repealed.

(b) CONFORMING AMENDMENT.—Section 506 of such Act is redesignated as section 505 of such Act.

TITLE II—TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS

SEC. 201. DEFINITIONS.

For purposes of this title, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(3) the term "transferee agency" means the United States Information Agency (acting through the Bureau for Broadcasting); and

(4) the term "transferor agency" means the Board for International Broadcasting.

SEC. 202. TRANSFER OF FUNCTIONS.

There are transferred to the transferee agency all functions which the head of the transferor agency exercised before the effective date of this title (including all related functions of any officer or employee of the transferor agency).

SEC. 203. DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.

If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under section 202.

SEC. 204. PERSONNEL PROVISIONS.

(a) APPOINTMENTS.—The head of the transferee agency may appoint and fix the compensation of such officers and employees as may be necessary to carry out the respective functions transferred under this title. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the civil service laws and their compensation fixed in accordance with title 5, United States Code.

(b) EXPERTS AND CONSULTANTS.—The head of the transferee agency may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, and compensate such experts and consultants for each day (including traveltime) at rates not in excess of the rate of pay for level IV of the Executive Schedule under section 5315 of such title. The head of the transferee agency may pay experts and consultants who are serving away from their homes or regular place of business travel expenses and per diem in lieu of subsistence at rates authorized by sections 5702 and 5703 of such title for persons in Government service employed intermittently.

SEC. 205. DELEGATION AND ASSIGNMENT.

Except where otherwise expressly prohibited by law or otherwise provided by this title, the head of the transferee agency may delegate any of the functions transferred to the head of the transferee agency by this title and any function transferred or granted to such head of the transferee agency after the effective date of this title to such officers and employees of the transferee agency as the head of the transferee agency may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the head of the transferee agency under this section or under any other provision of this title shall relieve such head of the transferee agency of responsibility for the administration of such functions.

SEC. 206. REORGANIZATION.

The head of the transferee agency is authorized to allocate or reallocate any function transferred under section 202 among the officers of the transferee agency, and to establish, consolidate, alter, or discontinue such organizational entities in the transferee agency as may be necessary or appropriate.

SEC. 207. RULES.

The head of the transferee agency is authorized to prescribe, in accordance with the provisions of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the head of the transferee agency determines necessary or appropriate to administer and manage the functions of the transferee agency.

SEC. 208. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

Except as otherwise provided in this title, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this title, subject to section 1531 of title 31, United States Code, shall be transferred to the transferee agency. Unexpended funds transferred pursuant to this section shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 209. INCIDENTAL TRANSFERS.

The Director of the Office of Management and Budget, at such time or times as the Director shall provide, is authorized to make such determinations as may be necessary with regard to the functions transferred by this title, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this title. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this title and for such further measures and dispositions as may be necessary to effectuate the purposes of this title.

SEC. 210. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this title, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this title.

(b) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this title, any person who, on the day preceding the effective date of this title, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the transferee agency to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

SEC. 211. SAVINGS PROVISIONS.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this title, and

(2) which are in effect at the time this title takes effect, or were final before the effective date of this title and are to become effective on or after the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the head of the transferee agency or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this title shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the transferor agency at the time this title takes effect, with respect to functions transferred by this title but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this title had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this title had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this title shall not affect suits commenced before the effective date of this title, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this title had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the transferor agency, or by or against any individual in the official capacity of such individual as an officer of the transferor agency, shall abate by reason of the enactment of this title.

(e) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the transferor agency relating to a function transferred under this title may be continued by the transferee agency with the same effect as if this title had not been enacted.

SEC. 212. SEPARABILITY.

If a provision of this title or its application to any person or circumstance is held invalid, neither the remainder of this title nor the application of the provision to other persons or circumstances shall be affected.

SEC. 213. TRANSITION.

The head of the transferee agency is authorized to utilize—

(1) the services of such officers, employees, and other personnel of the transferor agency with respect to functions transferred to the transferee agency by this title; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this title.

SEC. 214. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the head of the transferor agency with regard to functions transferred under section 202, shall be deemed to refer to the head of the transferee agency; and

(2) the transferor agency with regard to functions transferred under section 202, shall be deemed to refer to the transferee agency.

SEC. 215. DEVELOPMENT OF CONSOLIDATION PLAN.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the United States Information Agency, after consultation with the appropriate congressional committees, shall submit to those committees a plan for the consolidation of the functions transferred under section 202 with the existing broadcasting activities carried out by the Bureau for Broadcasting.

(b) CONTENTS OF PLAN.—Such plan shall include—

(1) a proposal for the reduction of broadcasting activities by RFE/RL, Inc., during the 36-month period which begins on the date of submission of the plan; and

(2) any recommendations for legislative changes as may be necessary.

SEC. 216. REPEAL.

The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871 et seq.) is repealed.

SEC. 217. EFFECTIVE DATE.

This title shall take effect 12 months after its date of enactment.●

[From the Chicago Tribune, Sept. 21, 1992]

RADIO FREE EUROPE'S JOB IS DONE

A bright idea can become a feeble one when it has outlived its usefulness. The Cold War broadcasting system known as Radio Free Europe/Radio Liberty is becoming just such an anachronism, and it's time for Congress to start programming a signoff.

The U.S.-operated network, which beams to nations of eastern Europe and the former Soviet Union in their native languages, kept hope and news of freedom alive during the postwar decades of communist rule. The radio operations won a share of the credit when the Iron Curtain finally fell.

Now, however, it is as difficult to justify their continued operation, which this year cost U.S. taxpayers $207 million, as it would be to sustain American troops and weaponry at Cold War levels.

The shortwave radio broadcasts compete increasingly with independent homegrown and international media, with more popular technologies such as television and AM-FM radio, and with the United States' own Voice of America, which offers newscasts in 47 languages worldwide on its own $210 million budget.

A presidential commission has twice recommended the phaseout of Radio Free Europe and Radio Liberty, as well as an end to the absurdly unproductive TV Marti broadcasts to Cuba. Congress has yet to listen.

Of course, these decisions are being rendered in the arena of politics, and practical considerations are not much in play. Rather, Congress has ordered new VOA broadcasts that even the agency deems unnecessary, and it is now considering a "Radio Free China/Radio Free Asia" that would duplicate VOA service.

There are several reasons to scale back on overseas broadcasts. The first is, obviously, the end of the Cold War and the necessary examination of the relevance and cost of the forces that once helped to fight it.

Also, with a new political landscape and the development of independent media in ex-communist countries, credibility is a vital issue for the U.S. voice abroad. Such credibility would be enhanced by consolidating broadcasts under the VOA umbrella. That's because the VOA's charter allows it at least a degree of independence, while Radio Free Europe has often been used as a propaganda device. And while Radio Free Europe has put more emphasis on targeted "local" news to east European nations, there's no reason why VOA can't take on more of this role.

Still, the most wasteful use of government broadcast dollars has to be TV Marti, which spends $25 million to broadcast to Cuba for two hours in the middle of the night. TV Marti has few viewers and has only prompted Fidel Castro to jam the more effective broadcasts of its less costly radio equivalent.

The United States can offer a vital example to the emerging independent media of newly free nations. This role is not served by propping up outdated propaganda machines.

[From the Boston Globe, Aug. 6, 1992]

SIGN-OFF FOR COLD WAR RELICS

With communism in Eastern Europe going the way of the dodo, it makes little sense to continue US subsidies for Radio Free Europe and Radio Liberty, those warhorses of the '50s. An advisory committee has wisely recommended that they be scrapped, along with the silly effort to relay TV broadcasts to Cuba, and that the money be invested in improving the Voice of America.

A foreign broadcast service is a worthwhile investment for the United States because of its involvement in all regions of the world. But since the fall of the Soviet Union, the $207 million for special stations aimed exclusively at Eastern Europe has been wasted. Voice of America, which broadcasts all over the world, needs the extra funds to respond quickly to new demands for service. Congress recently ordered it to broadcast in Kurdish, Croatian and Tibetan, for a total of 47 languages.

Malcolm Forbes Jr., chairman of the board that supervises Radio Free Europe, says, "No other media organization in the world provides these countries with as much information." Perhaps this is true, but in a fast-changing world, why should Romania or Poland get special consideration over Burma or Zaire?

As for TV Marti, it transmits its telecasts to Cuba from 3 a.m. to 6 a.m., hardly prime time, especially when so much of the island is crippled by electricity blackouts. The chief function of the service is to enrage Fidel Castro, who must keep irregular hours. Better to invest the $25 million in additional radio broadcasts to Cuba at more convenient times of day.

The advisory committee also recommended against inauguration of a special service to China equivalent to Radio Free Europe—a proposal that is gaining support in Congress. There is no need to annoy the Beijing leadership, which can be just as touchy as Castro, when beefed-up service by the Voice of America will do just as well.

[From the New York Times, Sept. 8, 1992]

WHY RUSH TO SILENCE DEMOCRACY?

Fifty years ago, the U.S. became a global radio power. "This is a voice speaking from America," promised the Voice of America's first broadcast in February 1942. "The news may be good or bad—we shall tell you the truth."

The V.O.A., originating in Washington and operated by the U.S. Information Agency, now broadcasts in 47 languages. Along the way, it helped spawn Radio Free Europe and Radio Liberty. These are administratively distinct "surrogate stations" based in Munich and covering Eastern Europe and the former Soviet republics.

But does America still need a global radio voice now that global cold wars are over? A bipartisan commission created by Congress offers a provocative answer: Phase out the Munich stations and cut back the V.O.A. language services. The proposal rests on the argument that radio programming has less impact than television, which should claim budgetary priority.

With the fall of the Soviet empire, that may seem a sensible conclusion. But it's dangerously premature. New forms of tyranny and violence provide strong arguments for using all these voices, at least for a while.

For one thing, television is easily jammed, as Cuba has shown in blocking TV Marti, the Florida-based station established three years ago by the U.S.I.A. The Advisory Commission on Public Diplomacy would shut TV Marti because it is "not cost-effective"—unlike nine-year-old Radio Marti, which the report praises. Elsewhere, however, the commission feels the future lies with TV satellite transmissions and imported TV crews.

This markedly underrates the reach and influence of radio. Foreign broadcasts can bring stunned people together in times of crisis. For example, Boris Yeltsin's statements on Radio Liberty helped rally public opposition to the attempted coup in Moscow last year.

Even so, some argue that the Munich services can be safely abandoned as long as the V.O.A. remains on the job. The argument overlooks two important points.

The first is that the Voice provides world coverage, while Radio Free Europe and Radio Liberty report local news within the listeners' own country. The two stations have spent years developing sources and archives for close-in coverage that the Voice simply does not attempt.

The second point is that democracy's victory is not yet final, despite the collapse of the Iron Curtain. For example, Vladimir Meciar, the separatist leader in Slovakia, now threatens to silence broadcasts and muzzle publications he judges as hostile. There is still no independent press in post-liberation Afghanistan, which Radio Liberty serves.

In these circumstances, a skilled external news operation can give post-Communist na-

tions a yardstick for judging their own press. Emotional issues like anti-Semitism and minority rights are often treated more fully in Munich than by local media. That is the routine justification for the stations; in extraordinary circumstances—wars, coups—their silence could be calamitous.

Radio Free Europe and Radio Liberty could, of course, be eliminated eventually, when press freedom is accepted from the Baltics to the Balkans. Payrolls and programming can be trimmed now.

But the stations ought not to be abandoned in the next year or two, as the Public Diplomacy Commission seems to feel. Leaders like Mr. Meciar, of course, wouldn't mind at all if they were. But leaders in Congress would do well to ignore the too-hasty recommendations in this too-simple report and keep these Voices alive.

[From the Washington Post, Jan. 18, 1991]

TV MARTI OFF THE AIR AFTER BLIMP BREAKS LOOSE

(By Laura Parker)

MIAMI, January 17.—TV Marti, the controversial government-funded television station that beams baseball, films, soap operas and news from the United States to Cuba, has been blown off the air—not by Fidel Castro but by gusting winds.

The broadcasts stopped early Wednesday after the Air Force blimp containing TV Marti's transmitter broke loose from its tether over the Florida Keys and drifted into the Everglades.

Officials are trying to determine how best to extract the deflated blimp and its cargo of high-technology equipment from a dense mangrove forest at the southwest edge of Everglades National Park.

The broadcasts to Cuba began last March amid congressional criticism that TV Marti was an unnecessary expense, that its equipment frequently would be out of commission because of bad weather and that jamming by the Cuban government would prevent many Cubans from receiving the broadcasts.

Backers argued that TV Marti, named for Cuban patriot Jose Marti, and its sister station, Radio Marti, were essential to ensure a free flow of information about the United States to Cuban citizens. But critics maintained that Cubans already could tune into various radio and television programs originating on Caribbean islands.

This week, the Air Force blimp, known as "Fat Albert," broke free from its tether off Cudhoe Key as it was being lowered from maintenance, according to a spokesman at TV Marti's Washington headquarters. Normally, the blimp is raised to 10,000 feet to transmit broadcasts 100 miles to Cuba.

"TV Marti had just gone off the air for the day," said Joe O'Connell, the spokesman. "The balloon began to drift toward the Everglades National Park."

Officials chased Fat Albert to a southwestern corner of the park by helicopter and deflated it so it could be lowered.

O'Connell said it appears that sophisticated electronic equipment in the blimp was not seriously damaged and that TV Marti may be back on the air soon. He said bad weather prevents TV Marti's transmitter from operating about 20 percent of the time.

TV Marti went on the air as a $7.5 million experiment last March 27. In August, based on the results of four months of test broadcasts, President Bush signed legislation making TV Marti permanent. It is funded at $16 million for 1991.

The General Accounting Office criticized two surveys that estimated viewership at between 1 million and 7 million Cubans. The GAO observed that U.S. diplomats in Havana reported that TV Marti was effectively jammed and estimated viewership at between 50,000 and 70,000.

[From the New York Times, Nov. 27, 1992]

LOUD "NO" TO VOICE IN THE WILDERNESS

(By Joel Greenberg)

HATZEVA, ISRAEL.—When evening settles over the desolate Arava valley, Yaacov Ravitz savors the lingering sunset as it casts a rosy glow over the desert. The last thing he wants is a forest of radio antennas looming over the silent wilderness.

"I don't need a giant monster spewing radiation near my house," said Mr. Ravitz, who grows fruits and vegetables in this moshav, an agricultural collective, in the Negev.

The giant in question is a bitterly debated project of the United States Government for a 2,000-acre relay station for the Voice of America, Radio Free Europe and Radio Liberty.

The dispute began a few years ago, focusing on environmental concerns like loss of wilderness areas, possibly harmful radiation and the effect on migrating birds. But it has taken on new dimensions since the collapse of the Soviet empire.

REMEMBER THE COLD WAR?

To opponents like Mr. Ravitz, the station is another cold-war dinosaur. It was conceived during the Reagan Administration to overcome jamming of shortwave broadcasts to Eastern Europe and the Soviet Union. Now that the jamming has stopped, there is no need for the station, say its opponents, who include at least half the members of Parliament. They hope to prevail under the Clinton Administration.

Supporters argue that even in the post-cold-war era, it would be an important service to broadcast messages of democracy to former Soviet republics in central Asia, to Iran and to other Islamic countries.

Environmental risks are minimal, they say, adding that the project would create jobs and strengthen the Israeli-American alliance. Prime Minister Yitzhak Rabin has pressed for speedy construction.

Although the United States and Israel signed an agreement in 1987 to build the $300 million station, Israeli planned authorities have yet to give their required approval and Congress still has a final say.

But efforts to promote the project have run into stiff resistance.

Among other things, the station would require the relocation of an air force training zone to a large tract of Negev wilderness. Environmentalists say the shift would harm animal and plant life.

"Eighty percent of the Negev is already taken up by army firing zones," said Yoav Sagi, chairman of the Society for the Protection of Nature in Israel. "Israel is one of the most densely populated countries in the world, and we have to leave some breathing room."

Another issue is electromagnetic radiation. Planners say the expected levels meet strict international safety standards. But residents are troubled by studies that suggest a link between certain types of radiation and cancer, especially in children.

BIRDS CAN'T BE BOUGHT

"The data isn't unequivocal, but it's still a relatively new area of research, the way smoking and asbestos were years ago," said Mr. Ravitz, the farmer. "I'm not prepared to be a guinea pig."

Local residents have rejected a United States offer of $11 million for local development. They are also left cold by arguments that the project would create jobs, noting that fewer than 200 people would be employed once construction was finished.

Then there are the birds, the 150 million of them that migrate each year through the Arava valley along one of the major flyways linking Europe and Asia to Africa.

A study commissioned by the Government found that the station would cause the birds little harm, but environmental groups say that many could collide with the station's towers and antenna grids.

Yossi Leshem, an ornithologist and executive director of the nature society, warns of potentially "irreversible damage" to bird populations that could also be affected by heat radiation and electromagnetic waves.

WHO, EXACTLY, WANTS IT?

As objections pile up in Israel, doubts have also surfaced in Washington. In August, a Presidential commission recommended that the station be scrapped and the funds switched to other broadcasting needs, like a V.O.A. relay station in Kuwait.

Uri Marinov, until recently director-general of the Environment Ministry, says that the project is running on bureaucratic inertia.

"Israelis said, 'We don't want it but the Americans do,'" Mr. Marinov recalled. "Americans said, 'We're not interested but the Israelis are,' Someone has to get up and say we don't need it. The emperor has no clothes."

By Mr. FEINGOLD:

S. 52. A bill to amend the Public Health Service Act to establish a program to provide information and technical assistance and incentive grants to encourage the development of services that facilitate the return to home and community of individuals awaiting discharge from hospitals or acute care facilities who require long-term care, and for other purposes; to the Committee on Labor and Human Resources.

HOSPITAL TO HOME- AND COMMUNITY-CARE LINKAGE DEVELOPMENT AND INCENTIVE GRANT PROGRAM

• Mr. FEINGOLD. Mr. President, today I am introducing S. 52, the Hospital to Home- and Community-Care Linkage Development and Incentive Grant Program, legislation designed to establish, enhance, and expand on efforts, already developed in some communities, to discharge individuals, needing managed long-term care, from hospitals and other acute care facilities directly back to their homes and other community-based settings.

Mr. President, our country is facing a health care crisis. Although there is disagreement on precisely how we should proceed, with over 35 million Americans lacking health care coverage, and the cost of care exploding, the need for comprehensive acute care reform is widely acknowledged.

What must be more clearly recognized, however, is the critical need for long-term care reform at the national level.

Although it is true that some health care reform proposals include long-term care reform, others leave the matter largely untouched. Such ne-

glect will prove to be a serious error as long-term care reform must be part and parcel of reform of the entire health care system.

The demographic imperatives of health care are most strikingly felt in the area of long-term care. The elderly are the fastest growing segment of the population, and those over age 85—individuals most in need of long-term care—are the fastest growing segment of the elderly. Failure to reform our current long-term care system will mean a growing population of long-term care consumers served by a shrinking set of alternatives, all of them increasingly costly.

Mr. President, it is my intention to introduce legislation later in this session that addresses the larger issue of long-term care reform, legislation that will emphasize community- and home-based flexible services that respond to individual consumer choice and preference, and that will relieve pressure on the Federal deficit and on families, who are often forced to spend their life savings to pay for the long-term care of a loved one.

The bill I am introducing today dovetails with that larger reform package, not only as a specific effort to solve a major problem within our long-term care system, but as a model for that larger reform that stresses individual consumer choice and preference.

The bill also highlights another important feature I feel should be incorporated in an overall long-term reform package; namely, a State-based approach within a universal system.

Mr. President, at the State and local level we have seen some of the most exciting and productive work on long-term care. This legislation encourages public and private non-profit agencies to draw upon the work done in these State laboratories and implement the approaches developed from those practical experiences.

Much has been done to stimulate innovations at the State and local level. Dozens of pilot projects have been enacted, many providing useful, even exciting results. But too often we fail to take the next steps—building on those results by replicating individual successes, then integrating reforms supported by multiple successes into the existing structure.

This legislation seeks to take that second step—replicating experiences as a prelude to larger structural reform.

Mr. President, this bill targets the problem of overcoming systemic barriers that prevent individuals, who need managed long-term care and who are about to be discharged from hospitals and other acute-care facilities, from going back to their home or into other community-based settings. These individuals all too often end up being discharged into a nursing home, thus placing a financial burden on families and taxpayers, and limiting consumer choice of long-term care services.

As Chair of the Aging Committee in the Wisconsin State Senate for the past 10 years, I have worked to provide long-term care consumers with the opportunity to remain in their own homes and communities when they choose to do so.

The long-term care structure that has evolved since Medicaid began in the mid-1960's has strong systemic incentives for institutional care, often to the exclusion of community-based alternatives. Services for long-term care consumers who wish to remain in their homes represent only a fraction of the total long-term care budget, and waiting lists for those services are the norm. In Wisconsin, it is not unusual to find people waiting for 2 years for home- and community-based services.

One feature of this structural bias is most visible in trying to discharge patients from hospitals back to their homes when they need some managed long-term care.

The hospital discharge is a critical point of entry into the long-term care system, and as such, has posed a significant problem for those individuals who wish to return to their own homes.

The population most in need of long-term care uses the hospital and acute care facility at a disproportionate rate. In my own State, according to the 1990 Health Care Data Report, "Annual Report: Hospital Utilization and Charges in Wisconsin: Jan.-Dec. 1990," published by the Wisconsin Department of Health and Social Services, Office of Health Care Information, patients age 65 and older account for nearly one-third of all discharges from hospitals. Indeed, a large number of people over 65 spend some time in a hospital—nearly 32 people in every 100 over age 65 were discharged from a hospital. Looking at older groups, the discharge rate grows to even more dramatic levels. For those age 75 to 85, the rate was nearly 38 of every 100, and for those over age 85, the biggest users of long-term care services, the rate was 45 of every 100.

Once their acute care needs are met, these long-term care consumers all too often are sent to nursing homes.

A recent survey done in Milwaukee County showed that more than 70 percent of the older adults discharged from hospitals never return home. Rather, those individuals in need of managed long-term care all too frequently end up in a nursing home.

The single greatest source of admissions into nursing homes is often the hospital.

In Wisconsin, according to a 1990 report, "Wisconsin Nursing Home Utilization, 1990," published by the Wisconsin Department of Health and Social Services, Division of Health, Center for Health Statistics, 70 percent of all nursing home admissions are from the hospital—four times the number of nursing home admissions from private homes.

The reasons for this lopsided statistic are straightforward.

As I mentioned earlier, grossly inadequate funding for community- and home-based long-term care alternatives have resulted in long waiting lists. Even individuals fortunate enough not to be languishing on a waiting list must often wait for some days or weeks before over burdened community care case managers are able to perform the necessary screening, assessment, and case planning.

The Medicare DRG and prospective payment system have put substantial pressures on hospitals to discharge more quickly, keeping the hospital stay as short as possible. The uncertainty of community- and home-based services, especially when contrasted with the easy alternative of an accessible nursing home bed that may be available, makes the choice for the discharge planner easy.

In addition, hospitals and the local agencies administering the community- and home-based long-term care programs each have their own sets of rules and procedures. Because community long-term care alternatives are relatively new, there has been little time for those two different systems to interact and become familiar with each other. Discharge planners often find it difficult to identify patients who might be well served by community care programs, and thus frequently fail to give enough lead time for local community care agencies to react effectively in providing community- and home-based services in a timely fashion.

By contrast, nursing homes and hospitals have learned to interact well with each other. There are few, if any, bureaucratic barriers to discharging a patient from a hospital into a nursing home.

As Chair of the Wisconsin State Senate Committee on Aging, I became aware of this problem through a series of hearings I held in 1988. I authored a provision that was included in the State budget initiating a pilot program to explore ways to enhance linkages between hospitals and community care agencies. This pilot program has proven to be a success.

The primary goal of decreasing nursing home placements from hospital discharges was achieved. On top of those expected results, though, the pilot program also produced some unexpected additional benefits as the average inpatient costs to participating hospitals dropped as did the average length of stay. For one hospital participating in the program, there was a 23-percent drop in the discharge rate to nursing homes, while the average inpatient costs dropped by an average of nearly $2,250. At the same time, the average length of stay for the patient population participating in the pilot dropped by over 2 days. The hospital also reported improvements in the

quality of discharge planning for its most complicated and problematic cases.

There are many examples chronicling the success of the Wisconsin project. Here are two examples from the narrative report of the project.

A 65-year-old woman had a medical history that included diabetes mellitus, hypertension, Bell's palsy, chronic obstructive pulmonary disease, congestive heart failure, hypertensive heart disease, atherosclerosis, obesity, cerebral vascular accident, and degenerative dementia. A life-long shy introvert, she had dementia that compounded her problems and caused her to fear people with whom she was not familiar.

As a participant in the Wisconsin Hospital Link Program, she was discharged from the hospital back to her home, and is now cared for by her spouse and grown children, supported by one person who was hired to help with her care.

A 92-year-old widowed woman named Daisy was hospitalized for a large, deep decubitus ulcer on her lower back. Grieving the death of her son a year before, she was receiving less daily contact, and spent long lengths of time lying in bed. Her grandson and his wife opted to move in with her to act as caregivers, but they each worked full time and their young daughters attended school. Needing assistance for dressing changes toward wound care, plus hygiene, ambulating, and transfers, she was discharged with home health aide support Monday through Friday while her family works. Several pieces of durable medical equipment were delivered to her home, most notably an alternating pressure pad positional bed. An RN makes regular assessment of her wound's slow healing process. The family has adapted with great comfort to the aides assigned and Daisy describes herself as doing well.

Every party involved in the program—State and county government, hospitals, and patients—benefited. As discharge planners noted, a particularly valuable benefit was the ability of the case managers to monitor the discharge plan in the patient's home. Often, patients, older patients especially, looked different at home than they did in the hospital. Having a case manager who can monitor changing conditions and needs is a critical asset for planners.

By every measure, this pilot program was beneficial.

Mr. President, we now need to take the next step—to replicate the hospital discharge-community link program by allowing States and local agencies to establish, enhance, and expand on this pilot program.

In light of our massive Federal deficit, we need to move carefully when considering any new services. This program, however, has been demonstrated to save money, both by reducing the length of hospital stays and placing individuals in less costly home- and community-based settings. I think whenever we can provide better and more appropriate services and reduce expenditures, we should do so. The fiscal success of the pilot hospital link program in Wisconsin, as well as the human success, has led to its continued support at a time when every spending program, at the State or Federal level, is subject to exacting scrutiny. I want to see our limited revenues devoted to replicating an existing, successful innovation in the area of long-term care, such as the Wisconsin Hospital Link Program.

SUMMARY OF LEGISLATION

Mr. President, the bill I am introducing today has two basic components.

First, it requires the Secretary of Health and Human Services to establish an information and technical assistance program and actively promote the exchange of information among agencies that have had experience with facilitating the discharge of long-term care consumers from hospitals and acute care facilities back to their homes and communities. This provision is designed to encourage various entities to embark on a variety of approaches to the hospital discharge program, building upon the experiences that others have had in the area.

Mr. President, I want to make it very clear that under this legislation the Secretary is expected to do more than simply provide a clearinghouse on programs aimed at dealing with the hospital discharge program that I have described. To achieve the desired discussion and interaction between those States and entities that have had experience dealing with the discharge problem, the Secretary is expected to play an active role in facilitating as much meaningful communication and sharing of experiences between those entities which already have experience in this field and those who want to develop these programs.

I am convinced that the experiences of entities who have already created and explored innovative techniques to address this matter are valuable resources that ought to be shared and disseminated in a way that can have timely and practical results. In too many cases, the real experts are in the field running pilot programs and we ought to be doing a great deal more to put their experience to work in helping replicate similar programs. I know in my own work in aging issues, I have learned a great deal from visiting demonstration programs not only in Wisconsin, but in other States as well.

Second, Mr. President, the legislation authorizes a modest incentive grant program to provide seed money to enable States to establish or expand hospital link programs. Under this legislation, States would be eligible to apply for funds to assist local entities to establish, enhance, or expand on programs to facilitate the discharge of individuals who need managed long-term care, from a hospital or other acute care facility directly back to their home or other community-based setting. If a State did not elect to apply for this program, other eligible entities in a local community could apply.

The legislation requires that an application for a grant under this program contain assurances that adequate community- and home-based managed care services are available for the acute care patients being discharged under the program for which funds are being made available. If an adequate supply of these services is not available, no case management program can function adequately. Other than case management, this program is not designed to provide direct services; rather, its purpose is to link patients being discharged from acute care facilities with home- or community-based services instead of institutional care.

The legislation also provides that grants be made available to those applicants who wish to expand on existing programs, to further establish a network of innovative hospital discharge methods, and to refine and enhance those methods.

Recognizing that waiting lists for community care programs represent one of the most difficult barriers to coordination between community care and hospital discharge planning, this proposal directs the Secretary to give expedited consideration of any waiver application that is necessary under title XIX of the Social Security Act for an applying agency to ensure that adequate home- and community-based long-term care services are available to those individuals being discharged from hospitals. Doing so will help assure that the efforts of applying entities are not thwarted by inadequate community service slots.

Mr. President, mindful of the pressure any expenditure puts on the Federal deficit, even one such as this which will save more revenue over time than is initially appropriated, and similarly cognizant of the danger that local entities can be tempted to look to Federal taxpayers as a permanent funding source for programs, this legislation not only limits funding for 3 fiscal years, it also permits the Secretary to require applicants to describe how these programs will be administered after the Federal startup funding ends. Thus, applicants must demonstrate an ability to continue the program once the Federal seed money is terminated, protecting against both an ongoing dependence on Federal revenue and continuing pressure on the deficit. This should also help focus attention on those applications that are most likely to succeed in the long run, and that

will attract alternative funding sources.

Though grants are generally limited to $300,000 per year, with the Secretary empowered to waive even that limitation, this legislation envisions smaller grants for many applicants, particularly those applicants seeking to establish an initial discharge program. Larger grants would be appropriate for those applicants with a proven record in the area, seeking to expand on successful systems.

An annual grant of $300,000 can provide more than enough funding for an effective program. In Wisconsin, a biennial appropriation of $150,000 produced striking results. Administrative costs were entirely absorbed by the State agency directing the program, and the bulk of the funds allocated by the legislature were used for case management services. I expect a similar experience under this legislation.

Mr. President, this legislation will help, at least in a modest way, lay the foundation for the larger matter of long-term care reform.

We need to bring a new attitude to health care reform generally, and long-term reform in particular. The consumer of long-term care services must be seen more as a customer than a patient. The long-term care system we adopt should be flexible enough to respond to the individual preferences of the customer, from the initial assessment right on through to ongoing services. This means that case managers and others need to consult regularly with the customer, as well as family members, to be sure their needs are met in a satisfying manner.

It also means that the quality assurance, and, more importantly, the quality improvement programs instituted by States should be customer oriented.

Mr. President, this legislation is both consistent with those principles, and will help usher in that new approach to long-term care as we move toward the needed larger structural reform. I believe that, given the Wisconsin experience, it is a program that will reduce health care costs while providing better services for individuals in need of long-term health care.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 52

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hospital to Home- and Community-Care Linkage Development and Incentive Grant Program".

SEC. 2. FINDINGS.

Congress finds that—

(1) demonstration programs and projects have been developed to offer care management to hospitalized individuals awaiting discharge who are in need of long-term health care services that meet individual needs and preferences in home- and community-based settings as an alternative to long-term nursing home care or institutional placement; and

(2) there is a need to disseminate information and technical assistance to hospitals and State and local community organizations regarding such programs and projects and to provide incentive grants to State and local public and private agencies, including area agencies on aging, to establish and expand programs that offer care management to individuals awaiting discharge from acute care hospitals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home- and community-based settings as an alternative to long-term placement in nursing homes or other institutional settings.

SEC. 3. DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

Part C of title III of the Public Health Service Act (42 U.S.C. 248 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 327B. DISSEMINATION OF INFORMATION, TECHNICAL ASSISTANCE AND INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.

"(a) DISSEMINATION OF INFORMATION.—The Secretary shall compile, evaluate, publish and disseminate to appropriate State and local officials and to private organizations and agencies that provide services to individuals in need of long-term health care services, such information and materials as may assist such entities in replicating successful programs that are aimed at offering care management to hospitalized individuals who are in need of long-term care so that services to meet individual needs and preferences can be arranged in home- and community-based settings as an alternative to long-term nursing home placement. The Secretary may provide technical assistance to entities seeking to replicate such programs.

"(b) INCENTIVE GRANTS TO ASSIST IN THE DEVELOPMENT OF HOSPITAL LINKAGE PROGRAMS.—The Secretary shall establish a program under which incentive grants may be awarded to assist private and public agencies, including area agencies on aging, and organizations in developing and expanding programs and projects that facilitate the discharge of individuals in hospitals or other acute care facilities who are in need of long-term care services and placement of such individuals into home- and community-based settings.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (b) an entity shall be—

"(A)(i) a State agency as defined in section 102(43) of the Older Americans Act of 1965; or

"(ii) a State agency responsible for administering home and community care programs under title XIX of the Social Security Act; or

"(B) if no State agency described in subparagraph (A) applies with respect to a particular State, a public or nonprofit private entity.

"(2) APPLICATIONS.—To be eligible to receive an incentive grant under subsection (b), an entity shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require, including—

"(A) an assessment of the need within the community to be served for the establishment or expansion of a program to facilitate the discharge of individuals in need of long-term care who are in hospitals or other acute care facilities into home- and community-care programs that provide individually planned, flexible services that reflect individual choice or preference rather than nursing home or institutional settings;

"(B) a plan for establishing or expanding a program for identifying individuals in hospital or acute care facilities who are in need of individualized long-term care provided in home- and community-based settings rather than nursing homes or other institutional settings and undertaking the planning and management of individualized care plans to facilitate discharge into such settings;

"(C) assurances that nongovernmental case management agencies funded under grants awarded under this section are not direct providers of home- and community-based services;

"(D) satisfactory assurances that adequate home- and community-based long term care services are available, or will be made available, within the community to be served so that individuals being discharged from hospitals or acute care facilities under the proposed program can be served in such home- and community-based settings, with flexible, individualized care which reflects individual choice and preference;

"(E) a description of the manner in which the program to be administered with amounts received under the grant will be continued after the termination of the grant for which such application is submitted; and

"(F) a description of any waivers or approvals necessary to expand the number of individuals served in federally funded home- and community-based long term care programs in order to provide satisfactory assurances that adequate home- and community-based long term care services are available in the community to be served.

"(3) AWARDING OF GRANTS.—

"(A) PREFERENCES.—In awarding grants under subsection (b), the Secretary shall give preference to entities submitting applications that—

"(i) demonstrate an ability to coordinate activities funded using amounts received under the grant with programs providing individualized home- and community-based case management and services to individuals in need of long term care with hospital discharge planning programs; and

"(ii) demonstrate that adequate home- and community-based long term care management and services are available, or will be made available to individuals being served under the program funded with amounts received under subsection (b).

"(B) DISTRIBUTION.—In awarding grants under subsection (b), the Secretary shall ensure that such grants—

"(i) are equitably distributed on a geographic basis;

"(ii) include projects operating in urban areas and projects operating in rural areas; and

"(iii) are awarded for the expansion of existing hospital linkage programs as well as the establishment of new programs.

"(C) EXPEDITED CONSIDERATION.—The Secretary shall provide for the expedited consideration of any waiver application that is necessary under title XIX of the Social Security Act to enable an applicant for a grant under subsection (b) to satisfy the assurance required under paragraph (1)(D).

"(4) USE OF GRANTS.—An entity that receives amounts under a grant under sub-

section (b) may use such amounts for planning, development and evaluation services and to provide reimbursements for the costs of one or more case managers to be located in or assigned to selected hospitals who would—

"(A) identify patients in need of individualized care in home- and community-based long-term care;

"(B) assess and develop care plans in cooperation with the hospital discharge planning staff; and

"(C) arrange for the provision of community care either immediately upon discharge from the hospital or after any short term nursing-home stay that is needed for recuperation or rehabilitation;

"(5) DIRECT SERVICES SUBJECT TO REIMBURSEMENTS.—None of the amounts provided under a grant under this section may be used to provide direct services, other than case management, for which reimbursements are otherwise available under title XVIII or XIX of the Social Security Act.

"(6) LIMITATIONS.—

"(A) TERM.—Grants awarded under this section shall be for terms of less than 3 years.

"(B) AMOUNT.—Grants awarded to an entity under this section shall not exceed $300,000 per year. The Secretary may waive the limitation under this subparagraph where an applicant demonstrates that the number of hospitals or individuals to be served under the grant justifies such increased amounts.

"(C) SUPPLANTING OF FUNDS.—Amounts awarded under a grant under this section may not be used to supplant existing State funds that are provided to support hospital link programs.

"(d) EVALUATION AND REPORTS.—

"(1) BY GRANTEES.—An entity that receives a grant under this section shall evaluate the effectiveness of the services provided under the grant in facilitating the placement of individuals being discharged from hospitals or acute care facilities into home- and community-based long term care settings rather than nursing homes. Such entity shall prepare and submit to the Secretary a report containing such information and data concerning the activities funded under the grant as the Secretary determines appropriate.

"(2) BY SECRETARY.—Not later than the end of the third fiscal year for which funds are appropriated under subsection (e), the Secretary shall prepare and submit to the appropriate committees of Congress, a report concerning the results of the evaluations and reports conducted and prepared under paragraph (1).

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1994 through 1996.".●

By Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. HATFIELD, Mr. PELL, Mr. DODD, Mr. SIMON, Mr. HARKIN, Mr. WELLSTONE, Mr. WOFFORD, Mr. AKAKA, Mr. BIDEN, Mrs. BOXER, Mr. BRADLEY, Mr. CAMPBELL, Mr. DASCHLE, Mr. FEINGOLD, Mr. KERRY, Mr. KERREY, Mr. GLENN, Mr. INOUYE, Mr. LEVIN, Mr. LIEBERMAN, Ms. MOSELEY-BRAUN, Mr. MOYNIHAN, Mr. RIEGLE, Mr. SARBANES, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. MITCHELL, Mr. SASSER, and Mr. BAUCUS.

S. 55. A bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes; to the Committee on Labor and Human Resources.

WORKPLACE FAIRNESS ACT OF 1993

● Mr. METZENBAUM. Mr. President, I rise to introduce the Workplace Fairness Act. This legislation prohibits the hiring of permanent striker replacements. Without this bill, the right to strike is no more than a right to lose one's job.

Yesterday the Clinton administration took office with a mandate from the American people to revitalize the American workplace, increase productivity, and expand opportunity. These are great and important goals, but without an effective labor movement they cannot be achieved. And without the right to strike, there can be no labor movement.

We need a healthy relationship between labor and management, built on trust, in order to ensure U.S. competitiveness into the next century. But the balance of power has shifted too far in management's direction. Without this bill, we will face strife, not serenity; we will have distrust and dissension, not cooperation and coordination. How can we hope to compete if those who labor cannot work with those who manage? The fabric of our industrial relations is frayed, and we must mend it.

By its terms, this legislation prohibits the hiring of permanent striker replacements. But just as importantly, this legislation will restore balance to our Nation's labor laws, and ensure that the American labor movement can continue to contribute to our national growth.

I regret that this bill is not yet law. We should have enacted it 3 years ago, when I first introduced it. We should have enacted it in the last Congress, when the House passed the bill by a 65-vote margin. A majority of the Members of this body supported the bill in the last Congress, but we were prevented from voting on it last year by a filibuster. Fifty-seven Members of this body voted to close off the debate, but that was not enough to defeat the filibuster.

By now, the Members of this body are familiar with the basic issue addressed by the Workplace Fairness Act. But let me briefly describe the problem, so that we may not lose sight of the urgent need for a solution.

Fifty-eight years ago, Congress recognized that labor disputes were taking a terrible toll on the economic and social fabric of this country. By enacting the NLRA in 1935, Congress sought to promote collective bargaining as the preferred method of resolving labor-management disputes and preserving economic stability.

Collective bargaining allows labor and management to seek a peaceful resolution of labor disputes through negotiation. Where negotiation fails to resolve a dispute, each side is permitted to exercise peaceful self-help options. To succeed, this system depends upon a balance of economic power between the parties.

For labor, the right to strike is essential because it provides economic leverage. That is why the National Labor Relations Act has expressly protected that right for 58 years.

Although the right to strike is labor's most effective weapon, workers are loathe to exercise it. Striking means foregoing wages, walking the picket line, and exhausting the family's life savings. So it is no surprise that workers choose to strike in less than 1 percent of all bargaining negotiations. But even if the right to strike is seldom exercised, it brings the employer to the table.

Nevertheless, under a 1938 Supreme Court decision called Mackay Radio, employers in certain circumstances may hire permanent replacements for their striking workers. That ruling left us with a bizarre contradiction: An employer cannot discharge or discipline employees for striking, but it can permanently replace them.

For decades, the Mackay case had little practical effect. American employers valued their workers and counted on their returning after a strike. When faced with a strike, employers hired temporary replacements, subcontracted or transferred the struck work, operated with management personnel or even ceased operations entirely for the duration of the strike.

But since 1980, a new breed of employer has emerged, one that does not hesitate to replace its union work force. Employers now hire or threaten to hire permanent replacements in one out of every three strikes. Tens of thousands of workers have suffered the economic death penalty of permanent replacement for exercising what they thought was a federally protected right. And hundreds of thousands more have refrained from exercising that right because of the threat of permanent replacement.

Different factors are cited as reasons for this alarming increase. Some cite President Reagan's harsh treatment of 12,000 air traffic controllers, which signalled to a new generation of American managers that it was acceptable to fire strikers. Some blame the so-called new breed of fast-buck takeover artists that do not hesitate to replace a union work force. And still others cite gradual changes in our labor laws that eliminated many forms of peaceful secondary activity and made it more difficult for unions to obtain commitments of strike solidarity. These changes have tilted the balance of power between labor and management, and in effect encouraged employers to play the permanent replacement card.

The right to strike, the worker's principal economic weapon, has become nothing more than a hollow promise. Without it, workers lose the ability to bargain effectively—how can they back up their bargaining demands with economic leverage if exercising their principal self-help weapon means losing their jobs?

The resulting imbalance of power jeopardizes the continued existence of the American labor movement. More and more, employers use the permanent replacement threat to attack the very concept of collective action. During organizing campaigns, employers warn their workers that a vote for the union could mean a strike and the loss of their jobs. Even if a union is certified, employers often make that victory meaningless by refusing to agree to a contract, and by threatening to replace workers if they strike.

Even if a contract is signed, the parties may never establish a stable collective bargaining relationship. To succeed, cooperative efforts must be based on mutual trust; that trust may not be possible given the current imbalance of economic power between labor and management. Finally, in many instances employers have sought to rid themselves altogether of unions by demanding substantial givebacks, precipitating a strike, replacing the striking workers, and seeking to decertify the union.

Without an effective labor movement, our Federal labor policy—favoring the peaceful resolution of labor disputes through collective bargaining—cannot be fulfilled. That would mean a return to the disruptive labor strife that characterized the American workplace in the years prior to enactment of the NLRA.

Of course, it's not just the 16 percent of American workers that belong to labor organizations that need this legislation. Millions of nonunion workers have benefited from the minimum standards of wages, benefits, and working conditions achieved by organized labor. It is no accident that as union membership has declined in the past decade, the real wages of most American workers have declined by nearly 10 percent. And the labor movement has repeatedly fought for and won legislation—such as social security, Head Start, and unemployment insurance—that has improved the lives of all Americans.

A strong labor movement is also critical to improving our ability to compete successfully in the global marketplace. If you need proof, just look around at our most successful competitor nations. Virtually all of them have strong labor movements and have banned the hiring of permanent striker replacements. As labor Secretary-designate Robert Reich stated at his confirmation hearing 2 weeks ago:

If America is to be competitive in the world economy, government must stand ready to encourage the private sector as a whole to treat their work force as their most precious asset.* * * Business must be ready to collaborate, to become a true partner. Labor has to join the partnership.

Recent studies have confirmed the negative impact that the hiring of permanent replacements can have on our productivity. The use of permanent replacements triggers longer and more bitterly divisive struggles, by transforming a dispute from one about wages or benefits into one about the future of every striker's job. In a 1989 study of 56 strikes, University of Alabama Professor Cynthia Gramm found that the strikes lasted substantially longer when permanent replacements were hired, a mean duration of 363 days, than when temporary replacements were hired, 72 days, or when no replacements were hired, 64 days.

In a 1992 report, three City University of New York researchers studied seven major U.S. strikes in which permanent replacements were hired. They concluded that hiring permanent replacements imposed high costs on the employer, the workers, and the community. "In today's highly competitive economic environment," the study concluded, "The losses associated with union busting exact a high toll on the entire country, at a time when we all depend on an economy able to meet aggressive foreign competition." It is no wonder that our principal competitors—including Germany, Canada, France, and Japan—have long recognized that using permanent replacements is unwise as a matter of both public policy and good business.

The Workplace Fairness Act would simply restore the balance to labor-management relations, and reaffirm that the right to strike must mean more than the right to lose your job. The act prohibits the hiring of permanent replacements where a union engages in a lawful economic strike. In addition, the act prohibits employers from otherwise discriminating against employees who lawfully strike. I ask unanimous consent that a copy of the bill be printed in the RECORD in full.

The legislation is identical to the bill reported by the Labor and Human Resources Committee in 1991. It provides a reasonable and responsible solution to what has become a major anomaly in our Federal labor law.

The American public overwhelmingly supports a ban on the hiring of permanent replacements. In a Roper Organization poll conducted in April of last year, 72 percent—nearly three-quarters of the 1,009 individuals contacted in a telephone survey—supported a ban on the hiring of permanent replacements. Only 14 percent said workers should not have the right to strike without fear of losing their jobs. Similar results were obtained in a November, 1991 poll and in two 1990 polls.

President Clinton has also repeatedly expressed his support for the Workplace Fairness Act. Last April, he visited striking Caterpillar workers, who had been forced by the company to choose between their right to strike and their jobs. He told them that the use of permanent replacements would have a devastating effect, not only on the employees and their families, but on the whole fabric of worker-management relations all over this country. The need to prohibit the hiring of permanent replacements has similarly been recognized by State governments, civil rights groups, labor law scholars, newspaper editorial boards, and the religious community.

In closing, there is much at stake here. First, the future of the American labor movement depends on restoring the right to strike as an effective economic weapon. In turn, a healthy labor movement will restore balance to labor-management relations, facilitate greater labor peace, and contribute much towards ensuring U.S. competitiveness in world markets.

Second, for america's hardworking men and women, whose hours are growing longer and whose paycheck is growing smaller, this is an issue of basic fairness. Simply put, American workers should not have to choose between their jobs and their right to take collective action.

Many of my colleagues have joined me today as original co-sponsors of this legislation. I urge the remainder of my colleagues to add their names as supporters of the Workplace Fairness Act.

Mr. President, I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 55

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

SECTION 1. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF LABOR DISPUTES.

Section 8(a) of the National Labor Relations Act (29 U.S.C. 158(a)) is amended—

(1) by striking the period at the end of paragraph (5) and inserting "; or"; and

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

"(6) to promise, to threaten, or take other action—

"(i) to hire a permanent replacement for an employee who—

"(A) at the commencement of a labor dispute was an employee of the employer in a bargaining unit in which a labor organization was the certified or recognized exclusive representative or, on the basis of written authorizations by a majority of the unit employees, was seeking to be so certified or recognized; and

"(B) in connection with that dispute has engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection through that labor organization; or

"(ii) to withhold or deny any other employment right or privilege to an employee,

who meets the criteria of subparagraph (A) and (B) of clause (i) and who is working for or has unconditionally offered to return to work for the employer, out of a preference for any other individual that is based on the fact that the individual is performing, has performed or has indicated a willingness to perform bargaining unit work for the employer during the labor dispute.".

SEC. 2. PREVENTION OF DISCRIMINATION DURING AND AT THE CONCLUSION OF RAILWAY LABOR DISPUTES.

Paragraph Fourth of section 2 of the Railway Labor Act (45 U.S.C. 152) is amended—

(1) by inserting "(a)" after "Fourth."; and

(2) by adding at the end thereof the following:

"(b) No carrier, or officer or agent of the carrier, shall promise, threaten or take other action—

"(1) to hire a permanent replacement for an employee who—

"(A) at the commencement of a dispute was an employee of the carrier in a craft or class in which a labor organization was the designated or authorized representative or, on the basis of written authorizations by a majority of the craft or class, was seeking to be so designated or authorized; and

"(B) in connection with that dispute has exercised the right to join, to organize, to assist in organizing, or to bargain collectively through that labor organization; or

"(2) to withhold or deny any other employment right or privilege to an employee, who meets the criteria of subparagraphs (A) and (B) of paragraph (1) and who is working for or has unconditionally offered to return to work for the carrier, out of a preference for any other individual that is based on the fact that the individual is employed, was employed, or indicated a willingness to be employed during the dispute.".●

● Mr. FEINGOLD. Mr. President, I am please to join my distinguished colleague, Senator METZENBAUM, in introducing legislation to restore a measure of equality to Federal labor law by guaranteeing workers the right to strike without the fear of being permanently replaced.

The abusive use of replacement workers by employers during labor disputes has a long history in Wisconsin, and it is an issue about which I have been deeply concerned. In fact, I was the author of the Wisconsin striker replacement bill, and testified several years ago at a hearing before the House of Representatives on this issue. I am proud to now add my name in the effort to pass a national striker protection law.

The use of permanent replacements is a many faceted issue. At the core, however, is the question, "Should workers have the right to use the strike as an economic voice during times when negotiations with their employers break down?" The National Labor Relations Act of 1935 clearly guarantees the right to workers to organize and engage in concerted activities. Included in this is the right to strike.

When I was growing up in Janesville, WI, a United Auto Workers labor town, this country was enjoying a long period of prosperity. There seemed to be a balance, then, between labor and management.

However, the economic declines of the 1970's and increased competition from abroad laid the groundwork for a dramatic shift from cooperative to hostile management labor relations.

In 1938, the Supreme Court in the McCay decision allowed the hiring of permanent replacement workers. However, the use of permanent replacements was never put into widespread practice until the 1980's when President Ronald Reagan led by example in firing 12,000 striking air traffic control workers.

Until that time, workers and management had shared relatively equally in the risks and hardships of a strike. Workers lost income, their families, and often whole communities, faced economic insecurity and the threat of losing their homes and their savings.

At the same time a clear incentive existed for management to come to an agreement, as they struggled to maintain production, productivity and market-share with a limited workforce.

Strikes were to be avoided by both sides if possible, which was the force driving collective bargaining and peaceful negotiation. For many years, even during strikes, labor and management were able to cooperate and come to an agreement.

It should be no surprise that in the merger and acquisition frenzy of the 1980's management found it had a new tool and used it frequently. Management now often advertise for permanent replacements the moment a strike begins, and the threat of permanently lost jobs casts a pall over the entire bargaining process.

The power behind the use of permanent replacements is quite clear. Whether used as they were in Wisconsin prior to the passage of National Labor Relations Act during the Northern Paper Co. strike of 1921 or during the International Paper Co. strike of 1987, permanent replacements produced the same result—the overwhelming defeat of labor.

As the power of the strike becomes more and more tenuous, the voice of the laborer in negotiations over his or her employment weakens considerably. Knowing that workers are very unlikely to strike, employers are free to make greater, sometimes excessive, demands.

If the use of permanent replacements is allowed to continue, the voice of the working sector of this country could be silenced for good.

My efforts and those of other States to pass legislation to correct this enormous flaw in Federal labor law have been thwarted by court interpretations such as the ruling on the Illinois Strikebreakers Act. The Federal court held that "the general subject of conditions for replacement strikers, or locked-out employees, in an industry affecting interstate commerce, is a matter which has been delegated to the National Labor Relations Board by Federal law." Many State laws have been struck down or vetoed due to this interpretation making expeditious Federal action on this issue even more critical.

During disputes between employer and employee, government should act to ensure that both sides are playing on a level playing field. At times, such actions have taken the form of police protection for strikers and nonstrikers, at others, the form of court proceedings. The time has come for that action to take yet another form, that of an amendment to the National Labor Relations Act to prohibit the use of permanent replacements. I urge my colleagues to support this important legislation.●

By Mr. THURMOND:

S. 56. A bill to redefine "extortion" for purposes of the Hobbs Act; to the Committee on the Judiciary.

EXTORTION REDEFINITION

Mr. THURMOND. Mr. President, today, I am introducing legislation to amend the Hobbs Anti-Racketeering Act to reverse the Supreme Court's decision in United States versus Enmons, and to address a serious, long-term, festering problem under our Nation's labor laws. The United States regulates labor relations on a national basis and our labor management policies are national policies. These policies and regulations are enforced by laws such as the National Labor Relations Act that Congress designed to preempt comparable State laws.

Although labor violence is a widespread problem in labor management relations today, our Government appears unwilling to deal with it. What might be the most obvious example of this Government's reluctance is what the Supreme Court did when it rendered its decision in the case of United States versus Enmons in 1973. It is this decision's unfortunate result which this bill is intended to rectify.

The Enmons decision involved the Hobbs Anti-Racketeering Act which is intended to prohibit extortion by labor unions. It provides that: "Whoever in any way * * * obstructs, delays, or affects commerce in the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires to do so or commits or threatens physical violence to any person or property * * *" commits a criminal act. This language is very clear. It outlaws extortion by labor unions. It outlaws violence by labor unions.

Although this language is very clear, the Supreme Court in Enmons created an exemption to the law which says that as long as a labor union commits extortion and violence in furtherance of legitimate collective bargaining objectives, no violation of the Act will be found. Simply put, the Court held that

if the ends are correct, the means to that end, no matter how horrible or reprehensible, will not result in a violation of the act.

The Enmons decision is wrong. This bill will make it clear that the Hobbs Act is intended to punish the actual or threatened use of force or violence to obtain property irrespective of the legitimacy of the extortionist's claim to such property and irrespective of the existence of a labor-management dispute.

Let me discuss the Enmons case.

In that case, the defendants were indicted for firing high-powered rifles at property, causing extensive damage to the property, owned by a utility company—all done in an effort to obtain higher wages and other benefits from the company for striking employees. The indictment was, however, dismissed by the district court on the theory that the Hobbs Act did not prohibit the use of violence in obtaining legitimate union objectives. On appeal, the Supreme Court affirmed.

The Supreme Court held that the Hobbs Act does not proscribe violence committed during a lawful strike for the purpose of achieving legitimate collective bargaining objectives, like higher wages. By its focus upon the motives and objectives of the property claimant, who uses violence or force to achieve his goals, the Enmons decision has had several unfortunate results. It has deprived the Federal Government of the ability to punish significant acts of extortionate violence when they occur in a labor management context. Although other Federal statutes prohibit the use of specific devices or the use of channels of commerce in accomplishing the underlying act of extortionate violence, only the Hobbs Act proscribes a localized act of extortionate violence whose economic effect is to disrupt the channels of commerce. Other Federal statutes are not adequate to address the full effect of the Enmons decision.

The Enmons decision affords parties to labor-management disputes an exemption from the statute's broad proscription against violence which is not available to any other group in society. This bill would make it clear that the Hobbs Act punishes the actual or threatened use of force and violence which is calculated to obtain property without regard to whether the extortionist has a colorable claim to such property, and without regard to his status as a labor representative, businessman, or private citizen.

Mr. President, attempts to rectify the injustice of the Enmons decision have been before the Senate on several occasions. Shortly after the decision was handed down, a bill was introduced which was intended to repudiate the decision. Over the next several years, attempts were made to come up with language which was acceptable to organized labor and at the same time restored the original intent of the Hobbs Act.

In 1978, S. 1437, a bill which was substantially the same as the bill I am introducing today, passed the Senate; however, the bill died in the House. It is time for the Senate to reexamine this issue and to restate its opposition to violence in labor disputes. Encouraged by their special exemption from prosecution for acts of violence committed in pursuit of legitimate union objectives, union officials who are corrupt routinely use terror tactics to achieve their goals.

Mr. President, violence has no place in our society, regardless of the setting. Our national labor policy has always been directed toward the peaceful resolution of labor disputes. It is ironic that the Hobbs Act, which was enacted in large part to accomplish this worthy goal, has been virtually emasculated. The time has come to change that. I think that my colleagues on both sides of the aisle share a common concern that violence in labor disputes, whatever the source, should be eliminated. Government has been unwilling to deal with this problem for too long. It is time for this Congress to act.

I ask unanimous consent that the full text of this bill be printed in the CONGRESSIONAL RECORD.

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

S. 56

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

SECTION 1. DEFINITION OF EXTORTION UNDER HOBBS ACT.

Paragraph (2) of section 1951(b) of title 18, United States Code (commonly known as the "Hobbs Act"), is amended to read as follows:

"(2)(A) The term 'extortion' means the obtaining of property of another—

"(i) by threatening or placing another person in fear that any person will be subjected to bodily injury or kidnapping or that any property will be damaged; or

"(ii) under color of official right.

"(B) In a prosecution under subparagraph (A)(i) in which the threat or fear is based on conduct by an agent or member of a labor organization consisting of an act of bodily injury to a person or damage to property, the pendence, at the time of such conduct, of a labor dispute (as defined in section 2(9) of the National Labor Relations Act (29 U.S.C. 152(9))) the outcome of which could result in the obtaining of employment benefits by the actor, does not constitute prima facie evidence that property was obtained 'by' such conduct.".

By Mr. DECONCINI:

S. 62. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; to the Committee on Rules and Administration.

CAMPAIGN FINANCE REFORM

Mr. DECONCINI. Mr. President, I am pleased to introduce today a bill that will reform our system of financing Senate campaigns. Since I arrived in the Senate in 1977, I have vigorously pursued campaign finance reform. The bill I am introducing today is tougher than any bill that I have introduced in the past.

Throughout my career in Congress, I have cosponsored numerous pieces of legislation to reform Senate elections, including bills to provide public financing and to limit spending, to increase disclosure of PAC activity, limit PAC contributions, reverse Buckley versus Valeo, end the practice of converting leftover campaign funds to private use, combat negative advertising, enhance voter registration, and the list goes on. Many of my colleagues and I have spoken repeatedly on the Senate floor on these same issues. We have voted again and again to pass solid, responsible reform legislation.

In 1992, the 102d Congress passed a comprehensive campaign finance reform bill only to be vetoed by the Bush administration. Today we have a new President, a President committed to changing our current system. On November 3, Americans voted loudly and clearly for change. They are disillusioned by the inordinate amount of time candidates must spend raising money, and they are disenchanted by the evolution of political campaigns into catchy 30-second sound bites. Let us act now. We have waited far too long to institute effective campaign finance reform. The time has come to put the brakes on campaign spending and to restore the public's faith in the electoral process.

The bill that I am introducing today varies in some important aspects from the campaign finance reform legislation that was sent to the President last year. It embodies a tough and solid approach to this pressing issue. Some may say that it is too tough. I would argue that these changes, including spending limits, partial public financing of Senate campaigns, an emphasis on small grassroots contributions, reduction of incumbent advantage, and reducing the high media costs that have made political campaigns a multimillion dollar endeavor, are essential to true reform. I expect intense debate on all aspects of campaign financing before the Senate passes a bill in the 103d Congress. I am not unalterably committed to every provision in my bill, but we must pass tough effective reform legislation.

First, and most importantly, this bill sets voluntary limits on total campaign spending through a formula based on the voting age population [VAP] of a candidate's State. For a general Senate election, the limit would be $400,000 plus 18 cents for each voter up to 4 million, plus 18 cents for

each voter over 4 million, with a minimum limit of $900,000 and a maximum limit of $5.5 million. The spending limit for primary elections would be 50 percent of the general limit. My bill has lower spending limits than previous proposals.

Since I ran for office in 1976, the aggregate cost of Senate campaigns has risen by nearly four times. In 1990, the average amount spent by Senate incumbents in reelection campaigns was close to $4 million. In 1992, Federal candidates spent 25 percent more than they did in 1990. These outrageous costs must be controlled.

Under my bill, fully half of the Senate races would be kept below $1.5 million. In Arizona it would limit the amount a Senate candidate running could spend to $1.46 million—half a million dollars less than the bill that was passed by the 102d Congress last spring. I have prepared a table that shows the key numbers for every State under this bill—spending limits, PAC limits, qualifying thresholds, and the amount of funding grants. I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

Second, this bill levels the political playing field for challengers by reducing PAC contributions and prohibiting bundling and soft-money expenditures. The dollar figures speak for themselves. In 1992, Senate candidates raised almost $160 million. Incumbents received $83 million while their challengers received only $45 million.

Over the past 10 years, PAC contributions have almost doubled. According to October FEC figures, PAC's contributed $37 million to 1992 elections, with 70 percent going to incumbents. This bill would drastically cut PAC contributions by 80 percent, limiting them to $1,000 per election, as opposed to the $5,000 allowable under current law. Additionally, candidates would have to limit their aggregate acceptance of PAC contributions to 10 percent of their total cycle spending limit. These limits provide ample opportunity for people to contribute to political action committees promoting the causes they feel are important while preventing PAC's from overshadowing small individual contributors. These limits would force candidates to focus on the small contributor and help restore public trust in the political system.

My legislation also contains a variety of mechanisms for reducing costs of Senate campaigns. First, it restricts the campaign period to the period beginning 6 months prior to the primary election. With this limitation, costs will immediately be reduced simply by virtue of not having to purchase as much media time. Limiting the campaign period also restores grassroots interest and participation in the election. Long, drawn out campaigns result in voter burnout and apathy at the polls.

Second, participating candidates would receive both preferred mail rates and the lowest unit broadcast rates based on the lowest rate over the past 12-month period.

One of the most significant provisions of this legislation is the implementation of partial public financing of Senate races. This would most effectively reduce the amount of time a candidate is forced to spend on fundraising and would return the focus of a campaign to substantive issues. In order to qualify for this and other benefits, a candidate would have to garner broad grassroots support, by raising a threshold of funds made up of small contributions primarily from in-state sources. Upon reaching the threshold and agreeing to comply with the various campaign financing limitations, the candidate would receive a flat grant of one-third of the remaining general election spending limit amount. For the remaining two-thirds of the amount above the threshold, the candidate would be eligible to receive matching grants for small contributions of $250 or less, and grants equal to $250 for contributions between $251 and $1,000. No matching funds would be made for PAC contributions in any amount.

This financing mechanism accomplishes several goals. It eases the candidate's fundraising burden without putting the entire burden on the Federal Government, and it encourages the candidate to focus on small contributions—the kind made by individuals. This is by no means the highest level of public financing I would consider. A greater level of public financing would do even more to level the playing field between incumbents and challengers and to eliminate the perception that money influences the outcome of Senate elections. I am open to proposals of higher levels of public funding, but the plan I am proposing today is a fair and responsible start.

This bill would do a few other things that warrant mention. It would prohibit franked mass mailings of over 250 pieces during the period beginning 6 months prior to the primary election through the general election, including newsletters, notices of town meetings, and opinion surveys. The limit on franked mailings is simply one more step in assuring that Senate races are not biased in favor of incumbents.

And finally, this legislation abolishes all member PAC's.

Mr. President, it is time to restore public confidence in our election process. Let us quickly to institute changes that the Congress truly needs and the American people most desperately want. This bill does just that.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 62

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

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Election Reform Act of 1993".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means FECA (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.
Sec. 2. Spending limits.
Sec. 3. Senate account.
Sec. 4. Broadcast rates.
Sec. 5. Reporting requirements.
Sec. 6. Limits on contributions by multicandidate political committees and separate segregated funds.
Sec. 7. Intermediary or conduit.
Sec. 8. Independent expenditures.
Sec. 9. Independent expenditure broadcast disclosure.
Sec. 10. Referral to the Department of Justice.
Sec. 11. Extension of credit.
Sec. 12. Preferential rates for mail.
Sec. 13. Disclosure.
Sec. 14. Excess campaign funds.
Sec. 15. Political committee postal rates.
Sec. 16. Soft money.
Sec. 17. Federal Election Commission reform.
Sec. 18. Franked mail.
Sec. 19. One campaign committee allowed.
Sec. 20. Severability.
Sec. 21. Effective date.

SEC. 2. SPENDING LIMITS.

FECA is amended by adding at the end the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC FINANCING FOR SENATE GENERAL ELECTION CAMPAIGNS

"SEC. 501. DEFINITIONS.

"For the purposes of this title—

"(1) the term 'authorized committee' means, with respect to a candidate for election to a seat in the United States Senate, a political committee that is authorized in writing by the candidate to accept contributions or make expenditures on behalf of the candidate to further the election of the candidate;

"(2) the term 'candidate' means an individual who is seeking nomination for election, or election to a seat in the United States Senate, and such an individual shall be deemed to be seeking nomination for election, or election, if the individual meets the criteria stated in subparagraph (A) or (B) of section 301(2);

"(3) the term 'eligible candidate' means a candidate who has made the filings prescribed by section 502 (a) and (b);

"(4) the term 'election cycle' means, with respect to an election to any Senate seat—

"(A) in the case of a candidate or the authorized committee of a candidate, the period beginning on the day after the date of the most recent general election for the seat that the candidate seeks and ending on the date of the next general election; or

"(B) in the case of other persons, the period beginning on the first day following the date of the last general election and ending on the date of the next election;

"(5) the term 'general election' means an election that will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(6) the term 'general election period' means the period beginning on the day after the date of a primary or runoff election, whichever is later, and ending on the first of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(7) the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of a person described in subparagraph (B);

"(8) the term 'major party' has the meaning stated in section 9002(6) of the Internal Revenue Code of 1986 (the Presidential Election Campaign Fund Act), provided that a candidate in a general election held by a State to elect a Senator subsequent to an open primary in which all the candidates for the office participated and which resulted in the selection of the candidate and at least one other candidate for the ballot in the general election, shall be treated as a candidate of a major party for purposes of this title;

"(9) the term 'primary election', with respect to an election for any Senate seat, means an election that may result in the selection of a candidate for the Senate on the ballot of in a general election;

"(10) the term 'primary election period', with respect to an election for any Senate seat, means the period beginning on the day following the date of the last Senate election for that seat and ending on the first of—

"(A) the date of the first primary election for that seat following the last Senate election for that seat; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

"(11) the term 'runoff election', with respect to an election for any Senate seat, means an election held after a primary election for that seat, prescribed by State law as the means for determining the candidates that will be certified as nominees for the Senate;

"(12) the term 'runoff election period', with respect to an election for any Senate seat, means the period beginning on the day following the date of the most recent primary election for that seat and ending on the date of the runoff election for that seat;

"(13) the term 'Senate Account' means the Senate Election Campaign Account maintained, pursuant to section 506, by the Secretary of the Treasury in the Presidential Campaign Fund established by section 9006(a) of the Internal Revenue Code of 1986; and

"(14) the term 'voting age population' means the resident population, 18 years of age or older, as certified for a State pursuant to section 315(e).

"SEC. 502. ELIGIBILITY TO RECEIVE BENEFITS.

"(a) To be eligible to receive benefits under this title, a candidate shall make the filings required by subsections (b) and (c).

"(b) To become an eligible candidate, a candidate shall, on the day that the candidate files as a candidate for the primary election, file with the Commission a declaration whether—

"(1) the candidate and the candidate's authorized committees agree to make expenditures for the primary election in an amount greater than the lesser of—

"(A) 50 percent of the general election spending limit applicable to the candidate under section 503(b); or

"(B) $2,750,000;

"(2) the candidate and the candidate's authorized committees agree to make expenditures for a runoff election, in an amount equal to no more than 20 percent of the general election spending limit applicable to the candidate under section 503(b); and

"(3) the candidate and the candidate's authorized committees agree to make expenditures for the general election in an amount equal to no more than the general election spending limit applicable to the candidate under section 503(b).

"(c) To become an eligible candidate, a candidate shall, not later than 7 days after qualifying for the general election ballot under State law or, if the candidate's State is one that has a primary election to qualify for the general election ballot after September 1, not later than 7 days after the date such candidate wins in such primary, whichever occurs first, file a certification with the Commission under penalty of perjury stating that—

"(1) during the period beginning on January 1 of the calendar year preceding the year of the general election, or in the case of a special election for the seat of a United States Senator, during the period beginning on the day on which the seat was vacated, and ending on the day the certification is made, the candidate and the candidate's authorized committees have received contributions in an amount at least equal to the lesser of—

"(A) $650,000; or

"(B) the greater of—

"(i) $150,000; or

"(ii) 10 cents multiplied by the voting age population of the State;

"(2) all contributions received for purposes of paragraph (1) have come from individuals, and no contribution received from an individual, when added to all contributions to or for the benefit of the candidate from the individual, was taken into account to the extent that the contributions from that individual exceed $250;

"(3) the candidate and the candidate's authorized committees have not expended for the primary election more than the amount described in subsection (b)(1);

"(4) the candidate and the candidate's authorized committees have not expended for any runoff election more than the amount described in subsection (b)(2);

"(5) at least 80 percent of the amount of contributions received for purposes of paragraph (1) have come from individuals residing in the candidate's State;

"(6) at least one other candidate has qualified for the same general election ballot under State law;

"(7) the candidate and the candidate's authorized committees—

"(A) have not made and will not make expenditures for the general election that exceed the general election spending limit applicable to the candidate under section 503(b), unless permitted to do so under section 504(a)(2);

"(B) will not accept any contributions in violation of section 315;

"(C) will not accept any contribution for the general election except to the extent that the contribution is necessary to defray expenditures for the general election that in the aggregate do not exceed the general election spending limit applicable to the candidate under section 503(b), unless permitted to do so under section 504(a)(2);

"(D) will deposit all payments received under this section in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(E) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission;

"(F) will cooperate in any audit and examination conducted by the Commission pursuant to section 507; and

"(G) will not make any expenditures until the date that is 6 months before the date of the primary election, or use payments received under this section for expenses incurred prior to such date for media advertising, direct mail, and telephone banks unless such expenses for mail or telephones are directly related to raising funds or recruiting volunteers for that election;

"(8) the candidate and the candidate's authorized committees will not use a broadcast station, pursuant to section 315 of the Communications Act of 1934 (47 U.S.C. 315), for a political advertisement or broadcast communication on a television broadcast station until the date that is 6 months before the date of the primary election in which such candidate is involved; and

"(9) the candidate intends to make use of the benefits provided in section 504.

"(d) For the purposes of subsection (c)(1) and section 504(a)(2)(B), in determining the amount of contributions received by a candidate and the candidate's authorized committees—

"(1) no contribution other than a gift of money made by a written instrument that identifies the person making the contribution shall be taken into account;

"(2) no contribution made through an intermediary or conduit referred to in section 315(a)(8) shall be taken into account;

"(3) no contribution received from a person other than an individual shall be taken into account, and no contribution received from an individual shall be taken into account to the extent such contribution exceeds $250 when added to all other contributions made by that individual to or for the benefit of such candidate since the date specified in paragraph (4); and

"(4) no contribution received prior to January 1 of the calendar year preceding the year in which the general election is held or received after the date on which the general election is held shall be taken into account, and in the case of a special election, no contribution received prior to the date on which the seat was vacated or received after the date on which the general election is held shall be taken into account.

"SEC. 503. LIMITATIONS ON EXPENDITURES.

"(a) No candidate shall—

"(1) make expenditures from the personal funds of the candidate or the funds of a member of the immediate family of the candidate; or

"(2) incur personal debt,

in excess of $100,000 in connection with the candidate's campaign for the Senate during an election cycle.

"(b) No candidate may make expenditures for a general election in excess of the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $900,000; or

"(ii) $400,000 plus 21 cents multiplied by the voting age population of 4,000,000 or less, plus 18 cents multiplied by the voting age population over 4,000,000,

plus any amount permitted under section 504 (b) and (c).

"(c) No candidate who is otherwise eligible to receive benefits under this title for use in

a general election may receive such benefits if the candidate makes expenditures for the primary election in excess of the lesser of—

"(1) $2,750,000; or

"(2) the amount equal to 50 percent of the limitation on expenditures for the general election determined under subsection (b).

"(d) No candidate who is otherwise eligible to receive benefits under this title for use in a general election may receive such benefits if the candidate makes expenditures for a runoff election in excess of an amount equal to 20 percent of the limitation on expenditures for the general election determined under subsection (b).

"(e)(1) The limitation stated in subsection (b) shall not apply to expenditures by a candidate or the candidate's authorized committees from a compliance fund established to defray the costs of legal and accounting services provided solely to insure compliance with this Act, if—

"(A) the compliance fund contains only contributions (including contributions received in excess of any amount necessary to defray qualified campaign expenditures pursuant to section 313) received in accordance with the limitations, prohibitions, and reporting requirements of this Act, and does not contain any funds received by the candidate pursuant to section 504(a);

"(B) the amount of contributions to and expenditures from the compliance fund do not exceed 10 percent of the limitation on expenditures for the general election determined under subsection (b); and

"(C) no transfers are made from the compliance fund to any other accounts of the candidate's authorized committees.

"(2) If, after a general election, a candidate determines that the costs of necessary and continuing legal and accounting services require contributions to and expenditures from a compliance fund in excess of the limitation stated in paragraph (1), the candidate may petition the Commission for a waiver of such limitation up to any additional amount that the Commission may authorize, the determination of which shall be subject to Federal review under section 508.

"(3) Any money remaining in a compliance fund when a candidate decides to terminate or dissolve the compliance fund shall be—

"(A) contributed to the United States Treasury to reduce the budget deficit; or

"(B) transferred to any fund of a subsequent campaign of that candidate.

"(f) If during a primary election period or runoff election period preceding a general election, independent expenditures aggregating more than $10,000 are made or obligated to be made in opposition to a candidate or for the opponent of a candidate, the limitations stated in subsections (c) and (d), as they apply to such candidate, shall be deemed to be increased for that primary or runoff election in an amount equal to the amount of such independent expenditures made during the primary election period or runoff election period.

"(g) No candidate who receives a benefit under this title for use in a general election campaign shall receive any such benefits if the candidate makes any expenditure before the date that is 6 months before the date of the primary election in which the candidate is a candidate.

"(h) No candidate who receives a benefit under this title shall make any expenditure, directly or indirectly, for any political advertisement or broadcast communication on a television broadcast until after the date that is 6 months before the date of the primary election in which such candidate is a candidate.

"SEC. 504. ENTITLEMENT OF ELIGIBLE CANDIDATES TO BENEFITS.

"(a) An eligible candidate shall be entitled to—

"(1) the broadcast media rates provided under subsections (b) and (d)(3) of section 315 of the Communications Act of 1934 (47 U.S.C. 315);

"(2) mailing rates provided in section 3629 of title 39, United States Code; and

"(3) a payment equal to the greater of—

"(A) $250,000; or

"(B) one-third of the difference between—

"(i) the general election spending limit applicable to the candidate under section 503(b); and

"(ii) the threshold amount applicable to the candidate under section 502(b)(1),

to the extent that such payment will not result in the candidate's having received contributions and payments under this subparagraph and subparagraph (C) aggregating an amount in excess of the general election spending limit applicable to the candidate under section 503(b);

"(C) payments equal to the sum of—

"(i) all contributions that the candidate has received from contributors (excluding multicandidate political committees) who have made contributions for the general election aggregating no more than $250 each; and

"(ii) $250 times the number of contributors (excluding multicandidate political committees) from whom the candidate has received contributions for the general election aggregating more than $250,

to the extent that such payment will not result in the candidate's having received contributions and payments under this subparagraph and subparagraph (B) aggregating an amount in excess of the general election spending unit applicable to the candidate under section 503(b); and

"(D) payments under section 506 equal to the total amount of independent expenditures made or obligated to be made in the general election by any person in opposition to, or on behalf of an opponent of, the eligible candidate, as such expenditures are reported by such person or determined by the Commission under section 304(f);

"(4) if an eligible candidate's opponent who is not an eligible candidate either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed the general election spending limit applicable to the eligible candidate under section 503(b)—

"(A) in the case of an eligible candidate who is a major party candidate a payment under section 506 (in addition to payments to which the candidate is entitled under paragraph (1)) in an amount equal to—

"(i) two-thirds of the amount of the general election spending limit applicable to the eligible candidate under section 503(b) in a case in which the opponent either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 100 percent of the applicable general election spending limit; and

"(ii) one-third of the amount of the general election spending limit applicable to the eligible candidate under section 503(b) in a case in which the opponent either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 133⅓ percent of the applicable general election spending limit; and

"(B) in the case of an eligible candidate who is not a major party candidate matching payments under section 506 (in addition to payments to which the candidate is entitled under paragraph (1)) equal to the amount of each contribution received by such eligible candidate and the candidate's authorized committees, provided that in determining the amount of each such contribution—

"(i) section 502(b) shall apply; and

"(ii) threshold contributions required to be raised under section 502(b)(1) shall not be matched,

to the extent that aggregate payments to a candidate under this subparagraph do not exceed 50 percent of the amount of the general election spending limit applicable to the candidate under section 503(b).

"(b) An eligible candidate who receives payments under paragraph (1)(C) or (2) of subsection (a) may spend such funds to defray expenditures in the general election without regard to the general election spending limit applicable to the candidate under section 503(b).

"(c)(1) An eligible candidate who receives benefits under this section may make expenditures for the general election without regard to subparagraph (A) of section 502(a)(7) or subsection (a) or (b) of section 503 if any one of the eligible candidate's opponent who is not an eligible candidate either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 133⅓ percent of the general election spending limit applicable under section 503(b).

"(2) A candidate who receives benefits under this section may receive contributions for the general election without regard to subparagraph (C) of section 502(a)(7) if a major party candidate in the same general election is not an eligible candidate, or if any other candidate in the same general election who is not an eligible candidate raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 75 percent of the general election spending limit applicable to the candidate under section 503(b).

"(d) Benefits received by a candidate under this section shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such benefits shall not be used—

"(1) to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate,

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"SEC. 505. CERTIFICATION BY COMMISSION.

"(a) No later than 48 hours after an eligible candidate files a request with the Commission to receive benefits under section 506 the Commission shall certify such eligibility to the Secretary of the Treasury for payment in full of the amount to which such candidate is entitled, unless the provisions of section 506(c) apply. Such request shall contain—

"(1) such information and be made in accordance with such procedures, as the Commission may provide by regulation;

"(2) a certification that the candidate has raised contributions in the applicable threshold amount states in section 502(b)(1)

and has met all other requirements to become an eligible candidate; and

"(3) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) Certifications by the Commission under subsection (a) and all determinations made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 508.

"SEC. 506. ESTABLISHMENT OF FUND; PAYMENTS TO ELIGIBLE CANDIDATES.

"(a)(1) The Secretary shall maintain in the Presidential Election Campaign Fund (referred to as the 'Fund') established by section 9006(a) of the Internal Revenue Code of 1986, in addition to any other accounts maintained under such section, a separate account to be known as the 'Senate Account'. The Secretary shall deposit into the Senate Account, for use by eligible candidates, the amounts available after the Secretary determines that the amounts in the fund, plus the amounts of revenue the Secretary projects will accrue to the fund during the remainder of the period ending on December 31 of the year of the next Presidential election, equal 110 percent of the amount the Secretary projects will be necessary for payments under subtitle H of the Internal Revenue Code of 1986 during such remainder of such period. The monies designated for the Senate Fund shall remain available without fiscal year limitation.

"(2) On May 15 of each year following the year during which a regularly scheduled biennial Senate election has occurred, the Secretary shall determine the amount in the Senate Fund, and determine whether that amount, plus the amount of revenue the Secretary projects will accrue to the Senate Account (based on the computation made by the Secretary with respect to the fund, as provided in paragraph (1)) during the period beginning on such date and ending on December 31 of the year of the next regularly scheduled biennial election, exceeds 110 percent of the total estimated expenditures of the Senate Account during that period. If the Secretary determines that an excess amount exists, the Secretary shall transfer the excess to the general fund of the Treasury of the United States.

"(b) Upon receipt of a certification from the Commission under section 505, the Secretary shall promptly pay to the candidate named in the certification, out of the Senate Account, the amount certified by the Commission.

"SEC. 507. EXAMINATION AND AUDITS; REPAYMENTS.

"(a)(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of the eligible candidates of each major party and 10 percent of all other eligible candidates, as designated by the Commission through the use of an appropriate statistical method of random selection to determine, among other things, whether such candidates have complied with the expenditure limits and other conditions of eligibility and requirements of this title.

"(2) After each special election, the Commission shall conduct an examination and audit of the campaign accounts of each eligible candidate in such election to determine whether such candidates have complied with the expenditure limits and other conditions of eligibility and requirements under this title.

"(3) The Commission may conduct an examination and audit of the campaign accounts of any eligible candidate in a general election if the Commission, by an affirmative vote of four members, determines that there exists reason to believe that the candidate has violated any provision of this title.

"(b) If the Commission determines that any portion of the payments made to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify the candidate, and the candidate shall pay to the Secretary an amount equal to the excess.

"(c) If the Commission determines that any part of a payment benefit made to a candidate under this title was not used as required by this title, the Commission shall so notify the candidate and the candidate shall pay to the Secretary an amount equal to 200 percent of the amount of the benefit that was used otherwise than as permitted by this title.

"(d) If the Commission determines that a candidate who has received benefits under this title has made expenditures which in the aggregate exceed by 5 percent or less the general election spending limit applicable to the candidate under section 503(b), the Commission shall so notify the candidate, and the candidate shall pay to the Secretary an amount equal to the amount of the excess expenditure.

"(e) If the Commission determines that a candidate who has received benefits under this title has made expenditures which in the aggregate exceed by more than 5 percent general election spending limit applicable to the candidate under the limitation set forth in section 503(b), the Commission shall so notify the candidate, and the candidate shall pay the Secretary an amount equal to three times the amount of the excess expenditure.

"(f) Any amount received by an eligible candidate under this title may be retained for no more than 60 days after the date of the general election for the liquidation of all obligations to pay general election campaign expenses incurred during the general election period. At the end of 60 days any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(g) No notification shall be made by the Commission under this section with respect to an election more than 3 years after the date of such election.

"(h) All payments received under this section shall be deposited in the Senate Account.

"SEC. 507A. CRIMINAL PENALTIES.

"(a) No candidate shall knowingly or willfully accept benefits under this title in excess of the aggregate benefits to which the candidate is entitled or knowingly or willfully use such benefits for any purpose other than one permitted by this title or knowingly or willfully make expenditures from the candidate's personal funds, or the personal funds of the candidate's immediate family, in excess of the general election spending limit applicable to the candidate under section 503(b).

"(b) A person who violates subsection (a) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both. Any officer or member of any political committee who knowingly consents to the making of an expenditure in violation of subsection (a) shall be fined not more than $25,000, or imprisoned not more than 5 years, or both.

"(c)(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or authorize the use of, such benefit or such portion except as provided in section 504(d).

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(d)(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(e)(1) It is unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any benefits received by a candidate, or an authorized committee of a candidate who receives benefits under this title.

"(2) Any person who violates paragraph (1) shall be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by a candidate or an authorized committee of a candidate pursuant to the provisions of this title shall pay to the Secretary for deposit in the fund, an amount equal to 125 percent of the kickback or benefit received.

"SEC. 508. JUDICIAL REVIEW.

"(a) Any action by the Commission made under this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in that court not later than 30 days after the Commission action for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) Chapter 7 of title 5, United States Code, applies to judicial review of any agency action, as defined in section 551(13) of title 5, United States Code, by the Commission.

"SEC. 509. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) The Commission may appear in and defend against any action instituted under this section and under section 508 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) The Commission may, through attorneys and counsel described in subsection (a), institute actions in the district courts of the United States to seek recovery of any amounts determined under section 507 to be payable to the Secretary.

"(c) The Commission may, through attorneys and counsel described in subsection (a), petition the courts of the United States for

such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to this section.

"SEC. 510. REPORTS TO CONGRESS; REGULATIONS.

"(a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission deems appropriate) made by each eligible candidate and the authorized committees of that candidate;

"(2) the amounts certified by the Commission under section 505 for payment to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507, and the reasons for each such repayment; and

"(4) the balance in the fund, the Senate Account and any other account maintained in the fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) The Commission may prescribe such rules and regulations in accordance with subsection (c), conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as it deems necessary to carry out its functions and duties under this title.

"(c) Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 511. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Commission such sums as are necessary for the purpose of carrying out the Commission's functions and duties under this title.".

SEC. 3. SENATE ACCOUNT.

Section 6096(a) of the Internal Revenue Code of 1986 is amended—

(1) by striking "$1" each place it appears in that subsection and inserting "$2"; and

(2) by striking "$2" each place it appears in that subsection and inserting "$4".

SEC. 4. BROADCAST RATES.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (a) by striking "section" and inserting "subsection";

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(3) by inserting immediately after subsection (a) the following new subsections:

"(b)(1) If any licensee permits a person to utilize a broadcasting station to broadcast material which either endorses a legally qualified candidate for any Federal elective office or opposes a legally qualified candidate for that office, such licensee shall, within a reasonable period of time, provide to any eligible candidate opposing the candidate endorsed (or to an authorized committee of such eligible candidate), or to any eligible candidate who was so opposed (or to an authorized committee of such eligible candidate), the opportunity to utilize, without charge, the same amount of time on such broadcasting station, during the same period of the day, as was utilized by such person.

"(2) For purposes of this subsection, the term 'person' includes an individual, partnership, committee, association, corporation, or any other organization or group of persons, but such term does not include a legally qualified candidate for any Federal elective office or an authorized committee of any such candidate.

"(c) A licensee shall not preempt the use, during any period specified in subsection (d)(1), of a broadcasting station by a legally qualified candidate for Federal office who has purchased such use pursuant to such subsection (d)(1).";

(4) by amending subsection (d)(1), as redesignated by paragraph (2), to read as follows:

"(1) during the 6 months preceding the date of a primary, runoff, general, or special election in which such person is a candidate, the lowest unit charge of the station over the preceding 12-month period for the same class and amount of time for the same period, except that in the case of candidates for the United States Senate in a general election, as such term is defined in section 501(5) of the Federal Election Campaign Act of 1971, this provision shall apply only if such candidate has been certified by the Federal Election Commission as eligible to receive benefits under title V of that Act;"; and

(5) by amending subsection (e), as redesignated by paragraph (2) to read as follows:

"(e) For purposes of this section—

"(1) the term 'authorized committee' means, with respect to any candidate for nomination for election, or election, to any Federal elective office, any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding $1,000 and which is authorized by such candidate to accept contributions or make expenditures on behalf of such candidate to further the nomination or election of such candidate;

"(2) the term 'broadcasting station' includes a community antenna television system; and

"(3) the terms 'licensee' and 'station licensee', when used with respect to a community antenna system, mean the operator of such system.".

SEC. 5. REPORTING REQUIREMENTS.

(a) ADDITIONAL REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end the following new subsections:

"(d)(1) Not later than the day after the date on which a candidate for the United States Senate qualifies for the ballot for a general election, as that term is defined in section 501(5), or, if such candidate is a candidate in a State which has a primary election to qualify for such ballot after September 1, within 7 days after the date such candidate wins in such primary, whichever occurs first, each such candidate in such election shall file with the Commission a declaration whether the candidate intends to make expenditures in excess of the general election spending limit applicable to the candidate under section 503(b).

"(2) A declaration filed pursuant to paragraph (1) may be amended or changed at any time within 7 days after the filing of the declaration, and may not be further amended or changed.

"(e)(1) A candidate for the United States Senate who qualifies for the ballot for a general election, as that term is defined in section 501(5)—

"(A) who is not eligible to receive benefits under section 502; and

"(B) who either raises aggregate contributions or makes or becomes obligated to make aggregate expenditures for the general election that exceed 75 percent of the general election spending limit applicable to the candidate under section 503(b) for such Senate election,

shall file a report with the Commission not later than 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made, or not later than 24 hours after the date of qualification for the general election ballot, whichever is later, setting forth the candidate's total contributions and total expenditures for such election. Thereafter such candidate shall file additional reports with the Commission not later than 24 hours after each time additional contributions are raised or expenditures are made, or are obligated to be made, which aggregate an additional 5 percent of such limit. A candidate shall continue to file such reports until the candidate has raised aggregate contributions or made or has become obligated to make aggregate expenditures equal to 133⅓ percent of the general election spending limit applicable to the candidate under section 503(b).

"(2) The Commission, not later than 24 hours after such a report has been filed, shall notify each candidate in an election who is eligible to receive benefits pursuant to this title of the filing of such report, and after an opposing candidate has raised aggregate contributions or made or has become obligated to make aggregate expenditures in excess of the applicable general election spending limit, the Commission shall certify, pursuant to subsection (i), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled.

"(3) Notwithstanding the reporting requirement established in this subsection, the Commission may make its own determination that a candidate in a general election, as such term is defined in section 501(5), who is not eligible to receive benefits under section 504, has raised aggregate contributions or has made or has become obligated to make aggregate expenditures for such election that exceed general election spending limit applicable to a candidate under section 503(b). The Commission, not later than 24 hours after making such determination, shall notify each candidate in the general election involved who is eligible to receive benefits under section 504 about the making of such determination, and shall certify, pursuant to subsection (i), such eligibility to the Secretary of the Treasury for payment of any amount to which any such candidate is entitled.

"(f)(1) All independent expenditures, if any (including those described in subsection (b)(6)(B)(iii)), made by any person after the date of the last Federal election with regard to a general election, as such term is defined in section 501(5), and all obligations to make such expenditures incurred by any person during such period, if any, shall be reported by such person to the Commission as provided in paragraph (2), if such expenditure or obligation is described in such paragraph.

"(2) Independent expenditures by any person referred to in paragraph (1) shall be reported not later than 24 hours after the aggregate amount of such expenditures incurred or obligated exceeds $10,000. Thereafter, independent expenditures referred to in paragraph (1), made by the same person in the same election, shall be reported not later than 24 hours after each time the aggregate amount of such expenditures incurred or obligated, not yet reported under this subparagraph, exceeds $5,000.

"(3) Each report under this subsection shall be filed with the Commission and the

Secretary of State for the State of the election involved and shall contain—

"(A) the information required by subsection (b)(6)(B)(iii); and

"(B) a statement filed under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat. The Commission shall, not later than 24 hours after such report is made, notify each candidate in the election involved who is eligible to receive benefits pursuant to section 504(a)(1)(C), about the making of each such report, and shall certify such eligibility to the Secretary of the Treasury for payment in full of any amount to which any such candidate is entitled.

"(4)(A) Notwithstanding the reporting requirements established in this subsection, the Commission may make its own determination that a person has made independent expenditures, or has incurred an obligation to make such expenditures, as the case may be, with regard to a general election, as defined in section 501(5), that in the aggregate total more than the applicable amount specified in paragraph (2).

"(B) The Commission shall, not later than 24 hours after such determination is made, notify each candidate in the election involved who is eligible to receive benefits under section 504(a)(1)(C) about the making of each determination under subparagraph (A), and shall certify, pursuant to subsection (i), such eligibility to the Secretary of the Treasury for payment in full of any amount to which such candidate is entitled.

"(g)(1) When two or more persons make an expenditure or expenditures in coordination, consultation, or concert (as described in paragraph (2) or otherwise) for the purpose of promoting the election or defeat of a clearly identified candidate, each such person shall report to the Commission, under subsection (f), the amount of such expenditure or expenditures made by such person in coordination, consultation, or concert with such other person or persons when the total amount of all expenditures made by such persons in coordination, consultation, or concert with each other exceeds the applicable amount provided in such subsection.

"(2) An expenditure by a person shall constitute an expenditure in coordination, consultation, or concert with another person when—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between the persons making the expenditures, including any officer, director, employee or agent of such person;

"(B) in the same 2-year election cycle, 1 of the persons making the expenditures (including any officer, director, employee or agent of such person) is or has been, with respect to such expenditures—

"(i) authorized by such other person to raise or expend funds on behalf of such other person; or

"(ii) receiving any form of compensation or reimbursement from such other person or an agent of such other person;

"(C) one of the persons making expenditures (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled such other person in connection with such expenditure; or

"(D) one of the persons making expenditures and such other person making expenditures each retain the professional services of the same individual or person in connection with such expenditures.

"(h)(1) Every political committee, as defined in section 301(4), active in non-Federal elections and maintaining separate accounts for this purpose shall file with the Commission reports of funds received into and disbursements made from such accounts for activities which may influence an election to any Federal office. For purposes of this section, activities that may influence an election to any Federal office include—

"(A) voter registration and get-out-the-vote drives directed to the general public in connection with any election in which Federal candidates appear on the ballot;

"(B) general public political advertising that includes references, however incidental, to clearly identify Federal and non-Federal candidates for public office, or that does not clearly identify Federal candidates but urges support for or opposition to all the candidates of a political party or other candidates in a classification or context which includes Federal candidates; and

"(C) any other activities that require an allocation of costs between a political committee's Federal and non-Federal accounts reflecting the impact on Federal elections in accordance with regulations prescribed or Advisory Opinions rendered by the Commission.

"(2) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under section 304(a), and shall include:

"(A) a separate statement, for each of the activities in connection with which a report is required under paragraph (1), of the aggregate total of disbursements from the non-Federal accounts; and

"(B) supporting schedules, providing an identification of each donor (except donors whose aggregate donations do not exceed $200 in a calendar year) together with the amount and date of each donation with regard to the receipts of the non-Federal account that comprise disbursements reported under subparagraph (A).

"(3) Reports required to be filed by this subsection need not include donations made to or on behalf of non-Federal candidates or political organizations in accordance with the financing and reporting requirements of State laws, or other disbursements from the non-Federal accounts in support of exclusively non-Federal election activities, if such donations or disbursements are governed solely by such State laws and not subject to paragraph (1).

"(i) The certifications required by this section shall be made by the Commission on the basis of reports filed with such Commission in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination, notwithstanding section 505(a).

"(j) Not later than 15 days after a candidate for the Senate qualifies for the primary ballot under applicable State law, such candidate shall file with the Commission a declaration stating whether or not such candidate agrees to expend from the candidate's personal funds, or the funds of the candidate's immediate family, or incur personal loans, in connection with the candidate's campaign for such office, in the aggregate of $100,000 or more, for the election cycle.

"(k)(1) A candidate for the United States Senate who expends from the candidate's personal funds or the funds of the candidate's immediate family, or incurs personal loans, in connection with the candidate's campaign for such office, in the aggregate in excess of $100,000, for the election cycle, shall file a report with the Commission not later than 24 hours after such expenditures have been made or loans incurred. Thereafter the expenditures referred to in this paragraph shall be reported not later than 24 hours after each time the aggregate of additional expenditures or loans exceeds $10,000.

"(2) Not later than 24 hours after a report has been filed under paragraph (1), the Commission shall notify each candidate in the election who is eligible to receive payments under section 504 of the filing of each such report.

"(3) Notwithstanding the reporting requirements in this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures from the personal funds of such candidate or the funds of any member of a candidate's immediate family or incurred personal loans in connection with the candidate's campaign aggregating in excess of $100,000, or thereafter in increments of $10,000 during the election cycle. Not later than 24 hours after making such determination, the Commission shall notify each candidate in the general election who is eligible to receive benefits under section 504 of the making of each such determination.".

(b) DEFINITIONS.—Section 301 of FECA (2 U.S.C. 431) is amended—

(1) in paragraph (4) by adding at the end the following:

"Whether a committee, club, association, or other group of persons has received contributions within the meaning of this paragraph shall be determined by the Commission on the basis of facts and circumstances, in any combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office, as defined in paragraph (2) of this section, or of any political party, in general public political advertising; and the proximity to any primary, run-off, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election."; and

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

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or an authorized committee of a candidate, the period beginning on the day after the date of the most recent election for the seat that the candidate seeks and ending on the date of the next general election; or

"(B) in the case of other persons, the period beginning on the first day following the date of the most recent general election and ending on the date of the next election.".

SEC. 6. LIMITS ON CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES AND SEPARATE SEGREGATED FUNDS.

(a) DOLLAR LIMITS.—Section 315(a)(2) of FECA (2 U.S.C. 441a(a)(2)) is amended—

(1) in subparagraph (A) by striking "$5,000" and inserting "$1,000";

(2) by striking "or" at the end of subparagraph (B);

(3) in subparagraph (C)—

(A) by striking "$5,000" and inserting "$1,000"; and

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

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

"(D) to any candidate for the office of Member of, or Delegate or Resident Commis-

sioner to, the House of Representatives and the authorized political committees of such candidate with respect to—

"(i) a general or special election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress (including any primary election, convention, or caucus relating to such general or special election) which exceed $100,000 (or $125,000 if at least two candidates qualify for the ballot in the general or special election and at least two candidates qualify for the ballot in a primary election relating to such general or special election), when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and the candidate's authorized political committees with respect to such general or special election (including any primary election, convention, or caucus relating to such general or special election); or

"(ii) a runoff election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress which exceed $25,000 when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and the candidate's authorized political committees with respect to such runoff election;

"(E) to any candidate for the office of Senator and the authorized political committees of such candidate with respect to—

"(i) a general or special election for such office (including any primary election, convention, or caucus relating to such general or special election) which, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and the candidate's authorized political committees with respect to such general or special election (including any primary election, convention, or caucus relating to such general or special election) exceeds an amount equal to 10 percent of the amount provided in section 315(i); or

"(ii) a runoff election for the office of United States Senator which exceeds, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such candidate and his authorized political committees with respect to such runoff election, an amount equal to 10 percent of the limitation on expenditures provided in section 315(j) for runoff elections; or

"(F) to any State committee of a political party, including any subordinate committee of a State committee, which, when added to the total of contributions previously made by multicandidate political committees and separate segregated funds, other than multicandidate committees of a political party, to such State committee exceeds the greater of—

"(i) 2 cents multiplied by the voting age population of the State of such State committee; or

"(ii) $25,000.

The limitation of subparagraph (F) shall apply separately with respect to each two-year Federal election cycle, covering a period from the day following the date of the last Federal general election held in that State through the date of the next regularly scheduled Federal general election.".

(b) SENATE ELECTIONS.—(1) Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsections:

"(i) For purposes of subsection (a)(2)(E)(i), such limitation for the election cycle shall be an amount equal to the lesser of—

"(1) $5,500,000; or

"(2) the greater of—

"(A) $900,000; or

"(B) 50 percent of the sum of—

"(i) $400,000; and

"(ii) 21 cents multiplied by the voting age population of 4,000,000 or less, plus 18 cents multiplied by the voting age population over 4,000,000.

"(j) For purposes of subsection (a)(2)(E)(ii), such limitation for the election cycle shall be an amount equal to the lesser of—

"(1) $5,500,000; or

"(2) the greater of—

"(A) $900,000; or

"(B) 20 percent of the sum of—

"(i) $400,000; and

"(ii) 25 cents multiplied by the voting age population of 4,000,000 or less, plus 20 cents multiplied by the voting age population over 4,000,000.".

(2) Section 315(c) of FECA (2 U.S.C. 441a(c)) is amended—

(A) in paragraph (1) by striking "subsection (b) and subsection (d)" and inserting "subsections (b), (d), (i), and (j)"; and

(B) in paragraph (2)(B) by inserting before the period at the end "as applied in subsections (b) and (d), and the term 'base period' means the calendar year of the first election after the date of enactment of the Senate Election Reform Act of 1993, as applied in subsections (i) and (j)".

(c) CONGRESSIONAL CAMPAIGN COMMITTEES.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking "(2) and (3)" and inserting "(2), (3), (4), and (5)"; and

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

"(4) No congressional campaign committee may accept contributions from multicandidate political committees and separate segregated funds, during two-year election cycle, which, in the aggregate, exceed 30 percent of the total expenditures that may be made during such election cycle by that campaign committee on behalf of candidates for Senator, Representative, Delegate, or Resident Commissioner pursuant to paragraph (3).

"(5) No national committee of a political party may accept contributions from multicandidate political committees and separate segregated funds, during two-year election cycle, which, in the aggregate, are in excess of an amount equal to 2 cents multiplied by the voting age population of the United States.

"(6) The limitations contained in paragraphs (2) and (3) shall apply to any expenditure through general public political advertising, whenever made, which—

"(A) clearly identifies by name an individual who is, or is seeking nomination to be, a candidate in the general election for the Federal office of President, Senator or Representative; and

"(B) does not constitute a direct mail communication designed primarily for fundraising purposes that makes only incidental reference to a Federal candidate.".

SEC. 7. INTERMEDIARY OR CONDUIT.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8)(A) For purposes of this subsection—

"(i) 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; and

"(ii) contributions made by a person either directly or indirectly, to or on behalf of a particular candidate, through an intermediary or conduit, including all contributions delivered or arranged to be delivered by such intermediary or conduit, shall also be treated as contributions from the intermediary or conduit, if—

"(I)(aa) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(bb) the conduit or intermediary is a political committee, other than an authorized committee of a candidate, within the meaning of section 301(4), or an officer, employee or other agent of such a political committee, or an officer, employee or other agent of a connected organization, within the meaning of section 301(7), acting in its behalf; and

"(II) the conduit or intermediary is required to register as a lobbyist or lobby organization as defined under the Federal Regulation of Lobbying Act (2 U.S.C. 266), or an officer, employee or other agent of such an organization.

"(B) The limitations imposed by this subsection shall not apply to—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other event in accordance with rules and regulations prescribed by the Commission by—

"(I) two or more candidates;

"(II) two or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by either two or more candidates or one or more candidates and one or more national, State, or local committees of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate which are conducted by another candidate within the meaning of section 301(2).

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.".

SEC. 8. INDEPENDENT EXPENDITURES.

Section 301(17) of FECA (2 U.S.C. 431(17)) is amended by adding at the end the following new sentence: "An expenditure shall constitute an expenditure in coordination, consultation, or concert with a candidate when—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

"(B) in the same election cycle, the person making the expenditure (including any officer, director, employee or agent of such person) is or has been—

"(i) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees;

"(ii) serving as an officer of the candidate's authorized committees; or

"(iii) receiving any form of compensation or reimbursement from the candidate, the candidate's authorized committees, or the candidate's agent;

"(C) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(D) the person making the expenditure retains the professional services of any individual or other person also providing those services to the candidate in connection with the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any services relating to the candidate's decision to seek Federal office;

"(E) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated or consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of election to Federal office, with—

"(i) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(ii) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(F) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, if the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.".

SEC. 9. INDEPENDENT EXPENDITURE BROADCAST DISCLOSURE.

Section 318(a)(3) of FECA (2 U.S.C. 441d(a)(3)) is amended by striking the period at the end and inserting the following: ", except that when a person makes an independent expenditure through a broadcast communication on any television station, the broadcast communication shall include a statement clearly readable to the viewer that appears continuously during the entire length of such communication setting forth the name of such person and, in the case of a political committee, the name of any connected or affiliated organization, and when a person makes an independent expenditure through a newspaper, magazine, outdoor advertising facility, direct mailing or other type of general public political advertising, the communication shall include, in addition to the other information required by this subsection—

"(A) the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.'; and

"(B) a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization and the name of the president or treasurer of such organization.".

SEC. 10. REFERRAL TO THE DEPARTMENT OF JUSTICE.

Section 309(a)(5)(C) of FECA (2 U.S.C. 437g(a)(5)(C)) is amended by striking "may refer" and inserting "shall refer".

SEC. 11. EXTENSION OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

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

"(iii) with respect to a candidate for the office of United States Senator and the candidate's authorized political committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, by direct mail (including direct mail fund solicitations) or other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period of more than 60 days after the date on which such goods or services are furnished, which date in the case of advertising by direct mail (including a direct mail solicitation) shall be the date of the mailing.".

SEC. 12. PREFERENTIAL RATES FOR MAIL.

(a) IN GENERAL.—Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following new section:

"§ 3629. Reduced rates for certain Senate candidates

"The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501 of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1),

subject to the condition that the total paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) shall not exceed 5 percent of the general election spending limit applicable to such candidate under section 503(b) of the Federal Election Campaign Act of 1971.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates.".

SEC. 13. DISCLOSURE.

Section 318(a) of FECA (2 U.S.C. 441d) is amended—

(1) by striking the period at the end of paragraph (3) and inserting "; and"; and

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

"(4) if paid for or authorized by a general election candidate for the Senate, or the authorized committee of such candidate who has NOT agreed to abide by the expenditure limits in section 503, such advertisement or announcement shall contain the following sentence: 'This candidate has NOT agreed to abide by the spending limits for this Senate election campaign set forth in the Federal Election Campaign Act.'.".

SEC. 14. EXCESS CAMPAIGN FUNDS.

Section 313 of FECA (2 U.S.C. 439a) is amended—

(1) by inserting "(a)" after the section designation;

(2) by striking "political party;" through the end of the paragraph and inserting "political party."; and

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

"(b) The authorized committee of a Senator or Representative in, Delegate or Resident Commissioner to, or candidate for, the Congress, may not make any contribution, either directly or indirectly, to any other Senator or Representative in, Delegate or Resident Commissioner to, the Congress, or, to any State or local elected official or any candidate (or any authorized committee for the candidate) for such office, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit (including any political committee) to the Senator, Representative, Delegate, Resident Commissioner, or candidate.".

SEC. 15. POLITICAL COMMITTEE POSTAL RATES.

Subsection (e) of section 3626 of title 39, United States Code, is repealed.

SEC. 16. SOFT MONEY.

(a) PROHIBITION.—Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by section 6(c), is amended by adding at the end the following new paragraph:

"(5) A State committee of a political party, including any subordinate committee of a political party, may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party.".

(b) DEFINITIONS.—Section 301 of FECA (2 U.S.C. 431) is amended by repealing clauses (x) and (xii) of paragraph (8)(B) and clauses (viii) and (ix) of paragraph (9)(B).

(c) APPLICATION OF FECA TO COMMITTEES OF POLITICAL PARTIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 6(b), is amended by adding at the end the following new subsection:

"(k)(1) Any amount solicited, received or spent by a national, State, or local committee of a political party, directly or indirectly, shall be subject to the provisions of this Act, if such amount is solicited, received or spent in connection with a Federal election. No part of such amount may be allocated to a non-Federal account or otherwise maintained in, or paid from, an account that is not subject to this Act. This section shall not apply to amounts described in section 301(b)(9)(B)(viii).

"(2) For purposes of this subsection, the term 'in connection with a Federal election' includes any activity that may affect a Federal election including but not limited to the following:

"(A) voter registration and get out the vote activities;

"(B) generic activities, including but not limited to any broadcasting, newspaper, magazine, billboard, mail, or similar type of communication or public advertising; and

"(C) campaign materials which identify a federal candidate, regardless of any other candidate who may also be identified.".

SEC. 17. FEDERAL ELECTION COMMISSION REFORM.

(a) MEMBERSHIP.—Section 306(a)(1) of FECA (2 U.S.C. 437e(a)(1)) is amended—

(1) by striking "6 members" and inserting "7 members"; and

(2) by amending the last sentence to read as follows: "No more than 4 members of the Commission appointed under this paragraph may be affiliated with the same political party, and such appointments shall be made in a manner to assure that the same political party shall not have 4 or more members affiliated with such party on such Commission for two succeeding years.".

(b) TERMS.—Section 306(a)(2) of FECA (2 U.S.C. 437c(a)(2)) is amended to read as follows:

"(2)(A) Members of the Commission shall serve for terms of 7 years, except that of the members appointed after April 30, 1993—

"(i) one of the two members appointed for the term beginning May 1, 1995, shall be appointed for a term of 6 years;

"(ii) one of the two members appointed for the term beginning May 1, 1997, shall be appointed for a term of 6 years; and

"(iii) one of the two members appointed for the term beginning May 1, 1999, shall be appointed for a term of 6 years.

"(B) One additional member of the Commission shall be appointed for a term beginning May 1, 1993, and shall be appointed for a term of 5 years.".

SEC. 18. FRANKED MAIL.

(a) TITLE 39, UNITED STATES CODE.—Section 3210(a)(6) of title 39, United States Code is amended—

(1) in subparagraph (A), by striking "60 days" each place it appears and inserting "6 months";

(2) in subparagraph (C), by striking "60 days" and inserting "6 months"; and

(3) in subparagraph (E), by—

(A) inserting ", town meeting notices, opinion surveys," after "news-letters"; and

(B) striking "five hundred" and inserting "250".

(b) SENATE RULES.—Paragraph 1 of Rule 40 of the Standing Rules of the Senate is amended by striking "sixty days" and inserting "6 months".

SEC. 19. ONE CAMPAIGN COMMITTEE ALLOWED.

(a) DEFINITION.—Section 301(6) of FECA (2 U.S.C. 431(6)) is amended by inserting ", other than a candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress," after "a candidate".

(b) ORGANIZATION OF COMMITTEES.—Section 302 of FECA (2 U.S.C. 432(e)) is amended—

(1) in subsection (e)(1) by inserting ", other than a candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress," after "A candidate"; and

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

"(j) Notwithstanding any other law, no candidate for the office of Senator or Representative in, or Delegate or Resident Commissioner to the Congress shall have any authorized committee or campaign committee other than one committee which shall be the principal campaign committee for such individual.".

SEC. 20. SEVERABILITY.

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.

SEC. 21. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall become effective for any election held in 1994 or thereafter.

(b) IMMEDIATE EFFECTIVENESS.—The amendments made by sections 3, 7, 8, and 9 shall become effective on the date of enactment of this Act.

DeCONCINI CAMPAIGN FINANCE REFORM/STATE-BY-STATE BREAKDOWN

State	VAP	General limit	Primary limit	Cycle limit	Threshold	Automatic grant	PAC limit
Alabama	3.018	1,033,780.00	516,890.00	1,550,670.00	301,800.00	250,000.00	155,067.00
Alaska	.391	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Arizona	2.740	975,400.00	487,700.00	1,463,100.00	274,000.00	250,000.00	146,310.00
Arkansas	1.746	900,000.00	450,000.00	1,350,000.00	174,600.00	250,000.00	135,000.00
California	22.218	4,519,240.00	2,259,620.00	6,778,860.00	650,000.00	1,276,849.20	677,886.00
Colorado	2.493	923,530.00	461,765.00	1,385,295.00	249,300.00	250,000.00	138,529.50
Connecticut	2.527	930,670.00	465,335.00	1,396,005.00	252,700.00	250,000.00	139,600.50
Delaware	.512	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Florida	10.280	2,370,400.00	1,185,200.00	3,555,600.00	650,000.00	567,732.00	355,560.00
Georgia	4.848	1,392,640.00	696,320.00	2,088,960.00	484,800.00	299,587.20	208,896.00
Hawaii	.846	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Idaho	.721	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Illinois	8.545	2,058,100.00	1,029,050.00	3,087,150.00	650,000.00	464,673.00	308,715.00
Indiana	4.144	1,265,920.00	632,960.00	1,898,880.00	414,400.00	281,001.60	189,888.00
Iowa	2.069	834,490.00	417,245.00	1,251,735.00	206,900.00	250,000.00	125,173.50
Kansas	1.822	900,000.00	450,000.00	1,350,000.00	182,200.00	250,000.00	135,000.00
Kentucky	2.754	978,340.00	489,170.00	1,467,510.00	275,400.00	250,000.00	146,751.00
Louisiana	3.018	1,033,780.00	516,890.00	1,550,670.00	301,800.00	250,000.00	155,067.00
Maine	.924	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Maryland	3.659	1,168,390.00	584,195.00	1,752,585.00	365,900.00	264,821.70	175,258.50
Massachusetts	4.622	1,351,960.00	675,980.00	2,027,940.00	462,200.00	293,620.80	202,794.00
Michigan	6.884	1,759,120.00	879,560.00	2,638,680.00	650,000.00	366,009.60	263,868.00
Minnesota	3.243	1,081,030.00	540,515.00	1,621,545.00	324,300.00	250,000.00	162,154.50
Mississippi	1.841	900,000.00	450,000.00	1,350,000.00	184,100.00	250,000.00	135,000.00
Missouri	3.818	1,201,780.00	600,890.00	1,802,670.00	381,800.00	270,593.40	180,267.00
Montana	.585	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Nebraska	1.158	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Nevada	.962	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
New Hampshire	.824	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
New Jersey	5.919	1,585,420.00	792,710.00	2,378,130.00	591,900.00	327,861.60	237,813.00
New Mexico	1.089	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
New York	13.691	2,984,380.00	1,492,190.00	4,476,570.00	650,000.00	770,345.40	447,657.00
North Carolina	5.094	1,436,920.00	718,460.00	2,155,380.00	509,400.00	306,081.60	215,538.00
North Dakota	.461	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Ohio	8.120	1,981,600.00	990,800.00	2,972,400.00	650,000.00	439,428.00	297,240.00
Oklahoma	2.330	889,300.00	444,650.00	1,333,950.00	233,000.00	250,000.00	133,395.00
Oregon	2.174	856,540.00	428,270.00	1,284,810.00	217,400.00	250,000.00	128,481.00
Pennsylvania	9.132	2,163,760.00	1,081,880.00	3,245,640.00	650,000.00	499,540.80	324,564.00
Rhode Island	.774	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
South Carolina	2.622	950,620.00	475,310.00	1,425,930.00	262,200.00	250,000.00	142,593.00
South Dakota	.503	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Tennessee	3.723	1,181,830.00	590,915.00	1,772,745.00	372,300.00	267,144.90	177,274.50
Texas	12.380	2,748,400.00	1,374,200.00	4,122,600.00	650,000.00	692,472.00	412,260.00
Utah	1.128	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Vermont	.422	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Virginia	4.748	1,374,640.00	687,320.00	2,061,960.00	474,800.00	296,947.20	206,196.00
Washington	3.703	1,177,630.00	588,815.00	1,766,445.00	370,300.00	266,418.90	176,644.50
West Virginia	1.364	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00
Wisconsin	3.644	1,165,240.00	582,620.00	1,747,860.00	364,400.00	264,277.20	174,786.00
Wyoming	.323	900,000.00	450,000.00	1,350,000.00	150,000.00	250,000.00	135,000.00

By Mr. NICKLES:

S. 65. A bill to amend the Internal Revenue Code of 1986 to impose a fee on the importation of crude oil and refined petroleum products; to the Committee on Finance.

DOMESTIC PETROLEUM SECURITY ACT

• Mr. NICKLES. Mr. President, today I am introducing the Domestic Petroleum Security Act of 1993. This bill imposes a variable tariff on imported oil that phases out once the landed price reaches $25 a barrel. This will have the effect of establishing a price floor on imported crude of $25 per barrel. The purpose of the measure, which is similar to bills I introduced in the past three Congresses, is to stimulate and maintain a reasonable level of investment in domestic oil production.

It is the uncertainty of long-term price of crude oil—with the specter that it could drop into the mid or even low teens again—that has kept producers and financiers from making investment decisions in domestic exploration and production. During the 1980's, the oil and gas industry and lending institutions learned the hard way about the imprudence of making exploration and production decisions based on escalating projections on the price of crude. The most devastating of the oil drops culminated in August 1986, when domestic crude sold for less than $10 a

barrel. However, even in July 1990, crude dipped as low as $15 a barrel.

Since the mid-1980's, we in the oil patch have been reluctant witnesses to the tragedies of friends losing productive jobs, banks failing, expertise and capital equipment permanently disappearing, and marginal wells prematurely shut-in and the remaining oil forever lost.

Last year, Oklahoma produced 278,000 barrels a day, a 34-percent drop in production since 1985, In 1981, there were 698 rigs operating in Oklahoma as compared to 129 on January 16, 1993. Stripper well production in Oklahoma accounts for 80 percent of Oklahoma oil production even though average production from stripper wells is 2.9 barrels a day. These wells are being plugged and abandoned at an alarming rate because they are no longer economic to operate.

As a nation, too, we have suffered dearly for this cheap oil. Since 1985, domestic production—excluding Alaska—has dropped by 24 percent or, on average, 1.7 million barrels per day which is the equivalent of 630 million barrels a year. The rig count has fallen from 3,974 in 1981 to 838 nationwide. In June last year, the national rig count dropped to 596, the lowest number ever recorded since we began keeping records in the 1940's. Currently, domestic production equals, on average, 7.4 million barrels per day resulting in the lowest level of production since 1950. This loss in production since 1985 has cost Americans approximately $11 billion in 1992 alone. This loss essentially negates the positive trade balance that we had from all our agricultural exports of corn, wheat, and cotton in 1991. Every barrel of lost domestic production must be made up by spending more money for foreign oil—which is already over half of our trade deficit. And, today we are all too aware of the national security implications of heavy reliance on Middle East oil.

Congress can do something about this perilous decline in domestic oil production and rapid increase in oil imports. We can dampen the risks associated with world oil price declines that are orchestrated at will by foreign governments by stopping the world oil price slides at $25 per barrel. There are plenty of risks inherent in finding oil in the ground without continuing to subject U.S. business and banks to the risks of more foreign price manipulation.

Moreover, the money raised by the tariff imposed when world prices fall below $25 would go into the Federal Treasury, as would increased revenues from Federal oil royalties and lease bonuses. This new revenue could be used for deficit reduction.

The bill I introduce today would impose a tariff on imported crude oil and products that is calculated by the Secretary of the Treasury to be the difference between $25 and the average international price of crude oil during the preceding 4 weeks. If the 4-week average international price of crude oil is $25 or more, then the tariff would be zero. The tariff would be adjusted each week to reflect changes in the average international price during the preceding 4 weeks.

For imported petroleum products, the bill adds an additional $3 per barrel to the tariff calculated by the Secretary. This surcharge to the crude oil tariff will ensure that the imposition of the tariff will not inadvertently encourage importation of petroleum products by making them proportionately less expensive than importing and refining crude oil. The bill also provides that the tariff would not apply to crude oil or refined products that are subsequently exported.

I first introduced this floor price tariff approach in September 1986. If the Congress had passed that measure we would have prevented much of the economic hardships and increases in petroleum imports that we have seen in the last 2 years. The first bill and the one I introduced at the beginning of the 100th Congress both set a floor price of $20 per barrel. However, I introduce today's measure with a floor price target of $25 per barrel to address the undeniable need for this Nation to rebuild as strong a domestic oil producing industry as possible.

One of the best investments we can make in the energy sector of this country is by placing a floor price on domestic crude oil. With a floor price, we will maintain energy conservation and oil production during periods of world oil overproduction, yet not add to the burdens on the American consumer when world prices climb above $25 per barrel.

I hope that now with drilling at one of its lowest points in history and with the concurrent loss of over 400,000 jobs in the oil and gas industry alone, that Congress will have the courage to pass a measure that will contribute to the long-term vitality of our domestic petroleum industry as well as contribute to our national security.

Mr. President, I ask unanimous consent that the text of the bill be included in the RECORD at this point.

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

S. 65

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Domestic Petroleum Security Act of 1993".

SEC. 2. FEE ON IMPORTED CRUDE OIL OR REFINED PETROLEUM PRODUCTS.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 55—IMPORTED CRUDE OIL OR REFINED PETROLEUM PRODUCTS

"Sec. 5891. Imposition of tax.
"Sec. 5892. Definitions.
"Sec. 5893. Registration.
"Sec. 5894. Procedures, returns; penalties.

"SEC. 5891. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—In addition to any other tax imposed under this title, an excise tax is hereby imposed on—

"(1) the first sale within the United States of each barrel (or its equivalent) of—

"(A) any crude oil, or

"(B) any refined petroleum product, that has been imported into the United States, and

"(2) the use within the United States of each barrel (or its equivalent) of—

"(A) any crude oil, or

"(B) any refined petroleum product, that has been imported into the United States if no tax has been imposed with respect to such crude oil or refined petroleum product prior to such use.

"(b) RATE OF TAX.—

"(1) CRUDE OIL.—For purposes of paragraphs (1)(A) and (2)(A) of subsection (a) the rate of tax on any barrel (or its equivalent) shall be the excess, if any, of—

"(A) $25, over

"(B) the energy policy price per barrel of crude oil.

"(2) REFINED PETROLEUM PRODUCT.—For purposes of paragraphs (1)(B) and (2)(B) of subsection (a), the rate of tax on any barrel (or its equivalent) shall be equal to—

"(A) $3, plus

"(B) the tax determined under paragraph (1) of this subsection.

"(3) FRACTIONAL PARTS OF BARRELS.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

"(c) DETERMINATION OF ENERGY POLICY PRICE.—

"(1) IN GENERAL.—For purposes of this section, the energy policy price with respect to any week during which the tax under subsection (a) is imposed shall be determined by the Secretary and published in the Federal Register on the first day of such week.

"(2) BASIS OF DETERMINATION.—For purposes of paragraph (1), the energy policy price for any week is the weighted average international price of a barrel of crude oil for the preceding 4 weeks as determined by the Secretary, after consultation with the Administrator of the Energy Information Administration of the Department of Energy, pursuant to the formula for determining such international price as used in publishing the Weekly Petroleum Status Report and as in effect on the date of the enactment of this section.

"(d) LIABILITY FOR PAYMENT OF TAX.—

"(1) SALES.—The taxes imposed by subsection (a)(1) shall be paid by the first person who sells the crude oil or refined petroleum product within the United States.

"(2) USE.—The taxes imposed by subsection (a)(2) shall be paid by the person who uses the crude oil or refined petroleum product.

"(3) TAX-FREE EXPORTS.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter on the sale of crude oil or refined petroleum products for export or for resale by the purchaser to a second purchaser for export.

"(B) PROOF OF EXPORT.—Where any crude oil or refined petroleum product has been sold free of tax under subparagraph (A), such subparagraph shall cease to apply with re-

spect to the sale of such crude oil or refined petroleum product, unless, within the 6-month period which begins on the date of the sale, the seller receives proof that the crude oil or refined petroleum product, has been exported.

"SEC. 5892. DEFINITIONS.

"For purposes of this chapter—

"(1) CRUDE OIL.—The term 'crude oil' means crude oil other than crude oil produced from a well located in the United States (within the meaning of section 638(2)) or a possession of the United States.

"(2) BARREL.—The term 'barrel' means 42 United States gallons.

"(3) REFINED PETROLEUM PRODUCT.—The term 'refined petroleum product' shall have the same meaning given to such term by section 3(5) of the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 752(5)).

"(4) EXPORT.—The term 'export' includes shipment to a possession of the United States; and the term 'exported' includes shipment to a possession of the United States.

"SEC. 5893. REGISTRATION.

"Every person subject to tax under section 5891 shall, before incurring any liability for tax under such section, register with the Secretary.

"SEC. 5894. PROCEDURES; RETURNS; PENALTIES.

"For purposes of this title, the tax imposed by section 5891 shall be treated in the same manner as the tax imposed by section 4986 (as in effect before its repeal)."

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end thereof the following new item:

"Chapter 55. Imported crude oil or refined petroleum products."

(c) DEDUCTIBILITY OF IMPORTED OIL TAX.—The first sentence of section 164(a) (relating to deductions for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The imported oil taxes imposed by section 5891."

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to sales and use of imported crude oil or imported refined petroleum products on or after the date of enactment.●

By Mr. NICKLES (for himself, Mr. GRASSLEY, Mr. SMITH, Mr. COHEN, Mr. HELMS, Mr. BOREN, and Mr. D'AMATO):

S. 66. A bill to amend title IV of the Social Security Act to enhance educational opportunity, increase school attendance, and promote self-sufficiency among welfare recipients; to the Committee on Finance.

CHILDREN'S EDUCATION OPPORTUNITY ACT

● Mr. NICKLES. Mr. President, today I, along with Senators GRASSLEY, SMITH, HELMS, COHEN, D'AMATO, and BOREN am introducing legislation that will give States greater flexibility in enacting laws that link school attendance to welfare benefits. These innovative State initiatives are known as Learnfare.

State governments all over the Nation are looking for new ways to reduce the prevalence of welfare dependency and lower high school dropout rates. Learnfare calls on adults to be held accountable for their actions, and holds parents on public assistance accountable for the education of their children. This is just plain common sense.

Most policymakers agree that education is the best way to break the cycle of generational poverty that plagues our Nation's poor. Children who drop out of high school are more likely to be unemployed, more likely to turn to a life of crime, and more likely to end up on welfare than their peers who remain in school. We must take every measure possible to insure that every child in the country benefits from our Nation's educational systems.

Pioneered in Wisconsin, Learnfare is the linkage of AFDC dollars to school attendance. Interest in these programs has been voiced from Massachusetts to California and from Washington to Florida. Currently, States are able to enact these measures by obtaining a waiver from the Department of Health and Human Services to expand their mandated Job Opportunities and Basic Skills [JOBS] Programs to include school age dependents of AFDC recipients. Unfortunately, States seeking to gain this waiver have met with Federal, bureaucratic stonewalling.

My legislation will remove this Federal stumbling block by amending the State programs section of the Social Security Code's AFDC regulations to allow States the option of implementing learnfare programs. Doing away with the necessity for a Federal waiver will encourage States to implement innovative ways of keeping at-risk youths in school. Knowing the importance of educational opportunities, the Nation's Governors adopted a 90-percent graduation rate as one of the national education goals. Learnfare will help assure attainment of this goal.

I truly hope this will be the first step toward reestablishing the once commonplace notion that individuals are answerable for their actions. Requiring responsible actions of welfare recipients will create a two-way obligation between the States and those on welfare. States are obliged to assist recipients in getting off the welfare rolls and recipients, in turn, are encouraged to use their benefits to better their situation.

In the September 10 issue of the Black Chronicle, a weekly newspaper in Oklahoma, an editorial writer wrote:

Mr. Nickles' justification for this is that the proposal offers a way for welfare recipients to eventually free themselves from the shackles of dependence on welfare and the senator said he anticipates, that, at some point, through education, etc., a generation of families may be able to break the cycle of welfare dependence.

This truly sums up what I believe this legislation is all about. We must challenge all Americans to take a stake in our Nation's education systems. We must reignite the thirst for knowledge that we all shared as children. As the debate on welfare and education reform unfolds, I challenge my colleagues to support this legislation. It will give the States the opportunity to enact programs that insure every school age child in America the educational opportunity they deserve.●

● Mr. D'AMATO. Mr. President, I rise today to join Senator NICKLES in sponsoring the Children's Education Opportunities Act. This bill relieves the necessity for States to obtain a waiver under Social Security regulations allowing them the option to implement Learnfare programs for children of families receiving welfare. This legislation is an important step in ending welfare dependence through the education of children that might ordinarily be left in the vicious cycle of dependence that has gone on for far too long.

Welfare was never intended to become a way of life, but unfortunately, it has. Therefore, it is our duty to provide children and teenagers on AFDC the minimus level of education needed to become productive citizens and wage earners. These children must grow to become part of the mainstream, not be doomed to live outside of it.

President Clinton supports welfare reform, changing the current welfare system from a way of life to providing people with a second chance. I see no reason why we cannot join him in this effort. Congress, therefore, must act. That is why this legislation can provide hope for an end to the cycle of poverty in which children of welfare recipients have become trapped. I commend my colleague Mr. NICKLES for this worthy start at welfare reform. I also urge my colleagues to join us in cosponsoring this legislation.●

By Mrs. KASSEBAUM (for herself, Mr. DOLE, Mr. MCCAIN, Mr. DANFORTH, and Mr. SMITH):

S. 67. A bill to regulate interstate commerce by providing for uniform standards of liability arising out of general aviation accidents; to the Committee on Commerce, Science, and Transportation.

GENERAL AVIATION ACCIDENT LIABILITY STANDARDS

Mrs. KASSEBAUM. Mr. President, I rise today to introduce the General Aviation Accident Liability Standards Act of 1993. This legislation would replace the current patchwork of unpredictable and inconsistent State general aviation liability laws with uniform, fair, and reasonable Federal standards of liability.

America has always dominated the world in all aspects of aviation—military, commercial, and general aviation. Today, however, U.S. dominance in the general aviation field is being threatened by foreign competition. Under our country's current product liability system, it is unclear whether or not U.S. manufacturers can survive the foreign challenge. Since 1979 unit sales of new, domestically produced aircraft

have plummeted nearly 95 percent, and employment is down 70 percent.

The advantage foreign companies have in manufacturing general aviation aircraft is that, unlike most American companies, they do not have to build high-product liability costs into the selling price of their airplanes. Because the foreign companies are not liable for a huge fleet of very old aircraft still in operation in the United States, they are not adversely affected by those States which do not have a statute of repose. Moreover, a majority of the foreign planes are sold in Europe where there is a 10-year statute of repose.

American manufacturers, on the other hand, are responsible for a fleet of over 200,000 general aviation planes that is, on average, over 22 years old. In those States that do not have a statute of repose, domestic manufacturers are still liable for every plane they have ever produced—including the ones built in the 1920's, 1930's, and 1940's. Manufacturers have no choice but to build the cost of this liability exposure into the price of every new airplane they produce.

Mr. President, it does not make sense for us to allow unpredictable and often conflicting State liability laws to destroy an industry that is completely regulated by the Federal Government. Every aspect of the general aviation industry—everything from airplane design to pilot licensing and airplane maintenance—is controlled by Federal law. Nevertheless, when a general aviation accident occurs it is State, rather than Federal, liability standards that apply.

This is the fifth consecutive term of Congress in which I have introduced the General Aviation Accident Liability Standards Act. Throughout this period, sales of domestically produced general aviation aircrafts have consistently fallen while foreign manufacturers have increased their share of the U.S. market. In order to save the domestic general aviation industry, and the jobs that go with it, it is essential that we enact uniform, fair, and reasonable Federal standards of liability.

Obviously, innocent victims should not pay the price for defective aircraft, and no Federal law should change that. However, manufacturers should not pay for defective maintenance, defective servicing, or defective operation. These are things that are beyond the manufacturer's control. Moreover, at some point, manufacturers should cease to be liable for planes that were neither built, nor warranted, to last forever.

The legislation I am introducing today is not only supported by the manufacturers of general aviation aircraft, it is also supported by consumers. The Aircraft Owners and Pilots Association—which represents the very people who buy and fly general aviation airplanes—have again joined with the General Aviation Manufacturers Association, the National Business Aircraft Association, the Experimental Aircraft Association, and National Air Transport Association in endorsing this bill.

Mr. President, the general aviation industry is dying, and 30,000 workers have already lost their jobs. Unless uniform Federal liability standards are passed, domestic manufacturers will continue to be at a competitive disadvantage with foreign companies, and the United States will unnecessarily lose jobs and technology. In order to save this important industry, I urge the Senate to give prompt and careful consideration to the General Aviation Accident Liability Standards Act of 1993.

By Mr. METZENBAUM:

S. 68. A bill to amend the Federal Food, Drug, and Cosmetic Act to prevent misleading advertising of the health benefits of foods; to the Committee on Labor and Human Resources.

FDA ADMINISTRATION NUTRITION ADVERTISING ACT

Mr. METZENBAUM. Mr. President, the Food and Drug Administration Nutrition Advertising Act of 1993, amends the Federal Food, Drug and Cosmetic Act to grant the Food and Drug Administration [FDA] expanded jurisdiction to prevent false and misleading nutrition and health claims in food advertising. The FDA already has the authority to control the use of false and misleading claims in food labeling. The purpose of this bill is to ensure that consumers receive consistent and reliable nutritional information from food labeling as well as food advertising.

In 1990, Congress overwhelmingly approved the Nutrition Labeling and Education Act [NLEA], the most extensive food labeling reform in this country's history. According to the FDA, the improved nutrition information required by this landmark bill will prevent at a minimum, 39,000 cases of coronary heart disease and 12,000 deaths in the next 20 years by enabling consumers to change to more healthy diets that are lower in fat, cholesterol, sodium and calories. By 1994, consumers will finally see accurate nutrition labels on almost all of the products in their supermarket.

Despite this tremendous progress for consumer rights, a critical and inappropriate gap in food labeling coverage still exists. The Federal Trade Commission [FTC], which as a result of a 1954 agreement between the FTC and FDA has sole jurisdiction over food advertising, has not followed the FDA's lead. While the FTC repeatedly states that it is working closely with the FDA to harmonize advertising and labeling policies, several recent FTC enforcement actions indicate otherwise. The bottom line is that the FTC allows food companies to make nutrition and health claims in ADS that the FDA believes are misleading.

The FTC has failed to take enforcement action against numerous companies that are currently misusing such well-defined terms as "low sodium" or "lean" in food advertising. In addition, the FTC has not indicated that it will prevent companies from using nutrient terms not permitted under the NLEA. The use of an endless number of other nutrient terms, limited only by the creativity of Madison Avenue advertising executives, will only serve to mislead health conscience consumers.

Legislation granting the FDA explicit jurisdiction over health and nutrition claims in advertising is necessary to remedy these problems. S. 2968 would do just that. FDA scientists, nutritionists and other experts are clearly qualified to evaluate the validity of nutrition and health claims in advertising.

The FTC's policies on food advertising must not be permitted to undermine important health and consumer benefits. The Nutrition Advertising Coordination Act of 1993, will help ensure that the benefits of nutrition labeling are enhanced and not diminished.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 68

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Food and Drug Administration Nutrition Advertising Act of 1993".

SEC. 2. MISLEADING FOOD ADVERTISEMENTS.

(a) REQUIREMENTS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following new paragraph:

"(s) Except as provided in clauses (A) through (C) of paragraph (r)(5), if it is a food intended for human consumption that is offered for sale, and the advertising for the food—

"(1) makes a claim, expressly or by implication, of the type described in paragraph (r)(1)(A), unless the claim is in accordance with regulations promulgated by the Secretary that are consistent with regulations issued by the Secretary to implement paragraph (r)(2);

"(2) makes a claim, expressly or by implication, of the type described in paragraph (r)(1)(B), unless the claim is in accordance with regulations promulgated by the Secretary that are consistent with regulations issued by the Secretary to implement subparagraph (3) or (5)(D) of paragraph (r);

"(3) makes a claim, expressly or by implication of the type described in clause (A) or (B) of paragraph (r)(1), unless the claim is in accordance with regulations promulgated by the Secretary that are consistent with regulations issued by the Secretary to implement subparagraph (1) or (2) of paragraph (q); or

"(4) fails to include clearly and conspicuously the following statement: 'See product label for complete nutrition information.'".

(b) REGULATIONS.—
(1) IN GENERAL.—
(A) PROPOSED REGULATIONS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations to implement section 403(s) of the Federal Food, Drug, and Cosmetic Act.

(B) FINAL REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Secretary of Health and Human Services shall issue final regulations to implement section 403(s) of the Federal Food, Drug, and Cosmetic Act.

(2) PROPOSED REGULATIONS CONSIDERED TO BE FINAL.—If the Secretary of Health and Human Services fails to issue final regulations under paragraph (1)(B) upon the expiration of 12 months after the date of enactment of this Act, the proposed regulations issued in accordance with paragraph (1)(A) shall be considered to be the final regulations upon the expiration of such 12 months. The Secretary of Health and Human Services shall promptly publish in the Federal Register notice of the new status of the proposed regulations.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2(a) shall take effect 15 month after the date of enactment of this Act.

By Mr. BREAUX (for himself, Mr. CHAFEE, Mr. MITCHELL, Mr. PELL, Mr. BRADLEY, Mr. HOLLINGS, Mr. JOHNSTON, Mr. MACK, Mr. GRAHAM, Mr. LEVIN, Mr. DURENBERGER, Mr. SHELBY, Ms. MIKULSKI, Mr. HELMS, Mr. LIEBERMAN, Mr. GORTON, and Mr. DODD):

S. 69. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats; to the Committee on Finance.

REPEAL OF LUXURY TAX ON BOATS

• Mr. BREAUX. Mr. President, my colleagues, I rise this afternoon to reintroduce legislation that my distinguished colleague, Senator CHAFEE of Rhode Island, and I introduced, along with a large number of cosponsors, in the last Congress. That legislation was to repeal the so-called luxury tax on boats and vessels which was, I think, a very serious mistake in this Congress, levying this so-called 10-percent luxury tax in the first place.

What we have done with this tax, which is now in place, is not to raise revenues for the Government to reduce the deficit; but what we have done is to discourage the creation of jobs in a very important segment of our Nation's business and industry. Fewer boats are being bought as a result of this tax. Therefore, fewer sales occur, less money is generated, and literally thousands of Americans have lost their jobs because companies are not able to continue production of a product that Americans were actually purchasing before the tax was put into place.

Senator CHAFEE and I, and all of our colleagues who joined in this, passed this bill twice in the House and in the Senate on two separate occasions. Unfortunately, the legislation that it was part of was vetoed twice by the administration. We were never able to get it adopted. It is a clear sense of what is appropriate and proper.

Congress wants this legislation to be repealed. The American public thinks it was a mistake, and Congress is responding to that by repealing it on two separate occasions. I am hopeful that with the introduction of the Breaux-Chafee bill, with about 20 cosponsors this time, that we will be able to get it moving.

The Secretary of Treasury, our former colleague, Senator BENTSEN, has been one of our strongest supporters of this effort. I am hopeful that he will be in the position to convince this administration—and, hopefully, they will—to support this legislation when Congress passes it again in this Congress, and that President Clinton will be able to affix his signature, thereby repealing this onerous tax, which is not accomplishing the purpose for which it was intended.

I ask unanimous consent that the bill be printed in the RECORD at this point.

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

S. 69

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

SECTION 1. REPEAL OF LUXURY TAX ON BOATS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 31 of the Internal Revenue Code of 1986 (relating to retail excise taxes) is amended by striking section 4002 and by redesignating sections 4003 and 4004 as sections 4002 and 4003, respectively.

(b) CONFORMING AMENDMENTS.—
(1) Paragraph (2) of section 4003(b) of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended—
(A) by striking "vehicle, boat," in subparagraph (A)(iii) and inserting "vehicle", and
(B) by striking "vehicle, $100,000 in the case of a boat," in subparagraph (B) and inserting "vehicle".

(2) Paragraph (2) of section 4011(c) of such Code is amended—
(A) by striking "vehicle, boat," in subparagraph (A) and inserting "vehicle",
(B) by striking "a boat or" in subparagraph (B)(i),
(C) by striking "section 4004(c)" in subparagraph (C)(iii) and inserting "section 4003(c)", and
(D) by striking "VEHICLES, BOATS," in the heading thereof and inserting "VEHICLES".

(3) Subsection (c) of section 4221 of such Code is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4002(c), 4003(a)".

(4) Subsection (d) of section 4222 of such Code is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4002(c), 4003(a)".

(5) The table of sections for subpart A of part I of subchapter A of chapter 31 of such Code is amended—
(A) by striking the item relating to section 4002, and
(B) by striking "4003" and "4004" and inserting "4002" and "4003", respectively.

(6) The heading for subpart A of part I of subchapter A of chapter 31 of such Code is amended by striking **"Vehicles, Boats,"** and inserting **"Vehicles".**

(7) The table of subparts for part I of subchapter A of chapter 31 of such Code is amended by striking "vehicles, boats," in the item relating to subpart A and inserting "vehicles".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1991.•

Mr. COHEN. Mr. President, I am pleased to join my colleague from Louisiana, Senator BREAUX, in offering this legislation to repeal the luxury tax on recreational boats.

I am deeply concerned about the condition of the boat building and related industries in my State of Maine. Since enactment of the new luxury tax, I have heard from many representatives of and workers in the boating industry, both in my State and across the country, on the serious toll that this new tax is taking on their industry. The pleasure boat industry has experienced declining sales over the past 2 years due to the economic recession, and this new tax is sharply exacerbating the industry's decline.

A report prepared by the staff of the Joint Economic Committee confirms that the luxury boat tax will result in massive job losses nationwide in boat manufacturing and related industries. This report estimated that, even using conservative estimates, over 7,600 jobs will have been lost in 1991 directly because of the 10-percent excise tax on boats. Boat builders and employers in boat related industries in my State of Maine are already feeling the devastating effects of lost boat sales, in large part due to the new excise tax. The Hinckley Company in Southwest Harbor, ME, for example, has been forced to lay off at least 10 percent of its work force. As the second largest employer in Hancock County, reductions at Hinckley have taken a great toll on this part of my State.

This case is certainly not unique: every Maine boat builder has reported worker layoffs and significant slowdowns in production due to this tax. Customers are backing out of contracts once they realize that a tax is being applied to their boat purchases, thus affecting even those sales that were generated before the tax went into effect.

These job losses in my State are particularly difficult to bear since the workers who lose their job due to the slowdown often have no transferable skills and are unable to find other jobs in the State. The demise of the boating industry will quickly have a wide ripple effect on other parts of the Maine economy, from the State government which depends upon revenues from new and used boat sales, to the hotels, restaurants, marinas, and other Maine industries that rely on a thriving recreational boat industry for their survival.

The staff report of the Joint Economic Committee also provides important evidence to support a concern that boat builders, their workers, and I have shared for some time, namely, that the luxury tax will not yield the $3 million

in revenues that were estimated to be gained by the tax when it was included in the Budget Reconciliation Act of 1990. In fact, this report estimated that the luxury tax on boats will actually cost the Government $18.2 million in lost income taxes, employer and employee FICA contributions, and unemployment outlays in fiscal year 1991. In other words, this tax will cost the Government over six times the amount of money that it was supposed to raise.

To me, this is convincing evidence that the luxury tax on boats is costing far more than it is worth, and should be repealed.

I would further point out that this tax is not meeting the other goal for which it was intended, that is, to impose a greater portion of the tax burden on high-income taxpayers. It is abundantly clear that this tax will not be borne solely by wealthy taxpayers. These people often have the financial means to pay the 10-percent tax, but choose to spend their money on some other item that is not taxed. Instead, the real burden of this tax falls on the hardworking men and women of the boating industry who are losing their jobs.

Mr. President, I recognize that some may misconstrue efforts to repeal this tax as an attempt to help rich taxpayers. Nothing could be further from the truth. Those that have been hurt by the tax are the working people in Maine and other boat-building States, not the rich. Furthermore, I should point out that I am not opposed to higher taxes on the wealthiest taxpayers if these taxes are part of a comprehensive deficit-reduction package that includes serious spending reform.

The many comments of concern that I have received from my constituents in these industries, the recent staff report of the Joint Economic Committee, and the compelling testimony of industry representatives at hearings before the Senate Finance Committee have more than convinced me that the luxury tax on boats must be repealed. I regret that we were unable to repeal this tax in the 102d Congress. I am confident, however, that we will be successful in this regard early in this Congress.

Mr. CHAFEE. Mr. President, once again I join my distinguished colleague from Louisiana in introducing legislation repealing the luxury tax on boats. Since its enactment as part of the budget agreement in 1990, Senator BREAUX and I, along with several others, have argued that this tax has done far more harm than good. Instead of helping to fill the Federal coffers with revenue, as was anticipated, it has forced many profitable boatbuilders out of business. That, in turn, has led to the loss of thousands of jobs in the industry.

The boatbuilding industry certainly was not the target when this tax was originally proposed. Instead, it was viewed as a clever way to get the wealthy to bear a greater share of the tax burden. What Senator BREAUX and I tried to explain at the time, and have continuously argued over the past 2 years, is that the luxury tax is the easiest of all taxes to avoid. By simply choosing not to buy a boat, the tax need not be paid.

That is exactly what has happened to the boatbuilding industry. Potential boat purchasers are avoiding the tax by either buying other luxury items which are not subject to the tax or they are taking their business overseas.

What was not recognized in 1990 was who would bear the brunt of the luxury tax. It has not been the wealthy who were so much of the focus during the debate over the 1990 budget agreement. Instead, workers in the boatbuilding industry paid the tax in the form of lost jobs. As boat sales plummeted, boatbuilding jobs were eliminated. Nineteen thousand jobs have been lost across this country as a result of the ill-conceived luxury tax. This is on top of the estimated 100,000 jobs lost as a result of the recession. Many of these jobs were in my home State of Rhode Island, where the boatbuilding industry once thrived.

For the boatbuilding industry to have any chance for survival, the luxury tax must be repealed within the next few months. The industry is heading into its prime buying season, but sales will not materialize as long as the tax continues. Rather than pay the Federal surcharge, buyers will continue to take their business elsewhere.

The legislation Senator BREAUX and I are introducing today makes repeal of the luxury tax effective January 1, 1992. As my colleagues are well aware, there is near unanimous agreement that this tax has been a failure. Three times last year the Senate expressed its desire to repeal the tax. Repeal was included in both tax bills passed by Congress last year, and on September 10 the Senate unanimously voted in support of Senate Resolution 339 expressing its desire to have the tax repealed effective January 1, 1992.

When the luxury tax was enacted, no one in Congress had as his or her objective the loss of jobs by American workers. Unfortunately, that is what has happened. It is time for Congress to correct this flagrant error. I urge my colleagues to support Senator BREAUX and me in repealing the luxury tax early this year, retroactive to January 1, 1992.●

● Mr. PELL. Mr. President, I am pleased to join Senator BREAUX in introducing legislation to repeal the luxury excise tax on boats over $100,000. This tax was enacted in 1990 with two objectives: to raise revenue and to tax the wealthy. The reality is that it has failed to accomplish either goal. Instead this tax, in tandem with the economic downturn, is simply crippling the boatbuilding industry in our country.

Rhode Island is one of our Nation's leading producers of recreational boats, with a proud heritage of the great names in American yachting history. That industry in Rhode Island has now been devastated by bankruptcy, plant closings, and layoffs.

The complaints about this tax are not coming from the wealthy yachtsman. The desperate cries for the repeal of the luxury tax are instead coming from those in the industry who face the challenge of selling motor and sailing yachts to the wealthy, the owners of boatyards and marinas, shipwrights, sailmakers, marine architects, skilled workers in wood and fiberglass, and engineers. The men and women who hold these jobs have produced some of the world's greatest and most admired sailing vessels, and now many are either jobless or fear they soon will be.

In truth, the luxury tax on boats is not taxing the wealthy who can easily avoid this tax. An affluent sailor can buy a yacht in another country and continue to pursue his recreation without paying the luxury tax. Or a well-off individual can simply decide to invest in a hobby that does not come with a hefty 10 percent tax.

Although there is consensus that the luxury tax should be repealed, it continues to remain in place. Both Republicans and Democrats agree that this tax is not working. Both the Senate and the House of Representatives have passed legislation to repeal it. Unfortunately, President Bush vetoed the bill which included repeal of the luxury tax for reasons unrelated to that tax. it is no wonder that the people of this Nation are frustrated with the way Washington works and have called for a change. One of the first changes I think we need to make is the repeal of the luxury tax on boats. It is not adding to our Nation's coffers. What it is adding to is the number of skilled American workers standing in the unemployment line. We must move quickly to sink this tax before it sinks us.●

By Mr. COCHRAN:

S. 70. A bill to reauthorize the National Writing Project, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL WRITING PROJECT

Mr. COCHRAN. Mr. President, I am pleased to introduce important legislation today to reauthorize the National Writing Project, the only Federal program to improve the teaching of writing in the Nation's classrooms.

The National Writing Project is a national network of university-based teacher training programs designed to improve the teaching of writing and student achievement in writing. Since its inception 20 years ago, the National Writing Project has distinguished itself

by gradually building a broad network of teacher training workshops which successfully address the need for improved writing skills among elementary, secondary, and college-level students. The National Writing Project has become a national model for teacher training programs and has been emulated by training programs developed by other disciplines. It continues to receive national awards and live up to the National Endowment for the Humanities [NEH] assessment of it when the project was funded for an unprecedented 10th year. A spokesman from NEH said at that time,

I have no hesitation in saying that the National Writing Project has been by far the most effective and cost-effective project in the history of the Endowment's support for elementary and secondary education programs.

The National Writing Project began as the Bay Area Writing Project 1973 because students were required to do less writing in the classroom and were losing the skill:

An increasing number of American students were entering the Nation's universities unprepared to do the writing demanded of them;

The great majority of America's classroom teachers, elementary school through university, had not been trained to teach writing;

Little writing of any length or substance was being asked of American students, in the classroom or in homework; and

There were new developments in the teaching of writing but no systemic or effective way to inform teachers of these developments.

In short, attention to writing and the teaching of writing, though fundamental to student learning, was neglected in America's classrooms, and schools, and universities. In addition to problems in writing, little attention was being paid to professional development programs and the need for the continuing education of the classroom teacher. Unfortunately, this remains a problem today, but the National Writing Project has begun to make a difference.

Since 1973, the National Writing Project has grown into an international network of university school projects based upon the model of teachers teaching teachers to make writing and thinking an integral part of the learning process.

Federal support for the National Writing Project began in 1991, and has allowed the project to expand to reach more students and teachers. Modest Federal support has had remarkable results:

For every Federal dollar spent, the National Writing Project garnered five additional dollars from State, university, school district, and other local sources of support;

Last year 106,423 teachers participated in National Writing Project summer and school year programs. This brings the total number of teachers who have participated in the National Writing Project to nearly 1 million;

In the past year 7,506,500 students, or 19 percent of the Nation's K–12 public school students, benefited from Federal funding at a cost of 26 cents per student;

Through Federal matching dollars, 11 new sites were added to the National Writing Project and 2 sites were restored to activity, bringing the total number of sites to 150 in 47 States;

Local National Writing Project sites in 16 States, Alabama, Alaska, California, Connecticut, Hawaii, Indiana, Kentucky, Louisiana, Mississippi, Nevada, North Carolina, Pennsylvania, Utah, Virginia, Washington, and West Virginia, now receive State matching funds.

In Mississippi, National Writing Project sites have contributed to a remarkable improvement in the quality of teaching and student achievement. Program participants include not only English teachers, but math, reading, science, and elementary school teachers. The result has been a rekindling of teachers' enthusiasm, confidence, and morale while student test scores are rising.

Many teachers totally transform the way they teach after participating in a Writing Project Program. I would like to cite the experience of a Mississippi high school English teacher who attended a Writing Project summer institute. She said:

One of the things I learned in the writing project was that writing can be used to help students learn and think. I began to ask my students to keep logs while they read the stories and books we were studying together. I asked them to write about what they made of the literature, what they understood about it from their own experience, what they thought of the characters and the ways they solve their problems. Would the students solve these problems in the same way? For the first time, my students came to class eager to talk about what they read and eager to read on. They were able to analyze and evaluate and understand in a rich, personally meaningful manner.

Continued Federal support for the National Writing Project will carry forward the work begun to improve the teaching of writing at all levels of instruction and emphasize student writing as a way to improve learning in all disciplines in classrooms nationwide.

Continued Federal support will improve staff development programs for teachers and provide a model for the continuing education of our national teachers corps.

It will support the development of the National Writing Project into a network of 250 sites that will serve teachers and students in all States and regions of the country.

The matching funds requirement will stimulate and generate local and State support for the national effort to improve writing in America's schools.

It will support needed programs in writing and literacy for America's disadvantaged students.

It will provide grants to teachers to promote improvement in classroom instruction, teacher research projects, the publication of exemplary student writing, and other programs not currently possible in most schools.

It will create an informed corps of teacher-scholars in the elementary and secondary schools to help all teachers use writing more effectively in the classroom.

And most important, it will continue to improve the performance of all of America's students in the key basic skills of writing, reading, thinking, and learning.

When this bill was first introduced in 1990, it was cosponsored by 40 Senators from both sides of the aisle. I hope it will receive support equal to or greater in the 103d Congress. In the Senate, we rarely use Federal dollars so effectively. I urge other Senators to join me in sponsoring this legislation.

Mr. President, I ask unanimous consent that an article which recently appeared in the Wall Street Journal highlighting the National Writing Project be printed in the RECORD.

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

READING, 'RITING AND MORE 'RITING: AFTER YEARS OF NEGLECT, SCHOOLS ARE PUTTING MORE EMPHASIS ON THE WRITTEN WORD

(By Gary Putka)

Amid overflowing bookshelves in a Texas classroom, Tricia Shaughnessy's second-graders are giving proof of their studies on Christopher Columbus. But there isn't a test in sight.

Sitting on the floor, discussing dialogue and narration, the students collectively, and noisily, write a biographical play. Names and dates sprew forth—Isabella, 1492, the West Indies—but also a discourse. Coral is defined; "drop ankle" is giddily corrected to "drop anchor" in the script. But what to call the people on the beach?

"Native Americans!" several students shout. Ms. Shaughnessy finds a raised hand. "Bobby?"

"I think we should call them Indians because Columbus was trying to find the Indies and he called them Indians."

A vote is taken. Bobby's view prevails, but not without an argument. Another line is added to a fast-lengthening script.

WRITING REVIVED

This pint-sized playwrights' exercise, conducted at Nathaniel Hawthorne Elementary School in San Antonio this past school year, is part of a renaissance in the uses of writing in U.S. schools. Urged on by teachers employing a variety of new instructional approaches, students are writing more in and out of school, behaving somewhat contrary to conventional wisdom about literacy and the images of an electronic age.

Students are increasing their in-school output of essays, stories, poems and letters, and are doing even more writing at home, according to a survey released by the federally funded National Assessment of Education Progress, or NAEP, last November. In the 1990 survey, 47% of eighth-graders reported

that they write letters to friends or relatives at least once a week, a huge gain from the 37% who reported similar activity in 1984.

The writing boom has been fed by a coterie of educators ever since researchers began bemoaning the paucity of time spent in composition in the 1970s. Many of these advocates now argue that more writing also leads to better reading comprehension and to better understanding of other subjects, including mathematics and science.

"Writing simply makes people smarter," says Nancie Atwell, author of a popular writing-instruction textbook and operator of a private school in Boothbay Harbor, Maine. "It allows kids to think, things they never would have thought otherwise. If we want them to learn content, if we want them to think big thoughts—there's simply no better vehicle."

THE VIRTUES OF WRITING

Convinced that the creation of written words compels a depth of reflection and understanding unattainable through other exercises, teachers like Ms. Shaughnessy are throwing out work sheets, casting aside textbooks, cutting back on formalized phonics and grammar instruction, and demanding more extended writing.

"Writing is a higher level of learning," says Wendy Howk, another San Antonio teacher, who keeps her first-graders writing 40% of the time. "Seeing the kids writing, I'm sometimes floored by what they can do."

Disciples of the popular "whole language" method of reading instruction urge students to write from a tender age, even if they have to invent spelling, and to keep a journal—fast becoming as ubiquitous as the lunch box in the primary grades. Other elements of the whole-language approach include teaching whole words instead of phonic sounds, and assigning whole stories for reading instead of the abridged textbook version.

Curricular standards developed by the National Council of Teachers of Mathematics urge more writing as a key to greater student numeracy. Collecting and judging writing portfolios, meanwhile, is the hottest thing in the field of educational assessment. Even the College Board, which administers the Scholastic Aptitude Test, is adding a full-scale writing test as an optional supplement to the multiple-choice SAT in 1994.

DOES MORE MEAN BETTER?

But all this activity has raised some troubling issues. Many parents remain unconvinced that the best way to introduce students to the written language is to teach them to invent spelling. Some reading experts charge that whole language is not improving reading comprehension and may even be hampering it for some students who need more phonics. Indeed, NAEP reading scores during the 1980s were flat. And although students may be writing more, there is little empirical evidence on a national scale that they are writing better.

Between 1984 and 1990, the NAEP showed that eighth-grade students had slipped in writing proficiency and that students in grades four and 11 had made no progress. The 11th-graders, with an average score of 212 on a 400-point scale, barely exceeded the level that the NAEP defines as "minimal" and were far from the 300 score needed to be considered "adequate."

Students typically get 15 minutes for their NAEP essays. Eager to size up writing produced when students had more time, the NAEP followed up by asking English teachers of fourth- and eighth-graders who took the 1990 test for a sample of the students' best school writing. Marks improved slightly, but they were still dismal.

Although it was supposed to be students' best work, none of the 2,200 writing samples rated a top score of six on a scoring scale of one to six. The stories were short (a 140-word average for eighth-graders), replete with grammar and spelling errors, and undeveloped. Judges found that only about a quarter of eighth-graders' narrative work contained more than one anecdotal episode, a clear sequence of events, and detailed description of setting and characters.

Claudia Gentile, an Educational Testing Service analyst who wrote the NAEP portfolio report, says the NAEP results make her dubious about the benefits of changed writing instruction. "If students are indeed doing more writing than they were 20 years ago, why hasn't the writing improved?" she asks. Some educators involved in the national assessments say teachers have been so eager to get reluctant students to write that they are accepting bad work.

LESS HARD WORK?

According to a commentary on the NAEP findings by Mark Musick, president of the state-funded Southern Regional Education Board in Atlanta, "teacher grading [has] changed—with more interest in the way feelings are expressed and less attention to marking mistakes. Students now write more stories, but no more reports or analytic essays. Overall . . . there appears to be less demand for hard work."

Some writing advocates, however, insist that there is more good writing in the schools. They say that the NAEP's scoring system is flawed and isn't capturing the gains in initiative, creativity and understanding of other subject areas that students are receiving from writing more.

Worried about the high numbers of freshmen being placed in remedial writing courses in 1973, the University of California at Berkeley helped fund a program that instructed schoolteachers in the Bay Area on how to teach writing. The program, which has evolved into the National Writing Project, now has federal financing, 160 local outposts, and a booming roster of classes. Last year, it reached 114,000 teachers, double the number of five years ago.

THE PROCESS APPROACH

James Gray, director of the project, says the NAEP is inadequate to capture what he calls the "high quality of writing now being produced by students in our nation's classrooms." According to Mr. Gray, several research studies—but nothing on a national level—have shown benefits to students of teachers who have gone through Writing Project classes. The Writing Project uses the so-called process approach to writing, which employs different methods from those of the whole-language advocates. The process approach stresses repeated efforts to get it right—drafts, revisions and redrafts of the same piece. In one 1983 study, conducted in the Ferguson Florrisant School District in Missouri, junior-high-school students with Writing Project teachers scored 30% higher on writing tests than those without such teachers.

Ronald Adams, a seventh-grade teacher, says that Writing Project methods have transformed his classes at Broad Meadows Middle School in Quincy, Mass. Students are writing much more, taking more initiative, showing more imagination, and doing more in-depth research in history and social studies, he says.

LEARNING FIVE STEPS

Under the process method, students follow a strictly prescribed five-step format—brainstorming, first draft, conferences with peers or teacher, editing, and final draft. But they are typically allowed more freedom to choose their own topics, and are urged to start by writing from experience.

Because the process is "student-directed instead of teacher-directed," Mr. Adams says, his students are more enthusiastic. He adds that before he learned how to use process approaches at a Boston Writing Project workshop in 1985, he was lucky to get three pieces of writing from his students during a 10-week term. Now they write 30. And because the entire Quincy system has accepted this approach, Mr. Adams says, his students come to him more capable.

The gains go well beyond writing, Mr. Adams believes. Students are required to write him letters assessing their progress in mathematics, leading to much faster overcoming of learning roadblocks.

One of the great dividends has come in the area of citizenship. Mr. Adams teaches his students that "letter writing is the underutilized cornerstone of democracy." When they come to him with problems, he urges them to write letters—sometimes to great effect.

WINNIE THE WELDERS

Assigned to write about local history last year, one student chose the women who worked in Quincy's shipyards during World War II. When the student discovered that the subject had been ignored in the local library, she wrote to city hall, and Mr. Adams's class turned up the gas. They interviewed 40 of the surviving women, made a videotape, and inspired Quincy to stage a "Winnie the Welders" day in their honor.

Students rode on the bus with the former workers and a local TV crew, and were assigned to recount the experience in writing. "The women welders were so proud you could see it in their eyes,"wrote Sandy Buonopone, one of the seventh graders. "The end of the ceremony came. The women were all happy. It was a special moment for all of them. Then they started singing 'America the Beautiful' and started laughing and hugging." There were, Sandy surmised, "a lot of proud and probably everlasting memories."

[In a given week, this percentage of students wrote at least one paper for English class]

WEEKLY WRITING

	Grade 4	Grade 8	Grade 11
Essay, composition for theme:			
1990	24	45	64
1984	19	41	60
Book report:			
1990	38	34	28
1984	27	27	38
Other report:			
1990	31	30	39
1984	27	27	38
Letter:			
1990	42	24	18
1984	38	21	16
Story:			
1990	43	49	39
1984	37	42	40
Poem:			
1990	27	17	25
1984	25	15	18
Play:			
1990	14	12	14
1984	13	10	13

Source: National Assessment of Educational Progress.

By Mr. METZENBAUM (for himself, Mrs. MURRAY, Mr. KERRY, Mr. CAMPBELL, and Mr. WELLSTONE):

S. 71. A bill to prohibit discrimination by the Armed Forces on the basis of sexual orientation; to the Committee on Armed Services.

PROHIBITING DISCRIMINATION BY ARMED FORCES

Mr. METZENBAUM. Mr. President, on behalf of myself, and Senators MURRAY, KERRY of Massachusetts, CAMPBELL, and WELLSTONE, I am today introducing legislation to overturn the Pentagon's ban on homosexuals serving in the military.

This bill is identical to the legislation I introduced on the subject last year, and it is the same as the bill introduced in the House of Representatives by Congresswoman SCHROEDER a few weeks ago.

The time has come to overturn one of the last bastions of government-sponsored discrimination in this country.

The Pentagon's prohibition of gay men and lesbians serving in the military is completely outdated. It is senseless and it is cruel.

It is a policy based on fear and ignorance.

It is discrimination against a distinct group of individuals who repeatedly and throughout history have shown that they are every bit as capable, hardworking, brave, and patriotic as their heterosexual counterparts.

It is a fact that the job performance of homosexuals in the military has been superb.

I know that to be true because every time a gay man or lesbian is discharged from the service for reason of being a homosexual, his or her service record becomes part of the official investigative process.

In nearly every instance, the job performance of these individuals is above average.

Mr. President, I am delighted that our new President—Bill Clinton—is committed to overturning the ban on homosexuals serving in the military.

He promised to do it during his campaign, and he has never wavered from that commitment. He knows it is the right thing to do.

Despite the President's strong commitment, however, I believe it is important that this legislation be reintroduced in the Senate.

It is important that our military leaders—who are engaged in a full-court press to change President Clinton's mind on this—understand that there is broad national support for what the President wants to do.

Eight in 10 Americans believe gays should have the right to serve in the military.

Most Americans believe homosexuals should receive due process under the law and basic civil rights protection. Most Americans are concerned about arbitrary restrictions against homosexuals in employment, housing, and other walks of life. Most Americans care about fair play.

Mr. President, the Pentagon rationale for the ban is that homosexuality is a threat to morale and discipline.

The directive states that homosexuality is "incompatible with military service." And that homosexuals "seriously impair the accomplishment of the military mission."

But the Pentagon admits there is no empirical evidence to back this up.

The General Accounting Office stated that the policy is "not based on scientific or empirical data," and further stated the existing scientific studies disagree that homosexuality is in any way incompatible with military service.

There is another part of the Pentagon's rationale—as it seems to be continually evolving—that disturbs me greatly.

Military leaders are now talking publicly about the likelihood of increased acts of violence against homosexuals that choose to come out if the ban is lifted—as if the military were powerless to discipline and educate its own troops.

Instead of wringing their hands about this, the Joint Chiefs should be stating publicly and clearly for everyone to hear that the military will not tolerate violence in the ranks directed against any distinct group, including homosexuals.

If Tailhook taught the military a lesson, it was that commanders can no longer look the other way—as leaders, they are responsible for communicating the essential truth to the troops. In the case of Tailhook, the truth was that it is wrong for servicemen to sexually harass their female colleagues-in-arms.

With respect to homosexuals, the truth is: They are as good soldiers as anyone else.

Let us not forget that between 5 and 10 percent of the men and women that serve in the military right now are homosexual. I am not aware of a morale problem as a result of it.

Nothing is better for moral than a military that knows how to get the job done. What is important when the bullets are flying is whether the soldier or sailor or officer is brave, smart, and well trained. Heroes come from every race, gender, and sexual orientation.

I commend President Clinton for wanting to do the right thing.

It is time to put an end once and for all to the discrimination against gay men and lesbians in the military.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 71

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

SECTION 1. PROHIBITION ON DISCRIMINATION IN THE MILITARY ON THE BASIS OF SEXUAL ORIENTATION.

(a) IN GENERAL.—No member of the Armed Forces, or person seeking to become a member of the Armed Forces, may be discriminated against by the Armed Forces on the basis of sexual orientation.

(b) PRESERVATION OF RULES AND POLICIES REGARDING SEXUAL MISCONDUCT.—Nothing in subsection (a) may be construed as requiring the Armed Forces to modify any rule or policy regarding sexual misconduct or otherwise to sanction or condone sexual misconduct, but such rules and policies may not be applied in a manner that discriminates on the basis of sexual orientation.

By Mr. MOYNIHAN (for himself and Mr. SIMON):

S. 72. A bill to amend section 481(c) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

FOREIGN ASSISTANCE ACT AMENDMENTS

• Mr. MOYNIHAN. Mr. President, I rise today to reintroduce legislation which seeks to address a most serious problem in the foreign relations of the United States: an international perception that the United States is a lawless state which supports the practice of kidnaping. I would hope, in particular, that this legislation would help to repair the rift over this issue between the United States and our neighbors, Mexico and Canada.

Mr. President, I know that my colleagues are well aware of the decision by the U.S. Drug Enforcement Agency to arrange for the kidnaping of a Mexican citizen to stand trial in the United States for allegedly participating in the torture and murder of a DEA agent. The United States did not even attempt to use the extradition treaty in effect between the United States and Mexico to obtain the trial of this person. Nonetheless, when the kidnaping was challenged by both Mexico and Canada as a violation of the United States-Mexico extradition treaty, the United Nations Charter, the charter of the Organization of American States and customary international law, the prior administration—indeed the Attorney General—choose to defend the kidnaping. The judge overseeing the trial of this Mexican citizen has acquitted him of all charges. He has been released and returned to Mexico.

The Supreme Court found that this kidnaping did not violate the literal terms of the United States-Mexico extradition treaty. I have already discussed this decision—which was denounced in a stinging dissent written by Justice Stevens as "monstrous"—at some length on the Senate floor and will not repeat my comments now.

I wish to bring to my colleagues' attention some of the international reaction to this decision, particularly in Canada. Mr. President, the United States has a 3,000-mile-long border with Canada. Our relations with our neighbor to the north area absolutely extraordinary in their degree of comity and cooperation. There is not a longer undefended international border in the world. It is imperative, Mr. President, to appreciate the significance of that fact. The United States simply cannot prevent persons from fleeing the United States into Canada. We perforce

must rely upon the good offices and friendship of the Government of Canada in arresting and returning criminals to the United States. It will, therefore, come as no surprise that approximately 50 percent of all United States requests for extradition are directed to Canada. There were 74 such requests in 1991 alone.

Mr. President, it is not surprising that the Government of Mexico would strongly disagree with the Supreme Court's decision. It denounced the decision as "invalid and unacceptable", demanded immediate renegotiation of the extradition treaty and temporarily suspended cooperation on antidrug efforts. In response, the State Department issued a demonstrably false statement that: "[We] have the utmost respect for Mexican sovereignty.* * * " I have been critical of the Mexican judiciary, but others accused in this heinous murder have been successfully prosecuted there and long prison terms meted out. Yet, the United States did not even attempt to use the extradition treaty in this case.

Outrage from Mexico might, therefore, be expected. What is not fully appreciated, however, is the uproar that this decision has caused in Canada and other nations of the world. Justice Stevens wrote: "I suspect most courts throughout the civilized world * * * will be deeply disturbed by the 'monstrous' decision the Court announces today." He has been proven correct. Canadian parliamentarians have denounced the decision, arguing that it "makes a mockery of extradition treaties which have been signed by the U.S." The Department of State has been candid about the enormous outrage that this abduction and Supreme Court decision have caused in Canada and elsewhere. Deputy Legal Advisor Alan Kreczko testified on July 24 before the Civil and Constitutional Rights Subcommittee of the House Committee on the Judiciary that:

> Many governments have expressed outrage that the United States believes it has the right to decide unilaterally to enter their territory and abduct one of their nationals. Governments have informed us that they would regard such action as a breach of international law. They have also informed us that they would protect their nationals from such action, that such action would violate their domestic law, that they would vigorously prosecute such violations.

Significantly, Mr. Kreczko reported that: "[s]ome have indicated that the decision could affect their parliaments' review of pending law enforcement agreements with the United States."

This testimony strongly supports the wise testimony of Michael Abbell, a Justice Department official in the Carter and Reagan administrations and an expert on extradition law, who testified at the same hearing that: "[n]ot only is the position of the administration and of the Supreme Court legally and morally wrong, but, ironically it is also antithetical to the long-term law enforcement interests of the United States." That statement bears repeating: "ironically it is * * * antithetical to the long-term law enforcement interests of the United States." Mr. President, it cannot be emphasized too strongly that the decision to embrace kidnaping is harmful to law enforcement, not helpful. It will not assist the United States in combating crime. On the contrary, it will diminish the very international cooperation against crime which is essential to success against drug traffickers and other criminals.

The United States has now unequivocally pledged in a letter from President Bush to President Salinas that the United States will "neither conduct, encourage nor condone" abductions from Mexico. Thus, we will not use this tool in Mexico again. In the meantime, however, we have jeopardized cooperation on extradition matters with nations around the world.

Mr. President, the legislation I offer today will provide governments around the world which wish to cooperate with the United States the assurance that the United States will not take unilateral actions which violate our solemn treaty commitments and customary international law. It reserves to the United States the right to act where there is no effective sovereignty over a particular region and reserves the right to act against a state with which we are at war. It does no more than enact President Bush's pledge to Mexico and merely extends the substance of the Mansfield amendment—a provision which has been a part of United States law for 16 years—outside the narcotics control area. It leaves the United States with many tools against terrorists and other criminals, such as those steps we are now taking at the United Nations to obtain the criminals who are alleged to have bombed Pan Am flight 103.

Finally, I would note with great satisfaction that at his confirmation hearing, our distinguished Secretary of State Warren Christopher, an outstanding lawyer, described the kidnaping and the Supreme Court decision as bad policy and bad law respectively.

I ask unanimous consent that the text of this legislation, which I send to the desk, be printed in the RECORD at this point, and I yield the floor.

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

S. 72

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

SECTION 1. FINDINGS.

The Congress finds that—

(a) In 1976 the Congress adopted the International Security Assistance and Arms Export Control Act which amended Section 481(c) of the Foreign Assistance Act of 1961 to prohibit U.S. officials from participating in any direct arrest in a foreign country with respect to narcotics control efforts;

(b) In adopting this provision, known as the Mansfield Amendment, the Committee on Foreign Affairs stated that its purpose was "to insure that U.S. personnel [in foreign states] do not * * * adversely affect U.S. relations with that country";

(c) Close cooperation between the United States and other nations, including the extradition of criminals to the United States, is essential to combat international crime;

(d) The abduction of a Mexican citizen by persons acting at the direction of the United States Drug Enforcement Agency and the decision of the United States Supreme Court holding that this abduction did not violate an existing extradition treaty between the United States and Mexico cast doubt on the meaning of this and other extradition treaties ratified by the United States and threaten to disrupt cooperation between the United States and Mexico, Canada and the 101 other nations with which the United States has extradition treaties;

(e) The Government of Mexico vigorously protested the abduction and the Supreme Court's decision, threatened to suspend cooperation with the United States on drug enforcement matters and announced that it will no longer accept United States foreign assistance intended to prevent drugs from entering the United States;

(f) The Department of External Affairs of the Government of Canada, which receives approximately 50% of all United States extradition requests, vigorously protested the abduction and the Supreme Court's decision;

(g) In the past, persons have been abducted from the United States to stand trial abroad and the United States vigorously protested such actions; and

(h) This abduction and subsequent Supreme Court decision have placed American citizens at risk by creating a precedent for the kidnapping of Americans.

SEC. 2. AMENDMENT TO SECTION 481(C) OF THE FOREIGN ASSISTANCE ACT.

Section 481(c)(1) of the Foreign Assistance Act is amended to read as follows: "(1) Prohibition on direct arrest and abduction—(a) Notwithstanding any other provision of law, no officer, agent or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action; and (b) Notwithstanding any other provision of law, no officer, agent of employee of the United States government may, directly or indirectly, authorize, carry out or assist in the abduction of any person within the territory of any foreign state exercising effective sovereignty over such territory without the express consent of such state."

SEC. 3. VIOLATIONS OF THE LAWS OF WAR.

Section 481(c) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new provision: "(7) This subsection does not prohibit the capture of any official, agent or employee of a state during armed hostilities for purpose of bringing such person to trial for violations of the internationally recognized laws of war."

SEC. 4. SANCTION FOR VIOLATION.

Section 481(c) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new provision: "(8) A person brought to the United States in violation of subsection (1)(b) hereof shall not be prosecuted by the United States government if the state in which such abduction occurred objects and in the event of such an objection such person shall be promptly returned to the state in which the abduction occurred."●

By Mr. METZENBAUM (for himself and Mr. LAUTENBERG):

S. 73. A bill to provide for the rehiring by the Federal Aviation Administration of certain former air traffic controllers; to the Committee on Governmental Affairs.

FAIR TREATMENT OF FORMER AIR TRAFFIC CONTROLLERS ACT

Mr. METZENBAUM. Mr. President, I rise to introduce legislation which I believe rights an egregious wrong perpetrated against thousands of Government air traffic controllers who were fired by President Reagan back in 1981. The bill I am offering today would enable these men and women to get their FAA jobs back provided they are qualified. This is the fair and decent thing to do.

It was August 3, 1981, when 11,400 members of the Professional Air Traffic Controllers Organization [PATCO] walked off their jobs as part of a nationwide strike for better working conditions, modernized equipment and better pay. President Reagan fired these workers shortly thereafter arguing that they violated a "no strike" oath required by Federal law. Although they were subsequently allowed to apply for other Federal jobs, they have never been allowed to return to work as air traffic controllers.

It has been 12 long years since these men and women were allowed to work in their chosen field of employment. Criminals who commit heinous crimes receive shorter sentences.

Let's put an end to this punishment. The bill I am introducing today would reverse the Reagan directive to the Office of Personnel Management [OPM] deeming the air traffic controllers who were terminated due to the 1981 strike unsuitable for employment with the Federal Aviation Administration. As a group, these controllers will no longer be considered unsuitable and OPM shall decide on appointment or restatement on a case by case basis. The bill also waives age limitations which might otherwise apply to these determinations.

Mr. President, a lifting of the ban on rehiring has the support of the new air traffic controllers union as well as the Airline Pilots Association.

A Cleveland Plain Dealer article from December 29, 1992, suggests that as many as 5,000 of these fired air traffic controllers may be interested in returning to their jobs. The article goes on to state that many of these individuals are pinning their hopes on President Clinton to lift the ban on rehiring.

While this may seem to be a minor matter, it is no small matter to the thousands of air traffic controllers who have been barred from returning to their jobs. I urge the new President to give his utmost consideration to lifting the ban either by Executive order or through the legislative process. I stand willing to help.

I ask unanimous consent that the text of my legislation be printed in the RECORD upon the conclusion of my remarks.

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

S. 73

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Treatment of Former Air Traffic Controllers Act of 1993".

SEC. 2. SUITABILITY OF AIR TRAFFIC CONTROLLERS WHO PARTICIPATED IN THE 1981 STRIKE.

(a) AUTHORITY TO APPOINT OR REINSTATE CERTAIN FORMER AIR TRAFFIC CONTROLLERS.—

(1) IN GENERAL.—Air traffic controllers whose appointment was terminated due to the strike of air traffic controllers which began on or about August 3, 1981, shall not, as a class, be considered unsuitable for appointment or reinstatement in the Federal Aviation Administration.

(2) DETERMINATIONS OF SUITABILITY.—Determinations of suitability for appointment or reinstatement to any position referred to paragraph (1) shall be made on a case-by-case basis by the Office of Personnel Management in accordance with part 731 of title 5 of the Code of Federal Regulations (as in effect on June 1, 1986).

(b) LIMITATION ON CLAIMS AGAINST UNITED STATES—

(1) IN GENERAL.—Except as provided in paragraph (2), no claim may lie against the Government of the United States, or any officer, employee, of agency thereof, based on a failure to appoint or reinstate a particular individual as a result of the enactment of this Act.

(2) CLAIMS BASED ON DISCRIMINATION.—Nothing in this subsection shall preclude a claim based on discrimination on the basis of race, color, religion, sex, or national origin.

(c) NONAPPLICABILITY OF AGE LIMITATION.—Nothing in section 3307(b) of title 5, United States Code, or in any rule or regulation prescribed thereunder, shall apply with respect to appointment made as a result of the enactment of this Act.

(d) REGULATIONS.—The Secretary of Transportation may prescribe regulations to carry out this section (excluding the second sentence of subsection (a)).

(e) DEFINITION.—For purposes of this section, the term "air traffic controller" has the same meaning as in section 2109 of title 5, United States Code.

By Mr. METZENBAUM:

S. 74. A bill to amend the Endangered Species Act of 1973 to clarify citizen suit provisions, and for other purposes, to the Committee on Environment and Public Works.

ENDANGERED SPECIES ACT AMENDMENTS

Mr. METZENBAUM. Mr. President, I rise to reintroduce legislation which reverses a Supreme Court decision handed down last summer which makes it harder to sue to enforce environmental laws. This measure is identical to a bill I introduced on the matter during the last session of Congress.

When Congress passed the Endangered Species Act, it authorized private citizens to file lawsuits in instances when the Government failed to comply with the act's requirements. The rationale for this provision was simple: Every citizen has an interest in ensuring compliance with laws aimed at protecting the environment. When the Government violates those laws, the public should be allowed to take action to ensure compliance with the law.

Last summer, the Supreme Court handed down a decision which said, in effect, that private citizens could not challenge the Bush administration's policy of funding Government projects abroad that threatened endangered species and their habitats.

In the Lujan versus Defenders of Wildlife case, several environmental groups were trying to challenge the Bush administration's failure to apply provisions of the Endangered Species Act to United States-funded development projects in Egypt and Sri Lanka. The Supreme Court refused to hear the case. The Court ruled that the environmental groups lacked standing to sue.

Congress specifically enacted a provision in the Endangered Species Act designed to give citizens the right to sue to enforce other provisions of the act. The Supreme Court ignored that directive.

Mr. President, the Supreme Court's decision is judicial activism in its most pernicious form. It threatens to undermine the opportunity of those concerned about the environment to have their day in court.

It's no wonder that Justice Harry A. Blackmun, in a dissenting opinion, called the decision a slash-and-burn expedition to keep environmental plaintiffs out of court.

Congress simply cannot stand by and allow the Supreme Court to trample citizens' rights to protect it.

In Lujan versus Defenders of Wildlife, the Supreme Court said the individuals bringing suit against the Government did not meet the Court's narrow interpretation of standing. My bill would amend the Endangered Species Act's citizen suit provisions to ensure standing in this case. And it would also spell out that the Endangered Species Act applied to Government-backed projects overseas.

The legislation has the support of environmental and conservation groups, including the Defenders of Wildlife, the Environmental Defense Fund, the Sierra Club, the Natural Resources Defense Council, the Humane Society, the National Wildlife Federation, National Audubon, the Wilderness Society, the World Wildlife Fund, Greenpeace, the Center for Marine Conservation and the Performing Animal Welfare Society.

Mr. President, I hope that the new Clinton administration will give favorable consideration to applying the provisions of the Endangered Species Act to federally funded projects overseas.

In addition, I believe the Clinton administration should also work with Congress to reverse the limitations on citizens' rights to sue imposed by the Supreme Court decisions in Lujan.

I wish to underscore that my legislation might not be the best way to reverse the Supreme Court decision. A better solution may be borne out of testimony at an appropriate congressional hearing. Whatever the case, I will do my best to see that citizens are not stripped of their rights to challenge the Government on environmental matters.

I ask unanimous consent that the bill be printed in the RECORD in its entirety at the conclusion of my remarks.

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

S. 74

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Endangered Species Act Amendments of 1993".

SEC. 2. FINDINGS.

Section 2 of the Endangered Species Act of 1973 (16 U.S.C. 1531) is amended—

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

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end of the following new paragraphs:

"(6) an action by the Federal Government, the government of a State or political subdivision of a State, or a private party that adversely affects an endangered or threatened species or the habitat of an endangered or threatened species injures each person with a demonstrated, aesthetic, ecological, educational, historical, professional, recreational, or scientific interest in the endangered or threatened species or the habitat of the endangered or threatened species; and

"(7) compliance with this Act (including the regulations promulgated under this Act) will deter or prevent any action by the Federal Government, the government of a State or political subdivision of a State, or a private party that may adversely affect an endangered or threatened species or result in the destruction or adverse modification of the habitat of the species.".

SEC. 3. INTERAGENCY COOPERATION.

Section 7(a) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)) is amended by adding at the end the following new paragraph:

"(5) The provisions of this section shall apply to any agency action with respect to any species listed under this Act as an endangered or threatened species carried out, in whole or in part, in the United States, in a foreign country, or on the high seas.".

SEC. 4. CITIZENS SUITS.

Section 11(g) of the Endangered Species Act of 1973 (16 U.S.C. 1540(g)) is amended—

(1) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6);

(2) by inserting after "(g) CITIZEN SUITS.—" the following new paragraph:

"(1)(A) A person who has by studying, visiting, or other means demonstrated an aesthetic, ecological, educational, historical, professional, recreational, or scientific interest in an endangered or threatened species shall be deemed to suffer a direct and particularized injury in any instance in which any person, including the United States and any other governmental instrumentality or agency, takes action that may harm or adversely affect any threatened or endangered species, or result in the destruction or adverse modification of the critical habitat of the species. A reasonable likelihood of action or a proposal to act shall be considered a sufficient threat to constitute an injury under this paragraph.

"(B) Each person described in subparagraph (A) who suffers an injury described in subparagraph (A) (or who has a reasonable expectation of an injury) may commence a civil suit pursuant to paragraph (2) to prevent and redress any injury to an endangered or threatened species and to otherwise compel the implementation of any provisions of this Act (including any regulation promulgated under this Act).";

(3) in paragraph (2), as redesignated by paragraph (1) of this section, in the matter preceding subparagraph (A), by striking "Except as provided in paragraph (2) of this subsection any person may" and inserting "Except as provided in paragraph (3) of this subsection, any person described in paragraph (1), or who is otherwise injured, may";

(4) in paragraph (3), as redesignated by paragraph (1) of this section—

(A) in subparagraph (A), by striking "subparagraph (1)(A)" and inserting "paragraph (2)(A)";

(B) in subparagraph (B), by striking "subparagraph (1)(B)" and inserting "paragraph (2)(B)"; and

(C) in subparagraph (C), by striking "subparagraph (1)(C)" and inserting "paragraph (2)(C)"; and

(5) in paragraph (5), as redesignated by paragraph (1) of this section, by striking "paragraph (1)" and inserting "paragraph (2)".

By Mr. METZENBAUM (for himself, Mr. GLENN, and Mr. LEVIN):

S. 75. A bill to amend the River and Harbor Act of 1970 to improve Great Lakes Water Pollution Control, and for other purposes; to the Committee on Environment and Public Works.

GREAT LAKES SEDIMENT CONTROL ACT

Mr. METZENBAUM. Mr. President, I rise to introduce the Great Lakes Sediment Control Act of 1993. The bill I am introducing today is similar to legislation I worked on last year. Its purpose is to better manage the sediment which is currently clogging the Great Lakes. Senators GLENN and LEVIN join me in cosponsoring this important legislation.

This bill complements the sediment management language approved last year as part of the Water Resources Development Act. That language improved the way contaminated dredged spoils will be disposed of along the marine and gulf coasts, but it did not cover the Great Lakes. My bill fills in this gap and helps attack some of the sediment problems in the Great Lakes.

Mr. President, the Great Lakes deserve the attention. They are an unparalleled recreational and fishing resource and the source of drinking water for millions of Americans. Yet many of the lakes' shorelines and even the open waters have contaminated sediments present.

Industrial and sewage discharges, pesticide-laden runoff from farms, and even the grease and oil washing off our city streets have badly polluted the mud lining the Great Lakes. As a result, fish consumption bans, restricted swimming, and reduced and degraded fish and wildlife habitat are not uncommon.

The threat to human health is very real. Polluted sediments are poisoning the foodchain, accumulating first in fish and winding up on the dinner table. A National Research Council report cited neuromuscular impairment, small birth weight, and smaller head size in infants born to mothers who ate toxic-laden Lake Michigan fish only twice a month.

And contaminated sediments threaten commerce as well. Navigational dredging efforts—which are critical to shipping—can be postponed, curtailed, or prevented because of concerns about resuspending contaminated sediments in the water.

Part of the problem is that disposal of dredged sediments has not always been handled in an environmentally sound manner. And not enough attention has been paid to reducing sediment loadings into the lakes in the first place. My legislation will change that.

First, the open lake dumping of contaminated sediments would be halted once and for all. Contaminated sediments dredged from harbors and channels would be disposed of in confined disposal facilities which themselves would be more tightly regulated to ensure that such facilities do not leak or cause environmental degradation. Second, EPA, in consultation with the corps, would develop environmentally sensitive guidelines for open lake disposal of clean sediments. Once these guidelines were developed, no open lake disposal of clean sediments could occur unless such guidelines were met.

The final piece of my legislation addresses the issue of reducing the loading of sediments into the lakes in the first place. It would measure sediment coming from the rivers and river systems into the lakes. And it would create a grants program run by the Corps of Engineers to minimize sedimentation. This sediment reduction language was worked out with my friend and colleague, Senator GLENN, who introduced a separate bill on the matter during the last session of Congress.

I look forward to working with my colleagues on the Senate Environment Committee to move this measure out of committee and to bring it to the floor for a prompt vote.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 75

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Great Lakes Sediment Control Act of 1993".

SECTION 2. SEDIMENT MANAGEMENT.

(a) AMENDMENT TO HEADING.—The heading of section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended to read as follows:

"CONFINED SPOIL DISPOSAL FACILITIES".

(b) CONFORMING AMENDMENT.—Section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended by striking "contained spoil disposal facilities" each place it appears and inserting "confined spoil disposal facilities".

(c) REQUIREMENTS RELATING TO CONSTRUCTION, OPERATION, AND MAINTENANCE.—Section 123(a) of the River and Harbor Act of 1970 (33 U.S.C. 1293a(a)) is amended—

(1) by striking "(a)" and inserting "(a) PUBLIC INFORMATION.—(1)";

(2) by striking "of section 21 of the Federal Water Pollution Control Act, and"; and

(3) by adding at the end thereof the following new paragraphs:

"(2) After December 31, 1994, it shall be unlawful to dump or otherwise dispose of dredge spoil at any location in the waters of the Great Lakes other than at a confined spoil disposal facility unless—

"(A)(i) the Administrator has concurred in writing with the decision of the Secretary of the Army to allow the disposal (either with or without conditions), if the concurrence is based on a determination that the proposed disposal is consistent with the guidelines developed pursuant to paragraph (3); or

"(ii) a 45-day period (or a 90-day period in a case in which the Administrator has requested an extension from the Secretary of the Army in writing) beginning on the date on which the Administrator receives from the Secretary all material necessary to evaluate the proposed disposal has expired and the Administrator has not—

"(I) concurred with (either with or without conditions) the Secretary; or

"(II) declined concurrence with the decision of the Secretary; and

"(B) the Secretary of the Army has found that the disposal is consistent with the guidelines developed pursuant to paragraph (3).

"(3)(A) Not later than December 31, 1994, the Administrator shall, in consultation with the Secretary and the Director of the Fish and Wildlife Service, develop specific guidelines for the disposal of sediment material in the open waters of the Great Lakes. In developing the guidelines, the Administrator shall provide notice and opportunity for public comment. At a minimum, the guidelines shall ensure that the disposal will—

"(i) not degrade the aquatic environment, including the chemical, physical, and biological characteristics of the substrate, or endanger human health or welfare;

"(ii) be managed in a manner that is consistent with an approved coastal zone management plan for the State or States with an approved plan, bordering the lake in which the disposal occurs; and

"(iii) be managed in a manner that protects—

"(I) municipal and private water supply intake zones;

"(II) recognized commercial or recreational fishing grounds and the spawning, nursery, food supply or migration areas on which fish depend for their life processes; and

"(III) against persistent resuspension or the spread of material to areas outside the disposal area;

"(iv) allow for the protection and propagation of a balanced, indigenous population of fish, shellfish, and wildlife in the area; and

"(v) not cause a violation of any water quality standard adopted pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq).

"(B) The guidelines developed under this paragraph shall take into consideration alternative reuse and disposal methods.

"(C) After providing notice and opportunity for public comment, the Administrator shall, as appropriate, revise the guidelines to incorporate any Federal guideline, criterion, or restriction related to sediment disposal in the Great Lakes that takes effect after the date of development of the initial guidelines.

"(4)(A) Any person found to be in violation of this subsection shall be subject to—

"(i) a civil penalty in an amount not to exceed the amount provided under section 309(d) of the Federal Water Pollution Control Act (33 U.S.C. 1319(d)), with respect to a civil penalty assessed by a court; or

"(ii) an amount provided under section 309(g) of such Act (33 U.S.C. 1319(g)) with respect to a civil penalty assessed by the Administrator.

"(B) The assessment of a civil penalty under this paragraph shall be conducted in the same manner as is provided for the assessment of a civil penalty under section 309 of such Act (33 U.S.C. 1319).".

(d) CONSIDERATION OF AREA NEEDS.—Section 123(b) of the River and Harbor Act of 1970 (33 U.S.C. 1293a(b)) is amended—

(1) by striking "(b)" and inserting "(b) CONSIDERATION OF AREA NEEDS.—(1)"; and

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

"(2) Beginning on April 1, 1993, the Secretary of the Army may not establish any confined spoil disposal facility in the waters of the Great Lakes unless—

"(A)(i) the Administrator has concurred in writing with the decision of the Secretary to establish the facility, and the concurrence is based on—

"(I) a consideration of the environmental and economic benefits of using a confined spoil disposal facility to remove contaminated sediment from the aquatic habitat; and

"(II) a determination that the facility will not affect the area surrounding the facility in a manner that is inconsistent with the guidelines established pursuant to paragraph (3); or

"(ii) a 45-day period beginning on the date on which the Administrator receives from the Secretary all material necessary to evaluate the proposed facility (or a 90-day period in the case in which the Administrator has requested an extension from the Secretary in writing) has expired, and the Administrator has not—

"(I) concurred with the decision of the Secretary; or

"(II) declined concurrence with the decision of the Secretary; and

"(B) the Secretary has—

"(I) provided an opportunity for public review and comment; and

"(II) determined that the facility will not affect the area surrounding the facility in a manner that is inconsistent with the guidelines established pursuant to paragraph (3).

"(3)(A) Not later than December 31, 1994, the Administrator shall, with respect to each confined spoil disposal facility located in the waters of the Great Lakes—

"(i) evaluate the present and projected integrity of the facility; and

"(ii) assess the environmental consequences of the facility.

"(B) Not later than December 31, 1994, the Administrator, in consultation with the Secretary of the Army, shall identify any confined spoil disposal facility located in the waters of the Great Lakes that is affecting, or projected to affect, the area surrounding the facility in a manner that is inconsistent with the guidelines established pursuant to paragraph (3).

"(4) Not later than December 31, 1994, the Administrator in conjunction with the Secretary of the Army and Director of the United States Fish and Wildlife Service, shall develop and implement a management plan for each confined spoil disposal facility located in the waters of the Great Lakes. In developing a plan, the Administrator shall provide opportunity for public comment. Each plan shall include the following:

"(A) A baseline assessment of conditions at the site.

"(B) A program for monitoring the site.

"(C) Any special management conditions or practices that are necessary for protection of human health, wildlife, and the environment.

"(D) A consideration of the quantity of the material to be disposed of at the site, and the presence, nature and bioavailability of contaminants in the material.

"(E) A consideration of the anticipated use of the site over the long term including the anticipated closure date for the site, if applicable, and any need for management of the site after its closure.

"(F) Any restrictions on public access to confined spoil disposal facilities that are necessary for environmental, safety, and health reasons.

"(G) A schedule for review and revision of the plan, which shall be reviewed and revised not later than 10 years after the date of adoption, and every 10 years thereafter.

"(5)(A)(i) Not later than December 31, 1996, the Secretary of the Army shall, in consultation with the Director of the United States Fish and Wildlife Service and the host State and local sponsors—

"(I) develop a confined spoil disposal facility remediation plan for each confined spoil disposal facility identified in paragraph (3)(B); and

"(II) submit each remediation plan referred to in subclause (I) to the Administrator.

"(ii) The remediation plan referred to in clause (i)(I) shall include a schedule of engineered improvements, closure, or restrictions of the facility or other measures to ensure that the facility will not affect the surrounding area in a manner that is inconsistent with the guidelines developed pursuant to paragraph (3).

"(B) Any confined spoil disposal facility remediation plan that recommends restriction or closure of the confined spoil disposal facility shall—

"(i) identify appropriate alternative disposal options, including the estimated costs of the alternatives; and

"(ii) include a schedule for initiating the alternatives, if applicable.

"(C) The Administrator, in consultation with the Director of the United States Fish and Wildlife Service and the host State and local sponsors, shall not later than 90 days

after receipt of a confined spoil disposal facility remediation plan, make a determination whether to approve the plan.

"(6)(A) The Secretary of the Army is authorized to design, engineer, and construct components of any confined spoil disposal facility remediation plan in a manner consistent with this section.

"(B) If, by January 1, 1999, a confined spoil disposal facility remediation plan has not been undertaken for a confined spoil disposal facility identified under paragraph (3)(B), the Administrator shall terminate the continued use of the confined spoil disposal facility.

"(7) On and after the date of enactment of this paragraph, the Secretary of the Army shall continue dredging and disposal operations in the Great Lakes basin to maintain current navigational channels in a manner that is consistent with this section.

"(8) Nothing in this section is intended to prohibit the Administrator from considering other relevant environmental laws (including regulations), or such other criteria as the Administrator determines to be appropriate, in making concurrence decisions based on the guidelines developed pursuant to paragraph (3).".

(e) GENERAL AMENDMENTS.—Section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended—

(1) in subsection (c), by striking "(c)" and inserting "(c) WRITTEN AGREEMENT.—";

(2) in subsection (d), by striking "(d)" and inserting "(d) WAIVER OF CONSTRUCTION COSTS.—";

(3) in subsection (e), by striking "(e)" and inserting "(e) FEDERAL PAYMENT OF COSTS.—";

(4) in subsection (f), by striking "(f)" and inserting "(f) PROPERTY INTERESTS.—";

(5) in subsection (g), by striking "(g)" and inserting "(g) FEDERAL LICENSES OR PERMITS.—";

(6) in subsections (c) and (f), by inserting "and the Administrator" after "Secretary of the Army" each place it appears;

(7) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively;

(8) in subsection (i), as redesignated by paragraph (7)—

(A) by striking "(i)" the first place it appears and inserting "(i) PROVISIONS APPLICABLE TO GREAT LAKES.—"; and

(B) striking "other than subsection (i)" and inserting "other than subsection (j)";

(9) in subsection (j), as redesignated by paragraph (7), by striking "(j)" and inserting "(j) RESEARCH, STUDY AND EXPERIMENTATION PROGRAM.—";

(10) in subsection (k), as redesignated by paragraph (7), by striking "The Secretary" and inserting "Except as provided in subsection (b)(6)(B), the Secretary";

(11) by inserting after subsection (g) the following new subsection:

"(h) PERMIT REQUIREMENTS.—(1) Beginning on December 31, 1994, any person who disposes of dredge spoil at a confined spoil disposal facility shall obtain from the Secretary of the Army, with the concurrence of the Administrator, a permit that specifies conditions for the disposal. The permit shall be in the form, and under the conditions, described in subsection (a)(2).

"(2) A permit issued pursuant to this subsection shall specify such conditions as are necessary to ensure that disposal at the confined spoil disposal facility will be consistent with the management plan for the confined spoil disposal facility that is the subject of the permit.

"(3) A permit issued pursuant to this subsection shall be issued for the term of the disposal activity specified pursuant to paragraph (1), except that no permit shall be issued for a period of more than 7 years.

"(4) A permit issued pursuant to this subsection shall include such conditions concerning monitoring and assessment as are necessary to determine compliance with the permit."; and

(12) by adding at the end of the section the following new subsections:

"(m) GREAT LAKES TRIBUTARY SEDIMENT TRANSPORT MODELS.—(1) For each major river system or set of major river systems that flows into a Great Lakes federally authorized commercial harbor, channel maintenance project site, or area of concern, the Secretary of the Army, in cooperation and coordination with the Administrator, and in consultation and coordination with the Great Lakes States, the heads of the Soil Conservation Service of the Department of Agriculture, the Geological Survey and the United States Fish and Wildlife Service of the Department of the Interior, shall develop a tributary sediment transport model.

"(2) Each model referred to in paragraph (1) shall—

"(A) measure stream discharge rates, total suspended solids loadings, and bedload transport;

"(B) measure additional parameters, such as nitrates, phosphates, persistent toxic substances, and heavy metals, on a river-by-river basis in accordance with any agreement between the Secretary of the Army, the Administrator, the host State and any other relevant non-Federal entity;

"(C) estimate the percentage of total sediment loadings into the harbors, channels and areas of concern originating from each subwatershed of river system; and

"(D) characterize the physical nature of the sediment materials.

"(3) In developing a tributary sediment transport model under this subsection, the Secretary of the Army shall—

"(A) coordinate tributary sediment transport modeling efforts with the efforts of the Administrator to produce comprehensive Lakewide Management Plans, Remedial Action Plans, and mass balance models;

"(B) build upon data and monitoring infrastructure generated in earlier studies and programs; and

"(C) complete models for an additional 30 river systems within the 5-year period beginning on the date of enactment of this subsection.

"(n) SEDIMENT LOAD REDUCTION.—(1)(A) Not later than 18 months after the date of enactment of this subsection, the Secretary of the Army, with the concurrence of the Administrator, and in consultation and coordination with the Great Lakes States, the heads of the Soil Conservation Service of the Department of Agriculture, the United States Geologic Survey of the Department of the Interior, and the heads of such other Federal agencies as the Administrator determines to be appropriate, shall—

"(i) develop an analytical method to project the effectiveness and efficiency of sediment source reduction approaches and scenarios in reducing upstream sediment loadings into specific Great Lakes federally authorized commercial harbors, channel maintenance project sites, and areas of concern of the Great Lakes;

"(ii) for each model developed under subsection (m), use the method described in clause (i) to conduct sediment load reduction analyses to estimate the potential effectiveness and efficiency of upstream sediment source reduction approaches and scenarios to reduce sedimentation in Great Lakes federally authorized commercial harbors, channel maintenance sites, and areas of concern of the Great Lakes; and

"(iii) provide sediment load reduction analysis information to the Administrator appropriate States upon request regarding river systems within their jurisdictions.

"(B) In developing and using the analytical method described in subparagraph (A)(i), the Secretary of the Army shall consider only those sediment reduction approaches and scenarios that are consistent with—

"(i) the guidance issued pursuant to section 6217(g) of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b(g)) where applicable;

"(ii) relevant State nonpoint source pollution control programs that have been approved in a manner consistent with section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329); and

"(iii) recommendations of any relevant Remedial Action Plans and programs and measures contained in Annex 3 of the Great Lakes Water Quality Agreement and the supplement to the Annex.

"(2)(A) The Secretary of the Army shall in cooperation with the Administrator, and within three months of the date of appropriations transfer funds appropriated pursuant to subsection (o)(1) of this Act to the Environmental Protection Agency for the purpose of making grants to States pursuant to section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) for specific projects to reduce the erosion that contributes to the sedimentation of federally authorized commercial harbors, channel maintenance project sites, and areas of concern.

"(B) A State or a group of States, on the initiative of the State or group of States or at the request of a remedial action planning committee, local government, port authority, or any other governmental, public, or private entity, may submit a proposal for funding for a project pursuant to this paragraph.

"(C) A grant from funds made available pursuant to this paragraph shall be—

"(i) awarded only for a project conducted by a State (or a group of States) that is incorporated in the nonpoint source pollution control program of the State (or, with respect to a project conducted by each recipient State (under applicable provisions of section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329)));

"(ii) in conformity with the guidance issued pursuant to section 6217(g) of the Omnibus Budget Reconciliation Act of 1990 (16 U.S.C. 1455b(g));

"(iii) consistent with the recommendations of any relevant Remedial Action Plans and Lakewide Management Plans;

"(iv) administered by agencies designated in the nonpoint source management program of the State;

"(v) improve water quality; and

"(vi) have the potential to reduce projected dredging costs, including environmental dredging, in an amount comparable to the cost of the erosion control project, within the lifetime of the dredging project.

"(3) To carry out a project under this subsection, a State may award grants from funds made available under this subsection for the implementation of an erosion control measure. The amount of each grant under this paragraph may not exceed 75 percent of the cost erosion control measure.

"(4)(A) Each grant under this section shall be in such amount and subject to such conditions as the Secretary of the Army, with the

concurrence of the Administrator, shall determine.

"(B) The Federal share of a grant made under this subsection shall be an amount equal to 75 percent of the cost of the project funded by the grant.

"(C) The State share of a grant made under this subsection shall be provided from non-Federal sources.

"(o) AUTHORIZATIONS.—(1) There are authorized to be appropriated, to the Department of the Army, to carry out subsections (m) and (n), $15,000,000 for each of fiscal years 1994 through 1999. Not less than 50 percent of the amounts authorized in this paragraph shall be reserved for the implementation of subsection (n)(2).

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there are authorized to be appropriated to the Department of the Army and the Environmental Protection Agency such sums as may be necessary to carry out the provisions of this section relating to the management and remediation of confined spoil disposal facilities and the issuance of permits for the facilities.

"(p) DEFINITIONS.—As used in this section:

"(1) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) The term 'area of concern' has the meaning given the term under section 118(a)(3)(F) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)(F)).

"(3) The term 'Great Lakes States' has the meaning given the term under section 118(a)(3)(G) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)(G)).

"(4) The term 'Great Lakes Water Quality Agreement' has the meaning given the term under section 118(a)(3)(H) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)(H)).

"(5) The term 'Lakewide Management Plan' has the meaning given the term under section 118(a)(3)(I) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)(I)).

"(6) The term 'Remedial Action Plan' has the meaning given the term under section 118(a)(3)(J) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)(J)).

"(7) The term 'remedial action planning committee' means a committee that is involved in the development of a Remedial Action Plan.".

By Mr. METZENBAUM:

S. 76. A bill to establish a grant program under the National Highway Traffic Safety Administration for the purpose of promoting the use of bicycle helmets by individuals under the age of 16; to the Committee on Commerce, Science, and Transportation.

CHILDREN'S BICYCLE HELMET SAFETY ACT

Mr. METZENBAUM. Mr. President, I rise to introduce legislation encouraging the use of bicycle helmets by children. The Senate passed this legislation last year. Unfortunately, however, the House did not take up the measure in the closing hours of the 102d Congress.

The need for this legislation is real. Children and young people have more head injuries than any other group. In fact, according to the organization national safe kids campaign two-thirds of all bicycle-related head injuries occurred among American children under age 14. In 1990, 400 children died as a result of head injuries caused by bicycle accidents.

Deaths and injuries from bicycle accidents cost society billions of dollars annually. One child suffering from a head injury, on average, will cost society $4.5 million over the child's lifetime.

Bicycle helmets work. Their proper use has been shown to reduce the risk of head injury by 85 percent. That's why States and localities have begun to adopt laws requiring or encouraging bicycle helmet use by children. Congress should help foster these efforts.

The legislation I am introducing today will do just that. My bill will make available a total of $9 million in grant money to States, localities and non-profit organizations that require or encourage individuals under the age of 16 to wear bicycle helmets. The money can be used to set up a bicycle helmet bank for underprivileged children, for enforcement purposes or to educate children and their families about the benefits of helmets.

The legislation will also require the Consumer Product Safety Commission to issue uniform safety standards for adult- and child-size bicycle helmets. It makes sense to ensure that if children are wearing helmets that these helmets be made of solid, safe construction. Bicycle helmets sold in the United States today do not have to meet any safety standards. Voluntary bicycle helmet standards exist but they are not uniform and are based on inadequate testing.

Mr. President, only 5 percent of the children in this country who ride bicycles wear helmets. For safety's sake, we can and must do better. I urge colleagues to support me in this endeavor.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 76

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Bicycle Helmet Safety Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) 90 million Americans ride bicycles and 20 million ride a bicycle more than once a week;

(2) between 1984 and 1988, 2,985 bicyclists in the United States died from head injuries and 905,752 suffered head injuries that were treated in hospital emergency rooms;

(3) 41 percent of bicycle-related head injury deaths and 76 percent of bicycle-related head injuries occurred among American children under age 15;

(4) deaths and injuries from bicycle accidents cost society $7.6 billion annually; and a child suffering from a head injury, on average, will cost society $4.5 million over the child's lifetime;

(5) universal use of bicycle helmets in the United States would have prevented 2,600 deaths from head injuries and 757,000 injuries; and

(6) only 5 percent of children in the Nation who ride bicycles wear helmets.

SEC. 3. ESTABLISHMENT OF PROGRAM.

The Administrator of the National Highway Traffic Safety Administration may, in accordance with section 4, make grants to States and State political subdivisions for programs that require or encourage individuals under the age of 16 to wear approved bicycle helmets. In making those grants, the Administrator shall allow grantees to use wide discretion in designing programs that effectively promote increased bicycle helmet use.

SEC. 4. PURPOSES FOR GRANTS.

A grant made under section 3 may be used by a grantee to—

(1) enforce a law that requires individuals under the age of 16 to wear approved bicycle helmets on their heads while riding on bicycles;

(2) assist individuals under the age of 16 to acquire approved bicycle helmets;

(3) develop and administer a program to educate individuals under the age of 16 and their families on the importance of wearing such helmets in order to improve bicycle safety; or

(4) carry out any combination of the activities described in paragraphs (1), (2), and (3).

SEC. 5. STANDARDS.

(a) IN GENERAL.—Bicycle helmets manufactured 9 months or more after the date of the enactment of this Act shall conform to—

(1) any interim standard described under subsection (b), pending the establishment of a final standard pursuant to subsection (c); and

(2) the final standard, once it has been established under subsection (c).

(b) INTERIM STANDARDS.—The interim standards are as follows:

(1) The American National Standards Institute standard designated as "Z90.4–1984".

(2) the Snell Memorial Foundation standard designated as "B–90".

(3) Any other standard that the Consumer Product Safety Commission determines is appropriate.

(c) FINAL STANDARD.—Not later than 60 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall begin a proceeding under section 553 of title 5, United States Code, to—

(1) review the requirements of the interim standards set forth in subsection (a) and establish a final standard based on such requirements;

(2) include in the final standard a provision to protect against the risk of helmets coming off the heads of bicycle riders;

(3) include in the final standard provisions that address the risk of injury to children; and

(4) include additional provisions as appropriate.

Sections 7 and 9 of the Consumer Product Safety Act (15 U.S.C. 2056 and 2058) shall not apply to the proceeding under this subsection and section 11 of such Act (15 U.S.C. 2060) shall not apply with respect to any standard issued under such proceeding. The final standard shall take effect 1 year from the date it is issued.

(d) FAILURE TO MEET STANDARDS.—

(1) FAILURE TO MEET INTERIM STANDARD.—Until the final standard takes effect, a bicycle helmet that does not conform to an in-

terim standard as required under subsection (a)(1) shall be considered in violation of a consumer product safety standard promulgated under the Consumer Product Safety Act.

(2) STATUS OF FINAL STANDARD.—The final standard developed under subsection (c) shall be considered a consumer product safety standard promulgated under the Consumer Product Safety Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

For the National Highway Safety Administration to carry out the grant program authorized by this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1994, $3,000,000 for fiscal year 1995, and $4,000,000 for fiscal year 1996.

SEC. 7. DEFINITION.

In this Act, the term "approved bicycle helmet" means a bicycle helmet that meets—

(1) any interim standard described in section 5(b), pending establishment of a final standard under section 5(c); and

(2) the final standard, once it is established under section 5(c).

By Mr. THURMOND (for himself and Mr. DECONCINI):

S. 77. A bill to amend title 18 to limit the application of the exclusionary rule; to the Committee on the Judiciary.

EXCLUSIONARY RULE LIMITATION ACT

Mr. THURMOND. Mr. President, today, I rise to introduce a bill which would codify the good faith exception to the exclusionary rule that has been recognized by the Supreme Court.

The legislation that I am offering today is similar to measures I have introduced in the last four Congresses and to a proposal which passed the Senate by a vote of 63–24 in 1984. Although the House of Representatives passed similar legislation during the last three Congresses, the Senate failed to pass this proposal.

The exclusionary rule is a judicially created remedy for violations by law enforcement officers of the fourth amendment prohibition against illegal searches and seizures. More simply, if evidence is obtained by a law enforcement officer in violation of the fourth amendment, then that evidence will be excluded in a criminal trial. The exclusionary rule is an important principle since it helps to insure that law enforcement officers not be allowed to randomly enter our homes or private places and search without just cause.

However, since the creation of the exclusionary rule remedy in 1914, in Weeks versus California, the Supreme Court has recognized exceptions when the exclusionary rule should not apply. This measure addresses one of those exceptions. This legislation codifies the Court's holding in United States versus Leon to provide that evidence obtained pursuant to a warrant which is later found to be defective will not be excluded if the law enforcement officer acted in objective good faith. Objective good faith would be established if the circumstance surrounding the search justify an objectively reasonable belief that it was in conformity with the fourth amendment. This bill also extends this exception to warrantless searches.

Mr. President, the bill that I am introducing today neither authorizes nor encourages law enforcement officers to disregard the fourth amendment and randomly search a person's home. What it does is address the legal loophole that often allows a criminal to go free, irrespective of guilt or innocence, when evidence crucial to a criminal proceeding is suppressed. The goal of the exclusionary rule is to deter law enforcement conduct that violates the fourth amendment. Therefore, if a law enforcement officer's conduct is executing a search is in conformance with the fourth amendment, applying the exclusionary rules does not serve as a deterrent. It should be noted that the determination as to whether the officer conducted the search in objective good faith would be made by the Court based on the circumstances surrounding the search. Of course if the officer's conduct did not exhibit objective good faith, the evidence would not be allowed. This amendment is a reasonable extension of the exception currently recognized by the Supreme Court.

We are well aware of the fact that the exclusion of evidence most often results in the release of the accused. This is a high price to pay for nonconstitutional violations. Therefore, I think it wise to preclude the use of the exclusionary rule in these situations unless Congress so provides. This legislation will aid in the apprehension and prosecution of criminals without sacrificing the principles of the fourth amendment.

In an effort to work toward a bipartisan comprehensive crime bill last Congress, I agreed to not pursue passage of this measure. However, efforts failed to produce a true, tough crime bill that would punish vicious criminals. This Congress, I plan to strongly pursue this, and other, vital criminal law reform measures which will ensure that vicious criminals are appropriately punished. I strongly urge my colleagues to support this vital measure and hope that we will act without delay.

I ask unanimous consent that the full text of this bill be printed in the CONGRESSIONAL RECORD.

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

S. 77

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Exclusionary Rule Limitation Act of 1993".

SEC. 2. (a) Chapter 223 of title 18, United States Code, is amended by adding the following two sections:

"§ 3508. Limitation of the fourth amendment exclusionary rule

"Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was undertaken in an objectively reasonable belief that it was in conformity with the fourth amendment. A showing that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of such a reasonable belief, unless the warrant was obtained through intentional and material misrepresentation.

"§ 3509. General limitation of the exclusionary rule

"Except as specifically provided by statute or rule of procedure, evidence which is otherwise admissible shall not be excluded in a proceeding in a court of the United States on the ground that the evidence was obtained in violation of a statute or rule of procedure, or of a regulation issued pursuant thereto.".

(b) The table of sections of chapter 223 of title 18, United States Code, is amended by adding at the end thereof:

"3508. Limitation of the fourth amendment exclusionary rule.

"3509. General limitation of the exclusionary rule.".

By Mr. THURMOND (for himself and Mr. DECONCINI):

S. 78. A bill to amend title 28 of the United States Code to clarify the remedial jurisdiction of inferior Federal courts; to the Committee on the Judiciary.

JUDICIAL TAXATION PROHIBITION ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to prohibit Federal judges from ordering new taxes or ordering increases in existing tax rates as a judicial remedy.

In 1990, the Supreme Court decided in Missouri versus Jenkins to allow Federal judges to order new taxes or tax increases as a judicial remedy. It is my firm belief that this narrow 5–4 decision permits Federal judges to exceed their proper boundaries of jurisdiction and authority under the Constitution.

Mr. President, this ruling and congressional response raises two constitutional issues which warrant discussion. One I mentioned earlier is whether Federal courts have authority under the Constitution to inject themselves into the legislative area of taxation. The second constitutional issue arises in light of the Judicial Taxation Prohibition Act which I am now introducing to restrict the remedial jurisdiction of the Federal courts. This narrowly drafted legislation would prohibit Federal judges from ordering new taxes or ordering increases in existing tax rates. I believe it is clear under article III that the Congress has the authority to restrict the remedial jurisdiction of the Federal courts in this fashion.

First, I want to speak on the issue of judicial taxation. Not since Great Britain's ministry of George Greenville in 1765 have the American people faced the assault of taxation without representation as now authorized in the Jenkins decision.

As part of his imperial reforms to tighten British control in the Colonies, Greenville pushed the Stamp Act through the Parliament in 1765. This Act required excise duties to be paid by the colonists in the form of revenue stamps affixed to a variety of legal documents. This action came at a time when the Colonies were in an uproar over the Sugar Act of 1764 which levied duties on certain imports such as sugar, indigo, coffee, linens and other items.

The ensuing firestorm of debate in America centered on the power of Britain to tax the Colonies. James Otis, a young Boston attorney, echoed the opinion of most colonists stating that the Parliament did not have power to tax the Colonies because Americans had no representation in that body. Mr. Otis had been attributed in 1761 with the statement that "taxation without representation is tyranny."

In October 1765, delegates from nine States were sent to New York as part of the Stamp Act Congress to protest the new law. It was during this time that John Adams wrote in opposition to the Stamp Act, "We have always understood it to be a grand and fundamental principle * * * that no freeman shall be subject to any tax to which he has not given his own consent, in person or by proxy." A number of resolutions were adopted by the Stamp Act Congress protesting the acts of Parliament. One resolution stated, "It is inseparably essential to the freedom of a people * * * that no taxes be imposed on them, but with their own consent, given personally or by their representatives." The resolutions concluded that the Stamp Act had a "manifest tendency to subvert the rights and liberties of the colonists."

Opposition to the Stamp Act was vehemently continued through the Colonies in pamphlet form. These pamphlets asserted that the basic premise of a free government included taxation of the people by themselves or through their representatives.

Other Americans reacted to the Stamp Act by rioting, intimidating tax collectors, and boycotts directed against England. While Grenville's successor was determined to repeal the law, the social, economic and political climate in the Colonies brought on the American Revolution. The principles expressed during the earlier crisis against taxation without representation became firmly imbedded in our Federal Constitution of 1787.

Yet, the Supreme Court has overlooked this fundamental lesson in American history. The Jenkins decision extends the power of the judiciary into an area which has traditionally been reserved as a legislative function within the Federal, State, and local governments. In the Federalist No. 48, James Madison explained that in our democratic system, "the legislative branch alone has access to the pockets of the people."

This idea has remained steadfast in America for over 200 years. Elected officials with authority to tax are directly accountable to the people who give their consent to taxation through the ballot box. The shield of accountability against unwarranted taxes has been removed now that the Supreme Court has sanctioned judicially imposed taxes. The American citizenry lacks adequate protection when they are subject to taxation by unelected, life tenured Federal judges.

There are many programs and projects competing for a finite number of tax dollars. The public debate surrounding taxation is always intense. Sensitive discussions are held by elected officials and their constituents concerning increases and expenditures of scarce tax dollars. To allow Federal judges to impose taxes is to discount valuable public debate concerning priorities for expenditures of a limited public resource.

Mr. President, the dispositive issue presented by the Jenkins decision is whether the American people want, as a matter of national policy, to be exposed to taxation without their consent by an independent and insulated judiciary. I most assuredly believe they do not.

This bring us to the second constitutional issue which we must address in light of the Jenkins decision. That issue is congressional authority under the Constitution to limit the remedial jurisdiction of lower Federal courts established by the Congress. Article III, section 1, of the Constitution provides jurisdiction to the lower Federal courts as the "Congress may from time to time ordain and establish." There is no mandate in the Constitution to confer equity jurisdiction to the inferior Federal courts. Congress has the flexibility under article III to "ordain and establish" the lower Federal courts as it deems appropriate. This basic premise has been upheld by the Supreme Court in a number of cases including Lockerty versus Phillips, Lauf versus E.G. Skinner and Co., Kline versus Burke Construction Co., and Sheldon versus Sill.

This legislation would preclude the lower Federal courts from issuing any order or decree requiring imposition of "any new tax or to increase any existing tax or tax rate." I firmly believe that this language is wholly consistent with congressional authority under article III, section 1 of the Constitution.

There is nothing in this legislation which would restrict the power of the Federal courts from hearing constitutional claims. It accords due respect to all the provisions of the Constitution and merely limits the availability of a particular judicial remedy which has traditionally been a legislative function. The objective of this legislation is straightforward, to prohibit Federal courts from increasing taxes. The language in this bill applies to the inferior Federal courts and does not deny claimants judicial access to seek redress of any Federal constitutional right.

Mr. President, how long will it be before a Federal judge orders tax increases to build new highways or prisons? I do not believe the Founding Fathers had this type of activism in mind when they established the judicial branch of government. The role of the judiciary is to interpret the law. The power to tax is an exclusive legislative right belonging to the Congress and the individual States. We are accountable to the citizens and must justify any new taxes. The American people deserve a timely response to the Jenkins decision and we must provide protection against the imposition of taxes by an independent judiciary.

Mr. President, I ask unanimous consent that this proposal be printed in the RECORD following my remarks.

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

S. 78

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Taxation Prohibition Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) a variety of effective and appropriate judicial remedies are available for the full redress of legal and constitutional violations under existing law, and that the imposition or increase of taxes by courts is neither necessary nor appropriate for the full and effective exercise of Federal court jurisdiction;

(2) the imposition or increase of taxes by judicial order constitutes an unauthorized and inappropriate exercise of the judicial power under the Constitution of the United States and is incompatible with traditional principles of American law and government and the basic American principle that taxation without representation is tyranny;

(3) Federal courts exceed the proper boundaries of their limited jurisdiction and authority under the Constitution of the United States, and impermissibly intrude on the legislative function in a democratic system of government, when they issue orders requiring the imposition of new taxes or the increase of existing taxes; and

(4) the Congress retains the authority under article III, sections 1 and 2 of the Constitution of the United States to limit and regulate the jurisdiction of the inferior Federal courts which it has seen fit to establish, and such authority includes the power to limit the remedial authority of inferior Federal courts.

SEC. 3. AMENDMENT TO TITLE 28.

(a) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding between sections 1341 and 1342, the following new section:

"§ 1341A. Prohibition of judicial imposition or increase of taxes.

"(a) Notwithstanding any other provision of law, no inferior court established by Con-

gress shall have jurisdiction to issue any remedy, order, injunction, writ, judgment, or other judicial decree requiring the Federal Government or any State or local government to impose any new tax or to increase any existing tax or tax rate.

"(b) Nothing in this section shall prohibit inferior Federal courts from ordering duly authorized remedies, otherwise within their jurisdiction, which may require expenditures by Federal, State, or local government where such expenditures are necessary to effectuate such remedies.

"(c) For purposes of this section, the term 'tax' includes—

"(1) personal income taxes;

"(2) real and personal property taxes;

"(3) sales and transfer taxes;

"(4) estate and gift taxes;

"(5) excise taxes;

"(6) user taxes;

"(7) corporate and business income taxes; and

"(8) licensing fees or taxes.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 85 is amended by inserting between the item relating to section 1341 and the item relating to section 1342, the following new item:

"1341A. Prohibition of judicial imposition or increase of taxes.".

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of enactment.

By Mr. DECONCINI:

S. 79. A bill to restore public confidence in the performance and merits of elected officials and Federal employees; to the Committee on Governmental Affairs.

RESTORING CONFIDENCE IN ELECTED OFFICIALS AND FEDERAL EMPLOYEES

Mr. DECONCINI. Mr. President, Americans spoke loudly and clearly in the November election. They let it be known that their No. 1 concern was getting their country moving in the right direction again. Equal to America's concern about the economy is their overwhelming interest in ensuring that their Government and its officials be above reproach.

Our country's Founders conceived of a government "of the people, by the people and for the people." Sadly, there has been a loss of public confidence in both the executive and legislative branches of government as the media report scandal after scandal. We have a picture of a government whose officials and employees are more dedicated to personal gain than to public service. I am introducing legislation today that I hope will restore public confidence in government by guaranteeing that no one uses his or her elected office or term of public service for personal advancement or the advancement of a special interest, particularly a foreign government or interest abroad.

My bill will permanently ban former top executive department and legislative officials, including former Presidents, Vice-Presidents, Members of Congress, trade negotiators, and other top political appointees from becoming a foreign agent or lobbyist for a foreign corporation not certified or registered in the United States after their period of public service ends. In order to ensure responsible public service throughout the Federal Government, all appointees or employees below this level would not be able to act as a foreign agent or lobbyist for a foreign corporation for 2 years immediately following their Government employment.

Also fundamental to restoring confidence in our Government is ensuring that the public is provided appropriate information concerning any potential conflicts of interest by Government employees and officials. My bill would require that those people in the executive and legislative branches of the Government or in the military who are in a position to influence legislation, executive rulemaking or military decisions, file financial disclosure forms which would be available to the public.

In his inaugural address, President Clinton pledged to renew and revitalize our democracy. Certainly, ending the revolving door between Government and special interests is vital to that pursuit. In order to accomplish that goal, my bill would lengthen the period of time from 1 to 5 years during which all former government office holders and employees are prohibited from lobbying the office in which he or she served while in government. The bill also closes loopholes in the Foreign Agents Registration Act by broadening the Act to cover all actions not precisely limited to legitimate first amendment rights or actual legal representation.

Persons who knowingly and willingly violate the provisions of the bill would be forced to forfeit their pension and other benefits accrued during their public service. Those who misuse public service for personal gain should not be permitted to reap the benefits he or she accrued while a public servant. In addition to this legislation, I also intend to look further into the issue of lobbying by former government officials and employees on matters with which they were substantially involved while in government service.

This bill addresses an interest fundamental to all Americans—ensuring the integrity of our constitutional democracy. It is my hope that hearings will be held by the Senate in the near future so that these issues can be thoroughly examined. I am hopeful that this, along with other proposals designed to eliminate the revolving door, will be quickly enacted. Government officials and public employees must not trade their service for future private gain; they must serve the public's interests, not special interests. Only if we take action on these issues can we begin to restore the public's trust in government.

By Mr. NICKLES (for himself, Mr. REID, Mr. SHELBY, Mr. MCCAIN, Mr. BOND, Mr. MCCONNELL, and Mr. HELMS):

S. 81. A bill to require analysis and estimates of the likely impact of Federal legislation and regulations upon the private sector and State and local governments, and for other purposes; to the Committee on Governmental Affairs.

ECONOMIC AND EMPLOYMENT IMPACT ACT

• Mr. NICKLES. Mr. President, today Senator REID and I along with several of my colleagues, are reintroducing legislation first introduced last Congress, the Economic and Employment Impact Act which will require a full disclosure of all costs associated with legislation considered by Congress as well as any regulations promulgated by a Federal agency.

According to one of the latest studies published in 1991, the total annual cost of Federal regulation was upward of $562 billion dollars and is projected to be as much as $688 billion by the year 2000. While the American taxpayer is aware of the costs of Government that show up in the Federal budget, we are less sensitive to the hidden cost of troublesome legislative and regulatory burdens. According to the 1991 report on the cost of regulation done by Thomas Hopkins at the Rochester Institute of Technology, total regulatory cost per household in 1992 will be $4,272 and will rise to $4,647 in the year 2000.

Often, Congress fails to consider how much a new law or regulation increases the cost of products and services to consumers or the loss in jobs when businesses have to cut back in response to growing Federal demands. The Economic and Employment Impact Act will make Congress and the administration aware of the impact, positive and negative, that legislation has on the private sector, individuals, and State and local governments.

The act would require that all legislation considered by Congress be accompanied by an economic and employment impact statement. The statements will contain the positive and negative effects on employment, Gross Domestic Product, the ability of U.S. industries to complete internationally, and the cost to consumers. Further, it would require that final regulations and proposed regulations promulgated by executive branch agencies also be accompanied by such a statement.

To prevent an unwarranted delay in the legislative and regulatory process, a detailed assessment will not be required if a preliminary analysis indicates that the aggregate effect of the legislation is less than $100 million or results in reduced employment of less than 10,000 jobs. Congress may also waive the provisions regarding the impact statement by a three-fifths vote of either House.

Similar legislation was unanimously agreed to in the form of an amendment I authored during the 100th Congress.

With that, Congress has sent a signal to our Nation's citizens that it cares about out-of-control Federal mandates and is ready to take steps to rectify its excessive regulation.

I do not believe economic forecasts are perfect and economists are not oracles. However, economists have tools which governments and industries around the world use every day. But today Congress is not getting the best available economic advice on how a new law or regulation will affect the vast and varied American economy until after the fact. Congress is not applying these economic tools to the vast number of pressing issues that face the Nation.

Some will say the purpose of this legislation is to hinder the regulatory and legislative process—not so. The intent of this legislation is to establish a process to ensure better and more efficient regulation. The process this legislation establishes does not pass judgment on whether a bill or regulation is good or bad but simply completes the formula as Congress considers legislation and the executive branch promulgates regulation.

Mr. Hopkins sums it up best in his paper, the "Cost of Regulation":

> The point here is simply that enough evidence exists, however incomplete it may be, to suggest that regulatory costs are substantial and growing. The magnitudes are large enough to warrant a more vigorous effort to firm up these cost estimates and to examine regulatory benefits with greater care in the interests of more rational public policy.

While there are many seemingly good ideas out there in the form of new legislation, our economy simply cannot absorb every good idea coming down the pike. We must send the American people a positive signal by showing them we will only support good ideas that make sense to the economy and employment.•

By Mr. INOUYE:

S. 82. A bill to establish a higher education recruitment and retention initiative and a leadership for human survival initiative; to the Committee on Labor and Human Resources.

HIGHER EDUCATION RECRUITMENT AND RETENTION INITIATIVE

Mr. INOUYE. Mr. President, today I am introducing a bill to amend the National Science Foundation Act, to provide for the development and establishment of a higher education recruitment and retention initiative and of the leadership for human survival initiative.

First, this amendment will permit institutions with a specific interest in serving students from the Pacific Islands to expand their efforts to recruit and retain students from underprivileged backgrounds. Native Hawaiian, Native American Samoan, Micronesian, and Filipino students have little access to higher education both because of poor preparation and lack of resources. But, even when they are admitted into higher education, they almost always perform poorly and drop out before they complete their college degree. There are virtually no universities that provide the support services sensitive to the cultural and language diversity of these Pacific Islanders. In the State of Hawaii, the University of Hawaii at Hilo has developed innovative strategies in addressing the unique educational needs of Pacific Island students. They are committed in ensuring that more Native Hawaiian, Native American Samoan, Micronesian, and Filipino students are recruited and retained in college.

Students from these Pacific Islands bring with them a myriad of untapped resources that can enrich the institutions they attend and thus enhance our own education standards. We in turn can provide an immeasurable service to the people of these Pacific Island nations, for these students will return home to make important contributions to their communities.

The amendment that I have proposed would fund both the necessary recruiting efforts and the remedial programs needed to retain the students admitted into college. The University of Hawaii at Hilo has demonstrated undeniable expertise in the designing and implementation of such programs geared toward the nurturing of culturally diverse students with disadvantaged educational backgrounds. To assure the effectiveness of the proposed expenditure, the funds would be reserved for institutions that have already displayed a commitment to diversity by admitting significant numbers of students from these Pacific Islands. Such schools have already gained the experience necessary to appropriately serve Pacific Island students and can make the most effective use of our limited funds.

Second, this amendment will also provide for the development and establishment of the leadership for human survival initiative through science education. This innovative program will enhance the quality of life and the environment and ensure the survival of future generations. This rigorous college preparatory curriculum combines research in science and technology and research in history and culture. The program is designed to begin to develop high school students as future leaders of society. Students involved in this program will explore such areas as astronomy, oceanography, meteorology, aquaculture and agriculture, energy development, land and ocean resource management, engineering, conservation, etc. Such a program will prepare students for and encourage students to attend and graduate from college and to study math, science, and engineering. This is an extraordinary and a visionary project which combines the expertise of traditional native Hawaiian navigators and modern-day astronauts from NASA.

Funds will be provided to allow high school students to examine closely the relationships among natural resources, technology, and population to determine optimum carrying capacities and quality of life in a given environment, using Hawaii as a microcosm of the globe. It will develop a vision of how human beings can create a high quality of living using science and technology without destroying the limited resources on which human survival depends.

I am proposing that we appropriate $2 million for each of 3 years to fund a higher education recruitment and retention initiative to provide underprivileged Pacific Island students access to higher education and to fund the development and establishment of the leadership for human survival initiative. One million dollars shall be provided for each program respectively.

Several years ago, I supported the establishment of the same type of recruitment and retention program at the University of Hawaii John A. Burns School of Medicine, to train more Native Hawaiian and Pacific Island health professionals. When the program first began, there were only a handful of Native Hawaiian and Pacific Island students. Now, a large number of these students have graduated and returned to their communities and are making substantial contributions to the lives of their own people. The program has proven a success and we can use the same concept in providing for other professional degrees.

The proposed amendment expresses my faith that our education system is one of our Nation's most valuable resources, and that expanding access to our schools to Pacific Islanders is an important method of strengthening our education system, while aiding Pacific Island nations that are not presently prepared to provide their young citizens with higher education.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 82

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

(a) PURPOSE.—It is the purpose of this section to develop, establish, and operate—

(1) a program to recruit for enrollment in an institution of higher education and graduate Native Hawaiian, Native American Samoan, Micronesian, and Filipino students; and

(2) a leadership for human survival initiative that encourages secondary school students to become future leaders by teaching such students through a curriculum developed by the Hokule'a and the National Aeronautics and Space Administration.

(b) HIGHER EDUCATION RECRUITMENT AND RETENTION INITIATIVE.—

(1) IN GENERAL.—The Director of the National Science Foundation shall award a grant to an institution of higher education to enable such institution to develop, establish, and operate a program to encourage Native Hawaiian, Native American Samoan, Micronesian, and Filipino students to enroll in a program of higher education. Such program shall—

(A) provide recruitment and enrollment assistance for such students to encourage such students to attend an institution of higher education;

(B) provide such students with assistance related to remaining in school and successfully completing their course of study; and

(C) encourage such students to study mathematics, science and engineering.

LIMITATION.—Grant under this subsection only shall be made to an institution of higher education with a strong record of recruiting and retaining at such insitution Native Hawaiian, Native American Samoan, Micronesian, and Filipino students.

(c) LEADERSHIP FOR HUMAN SURVIVAL INITIATIVE.—The Director of the National Science Foundation shall award a grant to the Polynesian Voyaging Society to enable such organization, in consultation with the National Aeronautics and Space Administration, to develop, establish, and operate a program to encourage secondary school students to become future leaders by training such students in human survival techniques and studying traditional conservation methods of populations indigenous to the Pacific Islands. Such program shall—

(1) train secondary school students to implement research on how modern science might solve a current human survival problem by analyzing how issues such as housing, food or energy production were addressed by populations indigenous to the Pacific Islands; and

(2) enable seconday students to explore topics such as alternative and renewable energy sources, fisheries and ocean resource development and management (reef or offshore), aquaculture and fishpond management, land resource development and management (forestry, agriculture, or land use planning), low-cost housing, alternative transportation (wind and solar driven land or sea transportation), pollution control and recycling.

(d) DEFINITIONS.—For the purpose of this section—

(1) the term "institution of higher education" has the same meaning givenn to such term by section 1201(a) of the Higher Education Act of 1965; and

(2) the term "secondary school" has the same meaning give to such term by section 1471(21) of the Elementary and Secondary Education Act of 1965.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out this Act, of which—

(1) $1,000,000 shall be available in each such fiscal year to carry out subsection (b); and

(2) $1,000,000 shall be available in each such fiscal year to carry out subsection (c).

By Mr. GRAMM (for himself, Mr. COCHRAN, Mr. LOTT, and Mr. SHELBY):

S. 83. A bill to ensure the preservation of the Gulf of Mexico by establishing a Gulf of Mexico Program; to the Committee on Environment and Public Works.

GULF OF MEXICO PRESERVATION ACT

• Mr. GRAMM. Mr. President, I rise today to introduce with Senators COCHRAN, LOTT, and SHELBY the Gulf of Mexico Preservation Act of 1993.

With 1,631 miles of coastline stretching from the Florida Everglades to Brownsville, TX, the Gulf of Mexico provides jobs and recreation to millions of Americans. The gulf supports over a third of the marine recreational fishing activities in the continental United States. It accounts for nearly 40 percent of domestic fishery landings and yields over 2.5 billion pounds of seafood each year. The gulf provides 83 percent of the oil and 97 percent of the natural gas produced offshore in the United States.

As anyone representing a Gulf State can tell you, the gulf's capacity to provide freely from its resources has been strained. Two-thirds of the waterways in the continental United States drain into the Gulf of Mexico, and increasing pollution from runoff and discharges has caused a loss of natural habitats for fish and wildlife. A dead zone of 3,000 square miles of oxygen-deficient bottom waters has been documented off the Louisiana and Texas coast, and pollution has caused the permanent or conditional closure of fisheries and shellfish growing areas. Garbage dumping by ships and other nations has choked the Texas coast with tons of plastic and other debris. In September 1991, the last year for which figures are available, volunteers cleaned up nearly 1 million pounds of marine trash from gulf beaches in just 1 day.

The Gulf of Mexico Preservation Act will establish a Gulf of Mexico Program within the Environmental Protection Agency similar to the existing Chesapeake Bay and Great Lakes programs. The Gulf Program will coordinate the efforts of Federal agencies, State and local authorities, and private interests to maintain the health and vitality of America's sea, the Gulf of Mexico.

The bill will require the program to create a comprehensive, multiyear plan for environmental protection in the gulf which recognizes the gulf's importance to the regional and national economy. The bill also creates a grant program which will enable the States to fund scientific research that will increase our base of knowledge for tackling the problems of the Gulf of Mexico and other marine areas. Finally, the bill authorizes the appropriation of substantial sums to the Gulf Program, bringing efforts there in line with existing efforts to protect other major water bodies.

It is my hope that my colleagues from around the country will recognize the Gulf of Mexico's importance to the entire Nation and join me in passing this vital legislation.•

By Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. BIDEN, and Mr. SIMON):

S. 84. A bill to modify the antitrust exemption applicable to the business of insurance; to the Committee on the Judiciary.

INSURANCE COMPETITIVE PRICING ACT

• Mr. METZENBAUM. Mr. President, today, I am introducing legislation to amend the McCarran-Ferguson Act to prohibit anticompetitive conduct by insurance companies. The bill repeals the industry's blanket exemption from the Federal antitrust laws. I am pleased to be joined in this effort by Senators BIDEN, KENNEDY, and SIMON in this effort.

This legislation has three goals: First, to recognize the current authority of the States to regulate insurance, second, to promote free competition in the sale of insurance by banning the most egregious forms of anticompetitive conduct, and third, to provide a safe harbor for certain joint activities by insurers, such as pooling historical loss data, which are essential to the business of insurance and which benefit consumers.

The McCarran-Ferguson antitrust exemption clearly has outlived any useful purpose that it might have had. Today, the case for repealing the insurance industry's blanket antitrust exemption is compelling. Insurance is vital to the Nation and no one can be secure without it. However, because insurance companies do not have to comply with our national policy of free competition, rates are higher than they should be and the availability of certain types of insurance is excessively limited.

The bill I introduce today strikes an appropriate balance between the pressing need for unfettered competition among insurers and the need for continued protection for certain procompetitive activities that benefit consumers. However, the bill does not seek to alter the application of the State action doctrine to insurers. In its 1992 decision in FTC versus Ticor Title Ins. Co., the Supreme Court provided further guidance on how State action immunity applies to the insurance industry. The bill does not affect the State action requirements articulated by the court.

Likewise, the bill does not prevent insurers from sharing information for the benefit of consumers. It contains designated safe harbors to permit insurers to engage in joint data collection. Essentially, the bill affirms what the courts have recognized; joint activities among the members of an industry that promote competition do not run afoul of the antitrust laws. Therefore, both the bill and prevailing antitrust law protect such procompetitive conduct.

However, the bill will permit appropriate challenges to blatantly anticompetitive conduct by insurers that is

now immune from attack. Back room conspiracies to fix prices or sell worthless insurance will no longer be shielder from suit. Instead, the same standards of free and fair competition that apply to other industries will apply to insurance companies.

The insurance industry is too big and too important to American consumers to remain exempt from our Nation's antitrust laws. Access to insurance at affordable rates continues to be a critical program for individuals, small businesses, large companies, and even government agencies. Requiring insurance companies to abide by the rules of free competition will make an important contribution to resolving these problems. I urge my colleagues to support the bill.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 84

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Insurance Competitive Pricing Act of 1993".

SEC. 2. AMENDMENTS.

Section 2 of the Act of March 9, 1945 (59 Stat. 34; 15 U.S.C. 1012), commonly known as the McCarran Ferguson Act, is amended—

(1) in subsection (b)—

(A) by striking ": *Provided*, That after June 30, 1948,: and inserting "except that",

(B) by inserting "section 5 of" after "Clayton Act, and",

(C) by inserting "as such section 5 relates to monopolies, attempts or conspiracies to monopolize, and unlawful restraints of trade," after "Commission Act, as amended,", and

(D) by striking "that such Business" and all that follows through "law." and inserting the following:

"that—

"(1) such business is not regulated by State law; or

"(2) the conduct of a person engaged in such business involves—

"(A) price fixing;

"(B) allocation with a competitor a geographical area in which, or persons to whom, insurance will be offered for sale;

"(C) unlawful tying the sale or purchase of—

"(i) one type of insurance to the sale or purchase of another type of insurance; or

"(ii) any type of insurance to the sale or purchase of any other service or product; or

"(D) monopolizing, or attempting to monopolize, any part of the business of insurance.", and

(2) by adding at the end the following:

"(c) The conduct referred to in subsection (b)(2) shall not include making a contract, or engaging in a combination or conspiracy—

"(1) to collect, compile, or disseminate historical loss data;

"(2) to determine a loss development factor applicable to historical loss data; or

"(3) to perform actuarial services if such contract, combination, or conspiracy does not involve a restraint of trade.

"(d) For purposes of this section—

"(1) the term 'historical loss data' means information respecting claims paid, or reserves held for claims reported, by any person engaged in the business of insurance; and

"(2) the term 'loss development factor' means an adjustment to be made to reserves held for losses incurred for claims reported by any person engaged in the business of insurance, for the purpose of bringing such reserves to an ultimate paid basis."

SEC. 3. EFFECTIVE DATE.

This Act shall take effect 1 year after the date of the enactment of this Act.●

By Mr. METZENBAUM:

S. 85. A bill to provide for basic financial services; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL SERVICES ACCESS ACT

● Mr. METZENBAUM. Mr. President, I rise to reintroduce legislation to provide low-cost banking services to the general public. It is high time we moved to enact legislation to provide affordable banking services to low-income and elderly Americans.

The bill I am introducing today reflects a compromise worked out during the last session of Congress between the American Association of Retired Persons and the smaller banks represented by the Independent Bankers Association of America. This legislation would require banks and savings and loans to offer consumers the choice of either a low-cost checking account or a Government check cashing service. Neither service would be free. The financial institutions could charge what is reasonable to cover the costs of providing the services plus earn a 10-percent profit.

There are safeguards built into the measure to guard against fraud. Proper identification would have to be provided to open an account. Changes were also made to respond to concerns that earlier versions of the legislation created too much redtape. For instance, under this bill financial institutions could simply self-certify that they have undertaken efforts to provide these low-cost accounts.

Mr. President, this legislation is extremely reasonable. But for the intransigence of the big banks—and the opposition of the Bush administration—we could have enacted it long ago.

Indeed, there's quite a long history with this issue.

Back in 1987, the Senate actually approved a measure I offered providing for the free cashing of Government checks. That language died in conference.

On at least two other occasions, the Senate Banking Committee included basic banking and Government check cashing provisions in their own banking reform packages.

Last session, for example, the Senate Banking Committee included the legislation worked out between AARP and the small banks in a measure funding the bank insurance fund. That's the language I am offering today. But even that effort failed to sway the big banks or the Bush administration.

They marshaled their forces and defeated this very modest proposal on the Senate floor.

But, Mr. President, hope springs eternal. There is a new administration and a new chance to do the right thing in providing low-income and elderly Americans access to basic banking services.

Make no mistake, the need for this legislation is very real.

Today's financial market offers a wide array of customer services but they've become a luxury many Americans simply can't afford. Large deposit requirements and huge transaction fees have made banking accounts far too expensive for many families. According to GAO, one in five families has no relationship with a bank.

In fact, Mr. President, many low-income and elderly persons cannot even find financial institutions to cash their Social Security, welfare, or veterans' benefit checks. Many of these institutions simply refuse to cash such checks for noncustomers at any price.

The American Association of Retired Persons has conducted surveys on this issue. They have found that 9 out of 10 financial institutions in metropolitan areas refuse to cash Government checks for nonaccount holders. Many individuals have no choice but to cash Government benefit checks at outlets charging exorbitant fees. It's a disgrace.

Mr. President, I am encouraged by the new administration's interest in increasing citizen access to financial institutions and President Clinton's public statements about community banks. I hope we can work together on the bill I am proposing today and on other measures to address the banking needs of low-income and elderly Americans who have been driven from the banking system.

I ask unanimous consent that my bill be printed in the RECORD in its entirety upon the conclusion of my remarks.

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

S. 85

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Services Access Act of 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Basic financial services accounts required.
Sec. 4. Account applications.
Sec. 5. Basic transaction services account requirements.
Sec. 6. Government check cashing services account requirements.
Sec. 7. Information on accounts.
Sec. 8. Special rules for credit unions.
Sec. 9. Special rules for certain depository institutions.
Sec. 10. Prevention of fraud losses.

Sec. 11. Administrative enforcement.
Sec. 12. Civil liability.
Sec. 13. Study and report on incidence of fraud in connection with government check cashing.
Sec. 14. Study and report on the staggering of Federal recurring payments.
Sec. 15. Study and report on utilizing the United States postal service as a supplemental provider of government check cashing services.
Sec. 16. Study and report on direct deposit program for Federal recurring payments.
Sec. 17. Effective date.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) DEPOSITORY INSTITUTION.—The term "depository institution" means any federally insured depository institution described in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(4) GOVERNMENT CHECK.—

(A) IN GENERAL.—The term "government check" means any check that is issued by—

(i) the United States or any agency of the United States;

(ii) any State or any agency of any State, and that is presented for cashing purposes within the State in which the check was issued; or

(iii) any unit of local government or any agency of any unit of local government, including local government public assistance payments, and that is presented for cashing purposes within the unit of local government in which the check was issued.

(B) EXCEPTIONS.—The term "government check" does not include—

(i) State-issued payment warrants; or

(ii) checks issued by local government special purpose districts or units.

(5) GOVERNMENT CHECK CASHING RELATIONSHIP.—The term "government check cashing relationship" means an account relationship between an individual and a depository institution under which a government check cashing services account is provided pursuant to section 6.

(6) STATE.—The term "State" has the same meaning as in section 3(a) of the Federal Deposit Insurance Act.

(7) TRANSACTION ACCOUNT.—The term "transaction account" has the same meaning as in section 19(b)(1)(C) of the Federal Reserve Act.

SEC. 3. BASIC FINANCIAL SERVICES ACCOUNTS REQUIRED.

(a) IN GENERAL.—Each depository institution shall offer a basic financial services account which, at the election of the account holder, may be used to obtain—

(1) basic transaction account services; or

(2) government check cashing account services.

(b) REQUIREMENTS FOR BASIC FINANCIAL SERVICES ACCOUNTS.—A basic financial services account shall meet the requirements of this Act. A basic financial services account does not meet the requirements of this Act if it—

(1) requires the holder of such account to maintain any other relationship with the depository institution, except as provided in section 8;

(2) allows a depository institution to discriminate against low-income individuals on the basis of race, color, national origin, sex, age, marital status, receipt of public assistance, source of income, exercise of any rights under consumer protection statutes, employment status, or access to credit in order to use such basic financial services account; or

(3) requires the account holder exclusively to use direct deposit services, automated teller machines, or other nonteller services for such basic financial services account.

(c) EXEMPTION FOR CERTAIN INDIVIDUALS.—A depository institution is not required to provide a basic financial services account to any individual who—

(1) has a deposit account relationship at the depository institution or any other depository institution; or

(2) has a government check cashing relationship at the depository institution or any other depository institution.

(d) EXEMPTION FROM BASIC TRANSACTION SERVICES REQUIREMENTS.—Any depository institution that offers basic transaction services on the effective date of this Act that are, from an account holder's perspective, comparable to or more favorable than those services prescribed in section 5, shall be exempt from the provisions of section 5 for as long as the institution continues to offer comparable or more favorable basic transaction services.

(e) EXEMPTION FROM CHECK CASHING SERVICES REQUIREMENTS.—Any depository institution that offers government check cashing services on the effective date of this Act that, from an account holder's perspective, are comparable to or more favorable than those services prescribed in section 6, shall be exempt from the provisions of section 6 for as long as the institution continues to offer comparable or more favorable government check cashing services.

SEC. 4. ACCOUNT APPLICATIONS.

(a) IN GENERAL.—The Board shall develop a model application form for the use of depository institutions in offering a basic financial services account.

(b) MINIMUM REQUIREMENTS.—The application form developed by the Board, or a comparable form developed by a depository institution in lieu thereof, shall—

(1) be available at all deposit taking offices of the depository institution—

(A) at which new accounts may be opened; and

(B) that are staffed by individuals employed by the depository institution; and

(2) contain the name, address, date of birth, handwritten signature, and the taxpayer identification number or other identification number of the applicant, as well as other information the Board reasonably determines to be necessary to the provision of basic transaction account services and government check cashing account services pursuant to this section.

(c) IDENTIFICATION OF APPLICANT.—At the time of application for a basic financial services account, an applicant may be required to present 2 forms of identification, 1 of which includes the signature of the applicant and 1 of which either includes a photograph or is the birth certificate of the applicant.

(d) OTHER SERVICES.—At the time of application for a basic financial services account, an applicant may be required by the depository institution to sign a document in which the applicant states whether he or she has, or has applied for, any other basic transaction services or government check cashing services.

(e) COPY PROVIDED.—The depository institution shall provide to the applicant a copy of the completed application form demonstrating the fact that the application has been received and filed with the depository institution not later than 15 calendar days after filing.

(f) REJECTION FOR FRAUD OR INTENTIONAL MATERIAL MISREPRESENTATION.—

(1) IN GENERAL.—If, after review in good faith of the application, a depository institution has reason to believe that an applicant has committed or attempted to commit fraud against a depository institution, has made an intentional material misrepresentation in applying for a basic financial services account, has a record of writing checks for insufficient funds, or has had an account closed pursuant to section 5(a)(10), the depository institution may deny a basic financial services account to the applicant.

(2) REQUIREMENTS.—A depository institution which denies a basic financial services account to an applicant shall—

(A) provide the applicant with timely written notice setting forth the reasons supporting the depository institution's denial of a basic financial services account and the procedures available to the applicant for filing a complaint, as provided in section 11; and

(B) maintain records and files with regard to each denial made pursuant to this subsection for a minimum period of 1 year from the date of denial.

(3) FORM.—The Board shall develop a model form for the use of depository institutions in notifying applicants of a denial of a basic financial services account pursuant to this subsection.

(g) INITIAL WAITING PERIOD.—The depository institution may impose a waiting period of not more than 15 calendar days from the date of application before providing an applicant with a basic transaction services account or a government check cashing services account.

(h) IDENTIFICATION CARD.—If a depository institution issues an identification card to approved applicants, it may assess a reasonable, cost-based charge for replacement of a lost or stolen card.

SEC. 5. BASIC TRANSACTION SERVICES ACCOUNT REQUIREMENTS.

(a) IN GENERAL.—An account is a basic transaction services account for the purpose of section 3 if it is a transaction account that—

(1) is available to all account holders who maintain an average balance of $750 or more during each monthly period;

(2) does not require a minimum initial deposit or minimum balance requirement of more than $25;

(3) does not provide for the imposition of fees other than—

(A) a monthly maintenance fee or service charge that does not exceed the real, direct, and demonstrable costs of providing the account (including fraud losses and deposit insurance premiums) plus a modest profit not to exceed 10 percent of such costs;

(B) a reasonable, cost-based fee for check printing;

(C) a reasonable, cost-based fee for processing checks returned for lack of sufficient funds; and

(D) a reasonable, cost-based fee for transactions in excess of the minimum number of allowable transactions described in paragraph (5), if the depository institution permits transactions in excess of the minimum;

(4) permits checks, share drafts, electronic, or other debit instruments to be drawn on the account for purposes of making payments or other transfers to third parties;

(5) permits at least 10 withdrawals per month, including withdrawals described in

paragraph (4), whether by check, share draft, in person, proprietary automatic teller machines, or other means;

(6) provides the account holder with—

(A) a detailed periodic statement listing all transactions for the period involved; or

(B) a passbook in which the depository institution enters all transactions for such account;

(7) does not require the depository institution to pay interest on deposited funds;

(8) at the election of the account holder, allows regularly recurring payments to the account holder to be made by a payor directly to the depository institution for direct deposit into the account of the account holder, if the depository institution offers direct deposit services to account holders;

(9) allows the depository institution—

(A) to market direct deposit services aggressively;

(B) to offer cost-based discounts to account holders who elect to rely wholly or partially on direct deposit or automatic teller machines in conjunction with the account; and

(C) to structure the account so as to require the use of direct deposit or automatic teller machines if—

(i) at the time of establishing the account, the account holder receives a clear and conspicuous written notice, through a disclosure form developed by the Board, stating that the account holder may decline to use direct deposit or automatic teller machines; and

(ii) the account holder does not decline to use direct deposit or automatic teller machines; and

(10) is subject to closure upon notice to the account holder due to—

(A) overdrafts, returned checks, or rejected electronic debits with respect to an account on 3 distinct occasions in any 6-month period; or

(B) fraudulent activity involving the account of such individual.

(b) COST ANALYSIS.—For the purpose of subsection (a)(3)(A), the depository institution shall base the monthly maintenance fee or service charge on functional cost analysis (actual time and actual net processing cost) studies of various types of depository institutions performed by the Board. The Board shall perform such studies in each of its regions, with, at a minimum, 1 cost study per major population area and 1 in a rural area in each region.

SEC. 6. GOVERNMENT CHECK CASHING SERVICES ACCOUNT REQUIREMENTS.

(a) IN GENERAL.—An account is a government check cashing services account for the purpose of section 3 if it—

(1) permits the account holder immediately to cash government checks in amounts of as much as $1,500, if—

(A) the account holder presents the check and is the person to whom the check has been issued; and

(B) the individual has applied to the depository institution for government check cashing services pursuant to section 4;

(2) does not require the account holder to pay a monthly service charge or maintenance fee for check cashing services;

(3) does not require the account holder to wait for receipt of funds before cashing a government check or to be subject to the institution's funds availability policy;

(4) does not require the account holder to pay a fee for the establishment of a check cashing account;

(5) does not have check cashing fees that exceed the real, direct, and demonstrable costs of providing check cashing account services (including fraud losses) plus a modest profit not to exceed 10 percent of such costs;

(6) allows the account holder to designate not less than 3 offices of the depository institution at which to cash government checks, if such offices—

(A) take deposits;

(B) open new accounts; and

(C) are staffed by individuals employed by such depository institution;

unless the depository institution has fewer than 3 offices which meet the requirements of subparagraphs (A), (B), and (C); and

(7) permits the depository institution to require, prior to cashing any government check, the account holder to present—

(A) any identification described in section 4(c) or section 4(h); and

(B) the account holder's government check cashing services account number.

(b) COST ANALYSIS.—For the purpose of subsection (a)(5), the depository institution shall base such check cashing fees on functional analysis (actual time and actual net processing cost) studies of various types of depository institutions performed by the Board. The Board shall perform such studies in each of its regions, with, at a minimum, 1 cost study per major population area and 1 in a rural area in each region.

SEC. 7. INFORMATION ON ACCOUNTS.

(a) DISPLAY.—A depository institution shall conspicuously display in its lobby and other public areas of the institution brochures, pamphlets, or other written information that inform account holders and potential account holders that basic financial services accounts are available from the institution.

(b) INFORMATION.—Such brochures, pamphlets, or other written information shall—

(1) clearly explain the material features and limitations of basic transaction and government check cashing services;

(2) state that further information concerning such services is available from the depository institution upon request; and

(3) include information concerning an account holder's right to complain regarding noncompliance with this Act.

(c) AVAILABILITY.—A depository institution shall provide the information described in subsection (b) to any individual upon request.

SEC. 8. SPECIAL RULES FOR CREDIT UNIONS.

(a) BASIC TRANSACTION SERVICES.—Any credit union which, in the ordinary course of business, offers share draft accounts to its own members shall provide basic transaction services in accordance with this Act to any individual who is or becomes a member of such credit union if the individual complies with the requirements of this Act.

(b) GOVERNMENT CHECK CASHING SERVICES.—Any credit union which, in the ordinary course of business, cashes share drafts or government checks for its own members shall provide government check cashing services pursuant to this Act to any individual who is or becomes a member of such credit union if the individual complies with the requirements of this Act.

SEC. 9. SPECIAL RULES FOR CERTAIN DEPOSITORY INSTITUTIONS.

(a) INSTITUTIONS WHICH DO NOT OFFER TRANSACTION ACCOUNTS.—A depository institution, other than a credit union, which does not, in the ordinary course of business, offer transaction accounts to the general public, is not required to provide basic transaction services.

(b) INSTITUTIONS WHICH DO NOT CASH CHECKS.—A depository institution which does not cash checks in the ordinary course of business is not required to provide government check cashing services.

SEC. 10. PREVENTION OF FRAUD LOSSES.

(a) IN GENERAL.—The Board may, upon petition by any individual depository institution, suspend, by regulation or order, any government check cashing services account requirement under this Act if the Board determines that the depository institution is experiencing an unacceptable level of losses due to check-related fraud in providing such account services.

(b) SUSPENSION OF REQUIREMENTS.—The Board may, by regulation or order, suspend any government check cashing services account requirement imposed by this Act for any class of checks if the Board determines that—

(1) depository institutions are experiencing an unacceptable level of losses due to check-related fraud with respect to such class of checks; or

(2) there is reasonable cause to believe that such class of checks is being used in a scheme to defraud.

(c) REPORT.—Not later than 10 days after issuing any order or prescribing any regulation under subsection (a) or (b), the Board shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, explaining the reason for the order or regulation and the evidence considered in making the determination to issue an order or prescribe a regulation.

(d) EXEMPTIONS.—This Act does not apply with respect to any government check presented for cashing to a depository institution if the depository institution has reason to believe that—

(1) such check is fraudulent, is being fraudulently presented, or has been altered or forged;

(2) the individual presenting the check is misrepresenting or has misrepresented his or her identity;

(3) any form of identification that is presented in connection with cashing such check has been altered or forged; or

(4) the check will not be honored by the check-issuing governmental authority.

(e) REASONABLE BELIEF.—For purposes of subsection (d), a reasonable belief requires the existence of facts which would give rise to a well-grounded belief in the mind of a reasonable person.

SEC. 11. ADMINISTRATIVE ENFORCEMENT.

(a) IN GENERAL.—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the Comptroller of the Currency with respect to national banks, and Federal branches and Federal agencies of foreign banks;

(B) by the Board with respect to member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks);

(C) by the Board of Directors of the Federal Deposit Insurance Corporation with respect to banks the deposits of which are insured by the Federal Deposit Insurance Corporation (other than banks described in subparagraph (A) and members of the Federal Reserve System) and insured State branches of foreign banks; and

(D) by the Director of the Office of Thrift Supervision with respect to Federal savings associations and Federal savings banks; and

(2) section 206 of the Federal Credit Union Act, by the National Credit Union Administration Board, with respect to any insured credit union.

(b) DEFINITION.—The terms used in paragraph subsection (a)(1) that are not defined in this Act or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).

(c) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by the appropriate Federal banking agency of any such agency's powers under any Act referred to in subsection (a), a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the appropriate Federal banking agency's powers under any provision of law referred to in subsection (a), each such agency may exercise, for purposes of enforcing this Act, any other authority conferred on such agency by any other law.

(d) FINING AUTHORITY.—No administrative monetary penalty shall be imposed pursuant to this Act.

(e) COMPLAINTS BY INDIVIDUALS.—

(1) IN GENERAL.—The Board shall develop a complaint form for individuals to use to report possible violations of this Act. Each appropriate Federal banking agency that receives a complaint shall conduct an investigation as such agency deems necessary. If such complaint is verified by an investigation, the agency shall carry out proper enforcement actions according to the authority conferred by this Act. The agency shall provide the results of such investigation and any enforcement actions in writing to the complainant and the depository institution that was investigated.

(2) TIME LIMIT ON FILING OF CERTAIN COMPLAINTS.—An agency shall not consider any complaint that alleges the denial of an application for a basic financial services account in violation of this Act, if the complaint is filed more than 1 year after the institution's denial of the application.

SEC. 12. CIVIL LIABILITY.

This Act does not create or imply any private cause of action for damages, including individual or class action causes of action.

SEC. 13. STUDY AND REPORT ON INCIDENCE OF FRAUD IN CONNECTION WITH GOVERNMENT CHECK CASHING.

(a) STUDY REQUIRED.—After the end of the 1-year period beginning on the effective date of this Act, the Board shall conduct a study of the check cashing services provided pursuant to this Act to determine whether, in any case, losses due to fraud in connection with providing such services are causing the costs incurred by various types of depository institutions to exceed revenues from the service fees collected or other income earned in connection with providing such services.

(b) REPORT REQUIRED.—Not later than 6 months after commencing the study required by subsection (a), the Board shall submit a report to the Congress containing the findings and conclusions of the Board with respect to the study, along with such recommendations for legislative and administrative action as the Board determines to be appropriate.

SEC. 14. STUDY AND REPORT ON THE STAGGERING OF FEDERAL RECURRING PAYMENTS.

(a) STUDY REQUIRED.—The Secretary of the Treasury, in consultation with affected agencies and the public, shall conduct a study to examine the feasibility and desirability of staggering payment of Social Security and other Federal recurring government benefit and payroll payments, on the basis of birth date or other appropriate methods, so that such payments do not all occur on the 1st and 15th days of the month.

(b) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress regarding the results of the study described in subsection (a), along with any recommendations for legislative and administrative actions, including—

(1) assessments of any administrative impact;

(2) costs to the government;

(3) any impact on depository institutions and beneficiaries (including any potential lost or increased interest earnings);

(4) convenience to beneficiaries and the government;

(5) methods of implementation; and

(6) transition mechanisms that should be taken.

(c) CONSULTATION.—The Secretary of the Treasury shall consult with the public in preparing the report required under subsection (b).

SEC. 15. STUDY AND REPORT ON UTILIZING THE UNITED STATES POSTAL SERVICE AS A SUPPLEMENTAL PROVIDER OF GOVERNMENT CHECK CASHING SERVICES.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study examining current fees and practices of check cashing outlets and the potential for enhancing the access of low income individuals to government check cashing services through the United States Postal Service.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress regarding the results of the study described in subsection (a), along with any recommendations for Federal or State legislative or administrative action.

SEC. 16. STUDY AND REPORT ON DIRECT DEPOSIT PROGRAM FOR FEDERAL RECURRING PAYMENTS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study to assess the benefits and costs to the Federal Government of utilizing direct deposit versus paper checks to accomplish government payments. In conducting the study, the Comptroller General shall—

(1) consider the administrative cost savings, if any, to be accomplished through the utilization of direct deposit, such as reduced paperwork and personnel involvement, streamlined and cost-effective operations, and reduced postage expenses;

(2) consider the loss in interest earnings to the Federal Government as the result of the earlier relinquishment by the Government of directly deposited funds, using data on major beneficiary programs that utilize recurring Federal benefits payments;

(3) compare the relative costs and benefits to the Federal Government of direct deposit versus paper check payments of Government benefits; and

(4) identify societal costs and benefits of direct deposit with respect to safety, risk of loss to the individual and the Government, convenience, reliability, and timeliness of payments.

(b) REPORT REQUIRED.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall submit a report to the Congress containing the results of the study described in subsection (a), along with any recommendations for legislative and administrative action that should be taken.

SEC. 17. EFFECTIVE DATE.

This Act shall become effective 180 days after the date of enactment of this Act, except that sections 4 through 7 shall become effective on the date of enactment of this Act.•

By Mr. METZENBAUM (for himself, Mr. KENNEDY, and Mr. DODD):

S. 86. A bill to amend the Fair Labor Standards Act of 1938 to improve enforcement of the child labor provisions of such act, and for other purposes; to the Committee on Labor and Human Resources.

CHILD LABOR AMENDMENTS OF 1993

• Mr. METZENBAUM. Mr. President, I rise to introduce the Child Labor Amendments of 1993. Fifty years ago, Congress passed a historic law that promised to end oppressive child labor in this country. But tragically, the disgrace of illegal child labor continues to haunt our Nation. Frankly, it is almost unbelievable to me how, in 1993, hundreds of thousands of children in this great country are being exploited: They work at too young an age, for too many hours, and in unsafe environments. This exploitation robs children of their education, the limbs, and even their lives.

For example, Food Lion, the fastest growing supermarket chain in the Nation, was recently the subject of the largest child labor complaint involving hazardous working conditions for minors ever brought against an employer by the Department of Labor. At least 1,200 alleged violations by Food Lion involve teenagers working with hazardous and prohibited equipment such as meat slicers and paper bailers.

In another similarly outrageous case, this past November, the Department reached a $500,000 tentative settlement of over 1,500 child labor violation charges against the Burger King Corp. The fast food chain is accused of illegally requiring teens to work later and for more hours than is allowed at almost every 1 of the 800 stores that the parent company operates. Although a fine of $500,000 would be the largest child labor fine ever paid by a single employer, clearly this amount is only a drop in the bucket for this multimillion dollar corporation.

These examples highlight the explosion of child labor violations during the last decade. A recent GAO report further documents the extent of the problem. That report found that between 1983 and 1990, the annual number of detected child labor violations increased from 9,679 to 42,696. GAO estimates that in 1988, 18 percent of all working 15-year-olds were illegally employed. Clearly this is a problem that has gotten out of hand.

One reason for this sorry trend is that the average assessment by the Department for a child labor violation was only $428. Fines such as these are grossly inadequate to punish willful and repeat violators of child labor laws who expose minors to serious injuries or death.

Today, along with my distinguished colleagues, Senators DODD and KENNEDY, I am introducing legislation that will close loopholes in enforcement by allowing for imprisonment on the first criminal conviction for willful violations—a recommendation originally made by former Secretary Elizabeth Dole—and by barring willful and repeated violators from receiving Federal grants, loans, and contracts. Those who willfully and repeatedly put our children's future in jeopardy should face time in jail and not be subsidized by Government aid. The bill also requires the publication of the names of violators and the nature of their violations in the appropriate school districts. This provision will help to ensure that the people most affected by illegal child labor—minors and their parents—are made aware of the law and those who violate it. These increased penalties will also help to ensure that willful and repeat violators do not consider child labor penalties just another cost of doing business.

Both the Food Lion and Burger King cases indicate that a major reason for the steady increase in the number of seriousness of child labor violations during the last decade is that the public has no knowledge about even the most basic child labor laws. This legislation will help educate children, parents, and employers about Federal child labor laws by providing that employers may hire minors under the age of 18 who do not have a high school diploma, only if those minors have obtained a valid certificate of employment. Our legislation utilizes the existing certificate systems in 43 States and the District of Columbia and thereby avoids duplication or burdensome paperwork. Under our bill, the State-issued certificate must indicate restrictions on the times of day and maximum number of hours the minor may be employed, and on the employment of minors in federally identified hazardous occupations. Moreover, as part of the certification process, materials describing Federal child labor laws will be made available to the minor.

Recent GAO reports stress the need for reliable data about the number of children working in our Nation and about any loss of life or limb that they may be suffering. Labor, child welfare, and consumer advocates all maintain that the numerous child labor violations found at Burger King and Food Lion indicate that illegal child labor is widespread. In addition, because no comprehensive work-related injury and illness data exist for minors, child labor studies underestimate the true magnitude of workplace injuries. Accordingly, the bill requires employers to provide the State with written notice of a minor employee's death or injury on the job resulting in lost work time of more than 3 working days. This information must be provided no later than 10 days after the employer obtains knowledge of the minor's death or injury. As with the certificate provisions, these reporting requirements reflect reporting systems already in place for death and serious injuries to adult workers in the 50 States and the District of Columbia. Indeed, the Federal requirements in the bill are met or exceeded by 45 of the 50 States under existing State workers compensation laws.

Department of Labor regulations already declare both pesticide handling and processing—which includes filleting of fish and dressing poultry—to be hazardous and therefore prohibited occupations for 14- and 15-year-olds. Given the dangers these jobs entail, this bill prohibits 16- and 17-year-olds from performing poultry, fish, and seafood processing and pesticide handling. The bill does not prohibit minors from performing all types of work in the poultry and fishing industries and in agriculture. The bill only seeks to protect teenagers from performing dangerous processing activities.

Another problem this legislation seeks to correct is the terrible exploitation of children under age 14 who work as migrant and seasonal farmworkers. Children ages 12, 10, 8, and even 6 years old are working with hazardous pesticides and/or performing back-breaking stoop labor in the fields. These children must be protected.

Let me make clear that I fully understand the political, social, and economic reasons for providing an exemption from child labor laws for children working on family farms. Our bill will not affect that existing exemption in any way. However, these reasons do not apply to children outside the family farm, who are under age 14 and work as migrant and seasonal farmworkers. These children come from a population that, regrettably, has been among our most vulnerable and most exploited in recent decades. They deserve the basic protections guaranteed under the Fair Labor Standards Act.

Finally, the Child Labor Amendments of 1993 do not seek to put an end to all child labor. Indeed, I applaud our young people who work because of economic necessity or the learning experience or both. Education, however, should be every child's first priority. I believe that this legislation will help children and their parents to establish, maintain, and live to enjoy the results of such a priority.

I urge all my colleagues to support this legislation. I ask unanimous consent that the bill be included in the RECORD.

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

S. 86

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Labor Amendments of 1993".

TITLE I—CHILD LABOR PROVISIONS

SEC. 101. NO PRIOR OFFENSE PREREQUISITE FOR CHILD LABOR VIOLATION.

The second sentence of section 16(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(a)) is amended by inserting before the period at the end the following: ", except that this sentence shall not apply to a violation of section 12".

SEC 102. CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended—

(1) by redesignating paragraph (1)(2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after the subsection designation;

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

"(2) Any person who willfully violates the provisions of section 12, relating to child labor, or any regulation issued under such section, on more than one occasion, shall, on such additional violation, be ineligible—

"(A) for any grant, contract, or loan provided by an agency of the United States or by appropriated funds of the United States, for 3 years after the date of such additional violations; or

"(B) to pay the training wage authorized by section 6 of Fair Labor Standards Amendments of 1989 (29 U.S.C. 206 note),

unless the Secretary otherwise recommends, because of unusual circumstances.

"(3) The Secretary shall make available to affected school districts for posting and distribution the name of each employer who violates the provisions of section 12, relating to child labor, or any regulation issued under such section, together with a description of the location and nature of the violation.".

SEC. 103. CERTIFICATES OF EMPLOYMENT.

Section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212) is amended by adding at the end the following new subsection:

"(e)(1) As used in this subsection:

"(A) The term 'minor' means an individual who is under the age of 18 and who has not received a high school diploma or its equivalent.

"(B) The term 'parent' means a biological parent of a minor or other individual standing in place of the parent to a minor.

"(2) No employer shall employ a minor unless the minor possesses a valid certificate of employment issued in accordance with this subsection.

"(3) The Governor of a State shall designate a State agency to issue certificates of employment to minors in the State. The agency shall make available, on request, a form for the application described in paragraph (4) and shall make available, as part of the certification process, materials describing applicable Federal requirements governing the employment of minors.

"(4) To be eligible to receive a certificate of employment, a minor must submit to the appropriate State agency an application that contains—

"(A) the name and address of the minor;

"(B) the name and address of the employer;

"(C) proof of age of the minor; and

"(D) if the minor is under the age of 16—

"(i) a written statement by a parent of the minor that the parent grants consent for employment of the minor; and

"(ii) written verification from the minor's school that the minor is meeting any applicable minimum school attendance requirements established under State law.

"(5) On receipt of an application under paragraph (4), a State agency shall issue to the minor—

"(A) a certificate of employment, if the requirements of paragraph (4) are met; or

"(B) a statement of the denial of a certificate of employment (including the reasons for the denial), if the requirements of paragraph (4) are not met.

"(6) A certificate of employment issued to a minor under this subsection shall be valid during the period in which the minor is employed by the employer listed on the certificate.

"(7) A certificate of employment issued to a minor under this subsection shall indicate—

"(A) the name, address, and date of birth of the minor;

"(B) the name and address of the employer;

"(C) restrictions on the times of day and maximum number of hours the minor may be employed and on the employment of the minor in hazardous occupations; and

"(D) the name, address, and telephone number of the State agency that may be contacted for additional information concerning applicable Federal requirements governing the employment of minors.

"(8) The State agency shall provide a copy of a certificate of employment issued to a minor under the age of 16 to the parent of the minor who granted consent pursuant to paragraph (4).

"(9) A State agency shall report annually to the Secretary concerning certificates of employment issued under this subsection. The agency shall include such information as the Secretary requires (including information on the number of deaths and injuries of minors reported pursuant to subsection (f)).".

SEC. 104. INFORMATION ON DEATHS AND INJURIES INVOLVING MINORS; INFORMATION DESCRIBING PROVISIONS OF FEDERAL CHILD LABOR LAW.

Section 12 of the Fair Labor Standards Act of 1938 (29 U.S.C. 212) (as amended by section 103 of this Act) is further amended by adding at the end the following new subsections:

"(f) If a minor in the course of employment suffers death, or an injury resulting in lost work time of more than 3 working days, not later than 10 days after the employer of the minor obtains knowledge of the death or injury, such employer shall provide to the State agency a written description of the death or injury.

"(g) The Secretary shall prepare and distribute to State employment agencies written materials (suitable for posting and mass distribution) that describe the provisions of Federal law and regulations governing the employment of minors.".

SEC. 105. HAZARDOUS CHILD LABOR OCCUPATIONS.

Section 3(l) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(l)) is amended by adding at the end the following new sentence: "The Secretary shall find and by order declare that poultry processing, fish and seafood processing, and pesticide handling (among other occupations declared by the Secretary) are occupations that are particularly hazardous for the employment of children between the ages of 16 and 18 for purposes of this subsection.".

SEC. 106. PROTECTION OF MINORS WHO ARE MIGRANT OR SEASONAL AGRICULTURAL WORKERS.

(a) DEFINITION OF OPPRESSIVE CHILD LABOR.—The first sentence of section 3(l) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(l)) is amended—

(1) by striking "or" before "(2)"; and

(2) by inserting before the semicolon the following: ", or (3) any employee under the age of 14 years is employed in agriculture, except where such employee is employed by a parent of the employee, or by a person standing in the place of a parent of the employee, on a farm owned or operated by such parent or person".

(b) EXEMPTIONS.—Section 13(c) of such Act (29 U.S.C. 213(c)) is amended—

(1) in paragraph (1)—

(A) by striking "(2) or (4)" and inserting "(2)"; and

(B) by striking "employed, if such employee—" and all that follows through the end and inserting "employed, if such employee is 14 years of age or older."; and (2) by striking paragraph (4).

SEC. 107. REPORTS.

Not later than 1, 2, and 3 years after the date of enactment of this Act, the Secretary of Labor shall provide to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on actions taken to carry out, and the effect of, this title and the amendments made by this title, including national and State-by-State information on—

(1) certificates of employment issued to minors under section 12(e) of the Fair Labor Standards Act of 1938 (as added by section 103 of this Act); and

(2) deaths and injuries of minors occurring in the course of employment that are reported under section 12(f) of the Fair Labor Standards Act of 1938 (as added by section 104 of this Act).

TITLE II—MISCELLANEOUS

SEC. 201. REGULATIONS.

The Secretary of Labor shall issue such regulations as are necessary to carry out this Act and the amendments made by this Act.

SEC. 202. EFFECTIVE DATE.

This Act shall become effective 180 days after the date of enactment of this Act.•

• Mr. DODD. Mr. President, I rise today to join once again with my colleague, Senator METZENBAUM, in introducing legislation to better protect young people in the workplace. Many American youth are engaged in laudable work efforts that enable them to gain valuable work experience, save for an education, and, in many cases, help their families make ends meet. The Child Labor Amendments of 1993 simply reflect our deep concern that young people making their way into the world of work do so without risking their health, their success in school, and their futures.

I want to commend my colleague from Ohio for his determination to ensure fairness and safety for all workers. I am particularly pleased to join with him today in proposing legislation that would help ensure such safeguards for a special group of American workers—our youth.

Thankfully, most teenagers do well in their part-time and summer jobs. It's an American tradition we can be proud of. But there's another, more troubling, part of the story. The picture of children in sweatshops or operating hazardous equipment or falling asleep in school may seem merely an image of a bygone era. Yet for many children, it is a reality that still persists in 1993.

Child labor is indeed a modern-day problem. Child labor violations virtually exploded in the past decade, increasing from 9,679 in 1983 to 42,696 in 1990—a fourfold increase in just 7 years. During that same time period, the annual number of illegally employed children who sustained serious injuries increased by 100 percent.

At a 1991 hearing conducted by the Subcommittee on Children, Family, Drugs and Alcoholism and the Subcommittee on Labor, witnesses gave sometimes harrowing testimony that brought home the plight of the 100,000 American children injured on the job every year. Clearly our current law and current enforcement don't provide the necessary protection. In the previous administration, the Department of Labor turned greater attention to child labor, but opposed new legislation.

Mr. President, we need to do more to protect our young people, and I am hopeful that President Clinton will work with us to ensure that adequate safeguards are in place. Here is how our bill would strengthen the law on child labor.

First, it would toughen penalties for violation of child labor laws. Current sanctions for violators amount to a slap on the wrist—the average fine is $170, easily absorbed as a routine cost of doing business. Several years ago, we succeeded in raising the maximum civil penalty from $1,000 to $10,000. In this bill we seek to deter employers from breaking the law through criminal penalties for extreme violations and through new penalties of debarment from Federal grants and from the benefit of the youth subminimum wage.

Second, the bill would increase public awareness of child labor laws through more extensive use of employment certificates. One of the problems in this area is that many parents, children, educators, and even employers simply aren't aware of the law. They don't know the age limitations for different types of work the hours limitations, and the hazardous occupations that are completely off limits. I believe these provisions for greater public education will help avoid injuries and illegal employment.

Third, the bill would better protect farmworker children in migrant agriculture. Migrant and seasonal agriculture places children at particularly

high risk, due to exposure to toxic pesticides and disruption of school attendance. Yet current law has multiple exemptions that permit young children to work in this setting. This legislation would apply the same prohibition against work for children under 14 years of age that now applies in nonagricultrual settings. I should add that the prohibition would not apply to the family farm.

Entering the work force is a true crossroads in a young person's life. Successful entry into the world of work enhances the child's chances for success as a productive member of society. But if the child is among the 100,000 minors injured on the job every year, or if the child works so many hours that school performance plummets, that child's chances for success may be severely diminished. When one-fifth of children fail to complete high school on time, we must do everything possible to help teenagers strike the right balance between work and school. I believe this measure helps to strike that balance, and I urge my colleagues to support this legislation.•

By Mr. KERRY (for himself, Mr. BIDEN, and Mr. BRADLEY):

S. 87. A bill to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate primary and general election campaigns, to limit contributions by multicandidate political committees, and for other purposes; to the Committee on Rules and Administration.

CONGRESSIONAL CAMPAIGN SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

Mr. KERRY. Mr. President, I have joined together with Senators BRADLEY and BIDEN in filing comprehensive campaign finance reform legislature. Today, we once again are introducing on the first day of the session a broad and sweeping campaign finance reform bill.

We have heard much rhetoric in recent years regarding the pollution of American politics, the corruption, as some have referred to it. We have to be measured in making our assessments about corruption and what is real or not, but what is clear, what is real, is the fact that money has come to distort the American political process, perhaps more than any other single ingredient.

The Chair knows this well, because he has served here longer than perhaps all but one other Member of Congress, and he has seen and heard it all by now. He has warned us about the new hue and cry for term limits. He has warned us that term limits are not the solution to the problem that we face in the Congress or in this country. Term limits is an example of a reaction that comes from people's bitter frustration at not being able to be in touch with their system. And the reason people are not able to be in touch with it is because of money.

We have term limits today. All of us serve under a 6-year term limit. It is 2 years in the House of Representatives. Supposedly, anyone can challenge us. Supposedly, the system is open. But, in reality, all of us know it is not really that open. The American electorate has a sense of separation between us and them, between their Government, and their concerns. And I believe very, very deeply that more than anything, that separation and that perception comes from the money chase that we have to set on to run for office.

If more people were able to challenge and take part in the democracy of this country, there would be less frustration and less demand for term limits, because more people would feel, when the 6-year term or 2-year term is up, that they have legitimate access to the system and that the system is clean and neutral between challengers and incumbents. But when it takes millions of dollars to run and when an incumbent has the clear advantage by virtue of the voting process, in accruing those millions of dollars, it is far harder for the average citizen to respond to some perception of the moment that needs to be fleshed out in a campaign and to take it to the electorate. That is wrong. We all know it is wrong. There is a natural tendency to want to hang on to the job, to feel that once we are here, somehow we are different and we are not going to be subjected to the same distortions that somehow tear the process apart. But we all know that we are human, and that just is not so.

There is not anybody who does not understand that the folks who were here in the last few days wearing blue badges, and many of them being driven around in limousines, those folks will have greater access without campaign finance reform than with it. That is a reality.

I have learned in my years here, as I perhaps grow in wisdom and judgment, that the system is not per se for sale. I am not saying that. I am not suggesting that this is an institution full of people who go around bartering for votes. But all of us know that no matter how pure we want to be, how much we withstand the pressures, the realities of the process are such that even if you do not get the legislation you want, you often succeed in stopping anything from happening.

Gridlock does not just come from a President of one party at the other end of Pennsylvania Avenue and a Congress of the other party here. It comes often from the power of competing interests tied to that money to work their will. When you have the insurance industry poised against the banking industry or any other industry here, pouring money into campaigns, clearly evidencing their grassroots presence by virtue of the dollar, that has an impact on people. That distorts the process.

We have heard a lot about a new era of change in American politics. Senator BRADLEY, Senator BIDEN, and I—and I might add nearly a majority of the U.S. Senate in last year's vote—believe very deeply that we need to go further than the legislation that we passed last year, that we need to have a voluntary—I underscore voluntary—system much like the Presidential system of public funding that allows us to maximize our freedom from the fundraising effort. What our legislation seeks to do is create a fund much like the Presidential fund that is not a requirement that any taxpayer in America ante up; only those who want to take part in this system would be asked to do so, but we are confident that Americans, if given the opportunity to do so, if encouraged by our Government to do so, would take advantage of the ability to liberate their legislators from fundraising and indeed would be happy to give $3, or $6 of their tax bill in order to fund an election and legitimately liberate the U.S. Congress from fundraising.

A system in which politicians depend on Washington lawyers, lobbyists, insiders, and political action committees to raise endless sums for their political campaigns is a system in which the needs of the ordinary citizen too often get lost. The endless money chase has given the appearance of corrupting government. Too many who hold political office are seen by the public as having gone to Washington to become full-time fundraisers and only part-time legislators.

Many Americans were seduced by Ross Perot's political campaign not only because he promised change, but also because by virtue of his immense wealth he had become the only candidate who was capable of financing an entire Presidential campaign out of his own pocket. Ross Perot thus was able to tell Americans he could represent real change because he and he alone was free of obligation to any large contributor.

At a time to which the President has referred as an American renewal, we have the opportunity to return the Government to the people by freeing the process of so much special interest money. We need to consolidate the gains we made last year with the passage of a comprehensive campaign finance bill that contained spending limits, but which was vetoed by President Bush. This year, we should go further, and move towards full public funding in a system similar to the system we have had in place for Presidential campaigns for two decades, and which has been supported by President Clinton.

While Senator BIDEN, Senator BRADLEY, and I have supported the legislation offered by the majority leader, together with Senators BOREN and FORD in the past, and will again do so this year, we also have long believed that

complete reform is not possible without a very substantial replacement of private funding for elections with public funds.

Public funding is an investment in clean Government that would more than pay for itself in the money saved in the reduction of the influence of special interests in the legislative process. Accordingly, the legislation we are filing today contains not merely spending limits for Senate races, similar to the bill being introduced today by the majority leader, but a system of voluntary public funding essentially to eliminate the impact of large contributions from private individuals for general election campaigns.

Voluntary public funding provides a powerful incentive to candidates to agree to spending limits. Such limits would for the first time put all serious candidates on an equal and fair footing in the general election, prevent soaring campaign costs from favoring persons of personal wealth over those without such wealth, and ensure that candidates have equal access in getting their message before the public.

This bill meets all the tests of reform.

This legislation recognizes that the sources and amounts of money are the problem that we must address. Our bill goes the greatest distance possible to reduce them.

A system of voluntary public funding would dramatically reduce the degree to which we leave ourselves open to charges of conflicts of interest between our responsibilities to the public at large and our acceptance of contributions from special interests.

It is the approach which most frees up our time from fund-raising and which requires us to raise the least money.

It is the approach which most cleans up the problems of perception, which most distances us from large donations, PAC's, and which most encourages small contributions.

Likewise, the combination of spending limits and a system for voluntary public funding stops the mindless arms race of fundraising in any contested election and helps to diminish some causes of legislative gridlock on certain issues.

The cost for full voluntary public spending funding of Senate elections would be approximately $200 million for each election cycle, or an average of $100 million a year, if all candidates participated in the voluntary public funding system. That is only one-half of the funds the United States previously allocated to subsidize campaign contributions under the tax laws prior to 1986. This expenditure would only take place if citizens decided they wanted to pay for it. Unlike all other Federal spending, this public funding would be truly voluntary. The system would be funded either through an earmark of taxes paid by citizens, or through a positive check-off, but in no case other than through voluntary participation by citizens. Its cost to the Federal budget would be fully offset by eliminating the deductibility of business lobbying expenses and five cents out of every dollar of business meals currently deducted.

The major aspects of this bill are easily summarized.

First, spending caps, a concept a majority of the Members of this body have now supported for a number of years. Without spending caps, there will always be a constant drive to find new ways to raise ever greater sums of money for campaigns. The drive to raise dollars has caused all kinds of damage to this institution—and is directly related to the loss of public trust in us. Without spending caps, we will remain forever engaged in an ever escalating campaign arms race. This legislation instead calls for parity, at low levels.

Second, voluntary public funding under a system modeled on the Presidential system. This means full public funding for general elections, just as in the Presidential system, once a major party candidate is on the ballot and has raised a threshold level of contributions of 10 percent of the overall spending limit. And it includes, as does the Presidential system, matching funds for primaries and run-offs, after candidates raise the threshold level of contributions.

This voluntary public funding plan means no more reliance on big money and PAC's to finance campaigns. Instead, campaigns will be funded for general elections and with matching funds for primaries through a voluntary tax check off as are the Presidential elections. Citizens will choose to share in the cost of elections—rather than permit high-dollar donors and special interests to claim special access.

If our citizens decide not to pay for it, then candidates would not take funds from the Treasury. Instead, candidate would be notified by the FEC that they have to go back to the current system of raising the funds from individuals to the extent that the funds are not available from the checkoff.

Public funding to clean up Federal elections was first proposed by Republican President Teddy Roosevelt. It has been supported in the past by such prominent Republicans as Henry Cabot Lodge, who once held the seat I hold today.

Indeed, four Members of the minority serving in this body in the past voted for public funding for Senate elections. So this is a concept that has had bipartisan support over the decades.

The combination of spending caps and public funding means more democracy. Today about half of all Senate races have not been real contests, because one party or the other has not been able to field a candidate who can raise enough money to be competitive.

This bill helps challengers by providing them with public funds so long as they reach reasonable, achievable thresholds of support from contributors. The bill in effect guarantees that both parties will have fully funded nominees in almost every race in the country. That means two candidates, with two messages, to give the voters a real choice in every race. This is democracy. This is real reform.

The bill also contains significant restrictions on PAC contributions—reducing permissible PAC contributions from $5,000 to $1,000 per election, and to a maximum of 20 percent of a candidate's total contributions per primary. Some Senators may support banning PAC's altogether. Indeed, I have never accepted PAC money in my Senate races because of concerns about the perception that PAC money represents special interest funding. But there are substantial doubts among constitutional scholars as to whether the Supreme Court would view such an approach to violate the Constitution, on the ground that it impairs the right to associate for political purposes. As a practical matter, however, PAC's would play a far smaller role in the process under this bill than they do today, as the bill instead contains every incentive for candidates to raise funds from small individual contributors for primaries that will be matched by public funds, and eliminates contributions to major party candidates to general elections who are participating in the voluntary system for general elections from all private sources.

The bill deals with soft money by turning it into hard money. Everything is dislcosed. Nothing is under the table. And everything becomes hard dollars, kept within hard dollar limits.

The bill eliminates bundling as a means of circumventing contributions limits.

And the bill takes steps to prevent circumvention of spending and contributions caps by candidates through their relationships with outside groups, by defining any expenditures by such groups to be cooperative expenditures which will be counted toward the individual caps of the candidates they support.

There is no area we have left out—no area of contributions or expenditures is left outside the system.

For real reform, we need to endorse the basic principle of a democracy—that a race should not be determined by how much money a candidate can raise and spend, but by the quality of his message and candidacy. We should create a system of campaign finance based on the principle that an elected official should represent the voters who put him in office and not those people with the largest checkbooks.

Our bill does that. It ensures fairness to incumbents and challengers alike, to Republicans and Democrats and minor parties alike. And the bill provides a constitutionally proper approach to campaign finance reform. As the seminal campaign finance case of Buckley verus Valeo states:

> Congress may engage in public financing of election campaigns and may conditions acceptance of public funds on an agreement by the candidate to abide by specified expenditure limitations. Just as a candidate may voluntarily limit the size of the contributions he chooses to accept, he may decide to forgo private fundraising and accept public funding. *Buckley* at 57, n. 65.

That is precisely how this legislation is structured. Moreover, the legislation contains explicit congressional findings about how the current system has led to a perception of corruption. These findings demonstrate that without controls on expenditures, as well as contributions, that perception cannot be prevented.

Last year, we passed a bill, which though not perfect, would have created real reform. I personally had concerns about the constitutionality of certain aspects of that bill, which I have sought to correct in the bill filed today. I am not certain that the complete elimination of PAC's, as contemplated by last year's bill, would have survived Supreme Court scrutiny, especially in the absence of explicit findings about PAC's corruptive influence.

In any case, last year's reforms died when the President vetoed the bill that contained them. This year, in a time of renewed hope for change, and at the start of a new Presidency, I hope that partisan political concerns will not derail the real reforms that are critical to finally free the Congress from the money chase, and to restore the public trust in this often criticized public institution.

Mr. President, I send to the desk this bill and ask the President for its appropriate referral to commitee and ask that a summary of its contents and the full text of the bill be printed at the conclusion of my statement.

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

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

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Congressional Campaign Spending Limit and Election Reform Act of 1993".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.
Sec. 2. Findings and declarations of the Senate.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.
Sec. 102. Restrictions on activities of political action and candidate committees in Federal elections.
Sec. 103. Reporting requirements.
Sec. 104. Disclosure by noneligible candidates.

Subtitle B—General Provisions

Sec. 131. Broadcast rates and preemption.
Sec. 132. Extension of reduced third-class mailing rates to eligible Senate candidates.
Sec. 133. Reporting requirements for certain independent expenditures.
Sec. 134. Campaign advertising amendments.
Sec. 135. Definitions.
Sec. 136. Provisions relating to franked mass mailings.

TITLE II—INDEPENDENT EXPENDITURES

Sec. 201. Clarification of definitions relating to independent expenditures.

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

Sec. 301. Personal contributions and loans.
Sec. 302. Extensions of credit.

Subtitle B—Provisions Relating to Soft Money of Political Parties

Sec. 311. Contributions to political party committees.
Sec. 312. Provisions relating to national, State, and local party committees.
Sec. 313. Restrictions on fundraising by candidates and officeholders.
Sec. 314. Reporting requirements.

TITLE IV—CONTRIBUTIONS

Sec. 401. Contributions through intermediaries and conduits.
Sec. 402. Contributions by dependents not of voting age.
Sec. 403. Contributions to candidates from State and local committees of political parties to be aggregated.
Sec. 404. Limited exclusion of advances by campaign workers from the definition of the term "contribution".

TITLE V—REPORTING REQUIREMENTS

Sec. 501. Change in certain reporting from a calendar year basis to an election cycle basis.
Sec. 502. Personal and consulting services.
Sec. 503. Reduction in threshold for reporting of certain information by persons other than political committees.
Sec. 504. Computerized indices of contributions.

TITLE VI—FEDERAL ELECTION COMMISSION

Sec. 601. Use of candidates' names.
Sec. 602. Reporting requirements.
Sec. 603. Provisions relating to the general counsel of the Commission.
Sec. 604. Enforcement.
Sec. 605. Penalties.
Sec. 606. Random audits.
Sec. 607. Prohibition of false representation to solicit contributions.
Sec. 608. Regulations relating to use of non-Federal money.

TITLE VII—MISCELLANEOUS

Sec. 701. Prohibition of leadership committees.
Sec. 702. Polling data contributed to candidates.

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 801. Effective date.
Sec. 802. Sense of the Senate regarding funding of Senate Election Campaign Fund.
Sec. 803. Severability.
Sec. 804. Expedited review of constitutional issues.

SEC. 2. FINDINGS AND DECLARATIONS OF THE SENATE.

(a) NECESSITY FOR SPENDING LIMITS.—The Senate finds and declares that—

(1) the current system of campaign finance has led to public perceptions that political contributions and their solicitation have unduly influenced the official conduct of elected officials;

(2) permitting candidates for Federal office to raise and spend unlimited amounts of money constitutes a fundamental flaw in the current system of campaign finance, and has undermined public respect for the Senate as an institution;

(3) the failure to limit campaign expenditures has caused individuals elected to the Senate to spend an increasing proportion of their time in office as elected officials raising funds, interfering with the ability of the Senate to carry out its constitutional responsibilities;

(4) the failure to limit campaign expenditures has damaged the Senate as an institution, due to the time lost to raising funds for campaigns; and

(5) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to limit campaign expenditures, through a system which provides public benefits to candidates who agree to limit campaign expenditures.

(b) NECESSITY FOR LIMITS ON POLITICAL ACTION COMMITTEES.—The Senate finds and declares that—

(1) contributions by political action committees to individual candidates have created the perception that candidates are beholden to special interests, and leave candidates open to charges of corruption;

(2) unconstrained contributions by political action committees to individual candidates have undermined public confidence in the Senate as an institution; and

(3) to prevent the appearance of corruption and to restore public trust in the Senate as an institution, it is necessary to limit contributions by political action committees, while allowing such committees to continue to participate in the political process through other means, such as through independent expenditures.

(c) NECESSITY FOR ATTRIBUTING COOPERATIVE EXPENDITURES TO CANDIDATES.—The Senate finds and declares that—

(1) public confidence and trust in the system of campaign finance would be undermined should any candidate be able to circumvent a system of caps on expenditures through cooperative expenditures with outside individuals, groups, or organizations;

(2) cooperative expenditures by candidates with outside individuals, groups, or organizations would severely undermine the effectiveness of caps on campaign expenditures, unless they are included within such caps; and

(3) to maintain the integrity of the system of campaign finance, expenditures by any individual, group, or organization that have been made in cooperation with any candidate, authorized committee, or agent of any candidate must be attributed to that candidate's cap on campaign expenditures.

TITLE I—CONTROL OF CONGRESSIONAL CAMPAIGN SPENDING

Subtitle A—Senate Election Campaign Spending Limits and Benefits

SEC. 101. SENATE SPENDING LIMITS AND BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end the following new title:

"TITLE V—SPENDING LIMITS AND BENEFITS FOR SENATE ELECTION CAMPAIGNS

"SEC. 501. CANDIDATES ELIGIBLE TO RECEIVE BENEFITS.

"(a) IN GENERAL.—For purposes of this title, a candidate is an eligible Senate candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration that—

"(A) the candidate and the candidate's authorized committees—

"(i)(I) will meet the primary and runoff election expenditure limits of subsection (d); and

"(II) will only accept contributions for the primary and runoff elections which do not exceed such limits; and

"(ii)(I) will meet the primary and runoff election multicandidate political committee contribution limits of subsection (f); and

"(II) will only accept contributions for the primary and runoff elections from multicandidate political committees which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 502(b); and

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 502(a).

"(2) The declaration under paragraph (1) shall be filed not later than the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

"(A) the candidate and the candidate's authorized committees—

"(i)(I) met the primary and runoff election expenditure limits under subsection (d); and

"(II) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable, reduced by any amounts transferred to this election cycle from a preceding election cycle; and

"(ii)(I) met the multicandidate political committee contribution limits under subsection (f); and

"(II) did not accept contributions for the primary or runoff election in excess of the multicandidate political committee contribution limits under subsection (f);

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 502(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of the amount of the general election expenditure limit under section 502(b) and the amounts described in subsections (c) and (d) of section 502, reduced by—

"(I) the amount of voter communication vouchers issued to the candidate; and

"(II) any amounts transferred to this election cycle from a previous election cycle and not taken into account under subparagraph (A)(ii);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(vi) will cooperate in the case of any audit and examination by the Commission under section 506; and

"(E) the candidate intends to make use of the benefits provided under section 503.

"(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 502(b); or

"(ii) $2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 502(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate with respect to such period under section 304(c).

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to exceed the limits under subsection (c)(1)(D)(iii).

"(e) THRESHOLD CONTRIBUTION REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to the lesser of—

"(A) 10 percent of the general election expenditure limit under section 502(b); or

"(B) $250,000.

"(2) For purposes of this section and section 503(b)—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed $250; or

"(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period.

Clauses (ii) and (iii) shall not apply for purposes of section 503(b).

"(3) For purposes of this subsection and section 503(b), the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of section 503(b), the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) MULTICANDIDATE POLITICAL COMMITTEE CONTRIBUTION LIMITS.—The requirements of this subsection are met if the candidate and the candidate's authorized committees have accepted contributions from multicandidate political committees contributions that do not exceed—

"(1) during the primary election period, an amount equal to 20 percent of the primary election spending limit under subsection (d)(1)(A); and

"(2) during the runoff election period, an amount equal to 20 percent of the runoff election spending limit under subsection (d)(1)(B).

"(g) INDEXING.—The $2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that, for purposes of subsection (d)(1), the base period shall be calendar year 1992.

"SEC. 502. LIMITATIONS ON EXPENDITURES.

"(a) LIMITATION ON USE OF PERSONAL FUNDS.—(1) The aggregate amount of expenditures which may be made during an election

cycle by an eligible Senate candidate or such candidate's authorized committees from the sources described in paragraph (2) shall not exceed the lesser of—

"(A) 10 percent of the general election expenditure limit under subsection (b); or

"(B) $250,000.

"(2) A source is described in this paragraph if it is—

"(A) personal funds of the candidate and members of the candidate's immediate family; or

"(B) personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) GENERAL ELECTION EXPENDITURE LIMIT.—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible Senate candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) $5,500,000; or

"(B) the greater of—

"(i) $950,000; or

"(ii) $400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible Senate candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 501(f) (relating to indexing).

"(c) LEGAL AND ACCOUNTING COMPLIANCE FUND.—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a legal and accounting compliance fund meeting the requirements of paragraph (2).

"(2) A legal and accounting compliance fund meets the requirements of this paragraph if—

"(A) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate amounts transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) $300,000; plus

"(ii) the amount determined under paragraph (4); and

"(C) no funds received by the candidate pursuant to section 503(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection, the term 'qualified legal and accounting expenditures' means the following:

"(A) Any expenditures for costs of legal and accounting services provided in connection with—

"(i) any administrative or court proceeding initiated pursuant to this Act during the election cycle for such general election; or

"(ii) the preparation of any documents or reports required by this Act or the Commission.

"(B) Any expenditures for legal and accounting services provided in connection with the general election for which the legal and accounting compliance fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures will exceed the limitation under paragraph (2)(B)(i), the candidate may petition the Commission by filing with the Secretary of the Senate a request for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation. Such determination shall be subject to judicial review under section 506.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5) Any funds in a legal and accounting compliance fund shall be treated for purposes of this Act as a separate segregated fund, except that any portion of the fund not used to pay qualified legal and accounting expenditures, and not transferred to a legal and accounting compliance fund for the election cycle for the next general election, shall be treated in the same manner as other campaign funds.

"(d) PAYMENT OF TAXES.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local taxes with respect to a candidate's authorized committees.

"(e) EXPENDITURES.—For purposes of this title, the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or a candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

"SEC. 503. BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE.

"(a) IN GENERAL.—An eligible Senate candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3626(e) of title 39, United States Code;

"(3) payments in the amounts determined under subsection (b); and

"(4) voter communication vouchers in the amount determined under subsection (c).

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), the amounts determined under this subsection are—

"(A) the public financing amount;

"(B) the independent expenditure amount; and

"(C) in the case of an eligible Senate candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 502(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the public financing amount is—

"(A) in the case of an eligible candidate who is a major party candidate and who has met the threshold requirement of section 501(e)—

"(i) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $250 or less, up to 50 percent of the primary election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e);

"(ii) during the runoff election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $250 or less, up to 10 percent of the general election spending limit under section 501(d)(1)(B); and

"(iii) during the general election period, an amount equal to the general election expenditure limit applicable to the candidate under section 502(b) (without regard to paragraph (4) thereof) reduced by the amount of voter communication vouchers issued to the eligible candidate; and

"(B) in the case of an eligible candidate who is not a major party candidate and who has met the threshold requirement of section 501(e)—

"(i) during the primary election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $250 or less, up to 50 percent of the primary election spending limit under section 501(d)(1)(A), reduced by the threshold requirement under section 501(e);

"(ii) during the runoff election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $250 or less, up to 10 percent of the general election spending limit under section 501(d)(1)(B); and

"(iii) during the general election period, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State in the aggregate amount of $250 or less, up to 50 percent of the general election spending limit under section 502(b).

"(3) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible Senate candidate which are required to be reported by such persons under section 304(c) with respect to the general election period and are certified by the Commission under section 304(c).

"(4) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(c) is not greater than 133⅓ percent of the general election expenditure limit under section 502(b), an amount equal to one-third of such limit applicable to the eligible Senate candidate for the election; plus

"(ii) if such excess equals or exceeds 133⅓ percent but is less than 166⅔ percent of such limit, an amount equal to one-third of such limit; plus

"(iii) if such excess equals or exceeds 166⅔ percent of such limit, an amount equal to one-third of such limit.

"(B) In the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the amount of contributions received during that period from individuals residing in the candidate's State in

the aggregate amount of $250 or less, up to 50 percent of the general election spending limit under section 502(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The aggregate amount of voter communication vouchers issued to an eligible Senate candidate during a general election period shall be equal to 50 percent of the general election expenditure limit under section 502(b) (25 percent of such limit if such candidate is not a major party candidate).

"(2) Voter communication vouchers shall be used by an eligible Senate candidate to purchase broadcast time during the general election period in the same manner as other broadcast time may be purchased by the candidate.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible Senate candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure amounts described in paragraphs (3) and (4) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 502(b).

"(2)(A) An eligible Senate candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 501(c)(1)(D) or subsection (a) or (b) of section 502 if any one of the eligible Senate candidate's opponents who is not an eligible Senate candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 200 percent of the general election expenditure limit applicable to the eligible Senate candidate under section 502(b).

"(B) The amount of the expenditures which may be made by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(3)(A) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 501(c)(1)(D) if—

"(i) a major party candidate in the same general election is not an eligible Senate candidate; or

"(ii) any other candidate in the same general election who is not an eligible Senate candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 502(b).

"(B) The amount of contributions which may be received by reason of subparagraph (A) shall not exceed 100 percent of the general election expenditure limit under section 502(b).

"(e) USE OF PAYMENTS.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(k), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"SEC. 504. CERTIFICATION BY COMMISSION.

"(a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 501 that such candidate is an eligible Senate candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible Senate candidate files a request with the Secretary of the Senate to receive benefits under section 501, the Commission shall issue a certification stating whether such candidate is eligible for payments under this title or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 and judicial review under section 506.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS; CIVIL PENALTIES.

"(a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection. If the Commission selects a candidate, the Commission shall examine and audit the campaign accounts of all other candidates in the general election for the office the selected candidate is seeking.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible Senate candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible Senate candidate under section 504(a)(1), the Commission shall notify the candidate, and the candidate shall pay an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay the amount of such benefit.

"(d) EXCESS EXPENDITURES.—If the Commission determines that any eligible Senate candidate who has received benefits under this title has made expenditures which in the aggregate exceed—

"(1) the primary or runoff expenditure limit under section 501(d); or

"(2) the general election expenditure limit under section 502(b),

the Commission shall so notify such candidate and such candidate shall pay an amount equal to the amount of the excess expenditures.

"(e) CIVIL PENALTIES FOR EXCESS EXPENDITURES AND CONTRIBUTIONS.—(1) If the Commission determines that a candidate has committed a violation described in subsection (c), the Commission may assess a civil penalty against such candidate in an amount not greater than 200 percent of the amount involved.

"(2)(A) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 2.5 percent or less shall pay an amount equal to the amount of the excess expenditures.

"(B) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by more than 2.5 percent and less than 5 percent shall pay an amount equal to three times the amount of the excess expenditures.

"(C) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible Senate candidate who makes expenditures that exceed any limitation described in paragraph (1) or (2) of subsection (d) by 5 percent or more shall pay an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

"(f) UNEXPENDED FUNDS.—Any amount received by an eligible Senate candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid.

"(g) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(h) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) INJUNCTIVE RELIEF.—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible Senate candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 504 as benefits available to each eligible Senate candidate;

"(3) the amount of repayments, if any, required under section 505 and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) STATEMENT TO SENATE.—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"SEC. 509. PAYMENTS RELATING TO ELIGIBLE CANDIDATES.

"(a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2)(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

"(i) any contributions by persons which are specifically designated as being made to the Fund;

"(ii) amounts collected under section 505(h); and

"(iii) any other amounts that may be appropriated to or deposited into the Fund under this title.

"(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

"(C) Amounts in the Fund shall remain available without fiscal year limitation.

"(3) Amounts in the Fund shall be available only for the purposes of—

"(A) making payments required under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(4) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"(c) VOUCHERS.—(1) Upon receipt of a certification from the Commission under section 504, except as provided in subsection (d), the Secretary of the Treasury shall issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(2) Upon receipt of a voter communication voucher from a licensee providing broadcast time to an eligible candidate, the Secretary of the Treasury shall pay to such licensee from the Senate Election Campaign Fund the face value of such voucher.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 504 for payment, or issuance or a voucher, to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under subparagraph (A) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of payments which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the fund to make the payments required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 501(c)(1)(D)(iii) shall be increased by the amount of such excess.".

(b) EFFECTIVE DATES.—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1993.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1994, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1994, shall be taken into account in determining whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1994, to pay for expenditures which were incurred (but unpaid) before such date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If section 501, 502, or 503 of title V of FECA (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. RESTRICTIONS ON ACTIVITIES OF POLITICAL ACTION AND CANDIDATE COMMITTEES IN FEDERAL ELECTIONS.

(a) CONTRIBUTIONS.—Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i) CONTRIBUTIONS BY POLITICAL ACTION COMMITTEES TO SENATE CANDIDATES.—(1) In the case of a candidate for election, or nomination for election, to the United States Senate (and such candidate's authorized committees), subsection (a)(2)(A) shall be applied by substituting "$1,000" for "$5,000".

"(2) It shall be unlawful for a multicandidate political committee to make a contribution to a candidate for election, or nomination for election, to the United States Senate (or an authorized committee) to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

"(A) $825,000; or

"(B) the greater of—

"(i) $375,000; or

"(ii) 20 percent of the sum of the general election spending limit under section 502(b)

plus the primary election spending limit under section 501(d)(1)(A) (without regard to whether the candidate is an eligible Senate candidate).

"(3) In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (2) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 501(d)(1)(B) (without regard to whether the candidate is such an eligible Senate candidate).

"(4) The $825,000 and $375,000 amounts in paragraph (2) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for purposes of paragraph (2), the base period shall be calendar year 1992.

"(5) A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (2) shall return the amount of such excess contribution to the contributor.".

SEC. 103. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secretary of the Senate under section 501(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b). Such declaration shall be filed at the time provided in section 501(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible Senate candidate under section 501; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 75 percent of the general election expenditure limit applicable to an eligible Senate candidate under section 502(b),

shall file a report with the Secretary of the Senate within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 200 percent of such limit) with the Secretary of the Senate within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133⅓, 166⅔, and 200 percent of such limit.

"(3) The Commission—

"(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 502(b), shall certify, pursuant to the provisions of subsection (d), such eligibility for payment of any amount to which such eligible Senate candidate is entitled under section 503(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible Senate candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 502(b), certify (pursuant to the provisions of subsection (d)) such candidate's eligibility for payment of any amount under section 503(a).

"(b) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than the limitation under section 502(a) during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 24 hours after such expenditures have been made or loans incurred.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible Senate candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible Senate candidate in the general election involved about each such determination.

"(c) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(d) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(e) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this section or of title V (whenever a 24-hour response is required of the Commission) as soon as possible (but no later than 4 working hours of the Commission) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 311(a)(5).

"(f) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V.".

SEC. 104. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Section 318 of FECA (2 U.S.C. 441d), as amended by section 133, is amended by adding at the end thereof the following:

"(e) If a broadcast, cablecast, or other communication is paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible Senate candidate, or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to voluntary campaign spending limits.'.".

Subtitle B—General Provisions

SEC. 131. BROADCAST RATES AND PREEMPTION.

(a) BROADCAST RATES.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) in paragraph (1)—

(A) by striking out "forty-five" and inserting in lieu thereof "30";

(B) by striking out "sixty" and inserting in lieu thereof "45"; and

(C) by striking out "lowest unit charge of the station for the same class and amount of time for the same period" and insert "lowest charge of the station for the same amount of time for the same period on the same date"; and

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

"In the case of an eligible Senate candidate (as defined in section 301(19) of the Federal Election Campaign Act of 1971), the charges during the general election period (as defined in section 301(21) of such Act) shall not exceed 50 percent of the lowest charge described in paragraph (1).".

(b) PREEMPTION; ACCESS.—Section 315 of such Act (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f), respectively, and by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.

"(d) In the case of a legally qualified candidate for the United States Senate, a licensee shall provide broadcast time without regard to the rates charged for the time.".

SEC. 132. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE SENATE CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking out "and the National" and inserting in lieu thereof "the National"; and

(B) by striking out "Committee;" and inserting in lieu thereof "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives or Senate candidate;";

(2) in paragraph (2)(B), by striking out "and" after the semicolon;

(3) in paragraph (2)(C), by striking out the period and inserting in lieu thereof "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) The terms 'eligible Senate candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

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

"(3) The rate made available under this subsection with respect to an eligible Senate candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to the number of individuals in the voting age population (as certified under section 315(e) of such Act) of the congressional district or State, whichever is applicable.".

SEC. 133. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of FECA (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

"(B) Any independent expenditure aggregating $10,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $10,000 are made with respect to the same election as the initial statement filed under this section.

"(C) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a report, the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

"(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

"(B) Such statement shall be filed with the Secretary of the Senate and the Secretary of State of the State involved, and shall identify each candidate whom the expenditure will support or oppose. The Secretary of the Senate shall as soon as possible (but not later than 4 working hours of the Commission) after receipt of a statement transmit it to the Commission. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.

"(5) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any Federal election which in the aggregate exceed the applicable amounts under paragraph (3) or (4). The Commission shall notify each candidate in such election of such determination within 24 hours of making it.

"(6) At the same time as a candidate is notified under paragraph (3), (4), or (5) with respect to expenditures during a general election period, the Commission shall certify eligibility to receive benefits under section 504(a) or section 604(b).

"(7) The Secretary of the Senate shall make any statement received under this subsection available for public inspection and copying in the same manner as the Commission under section 311(a)(4), and shall preserve such statements in the same manner as the Commission under section 311(a)(5)."

SEC. 134. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of FECA (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking "an expenditure" and inserting "a disbursement";

(2) in the matter before paragraph (1) of subsection (a), by striking "direct";

(3) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

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

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d)(1) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(2) If a broadcast or cablecast communication described in paragraph (1) is broadcast or cablecast by means of television, the statement required by paragraph (1) shall—

"(A) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(B) be accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

' is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 135. DEFINITIONS.

(a) IN GENERAL.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraph (19) and inserting the following new paragraphs:

"(19) The term 'eligible Senate candidate' means a candidate who is eligible under section 502 to receive benefits under title V.

"(20) The term 'general election' means any election which will directly result in the election of a person to a Federal office, but does not include an open primary election.

"(21) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election.

"(22) The term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B).

"(23) The term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of title V.

"(24) The term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for a Federal office.

"(25) The term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election.

"(26) The term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

"(27) The term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and

ending on the date of the runoff election for such office.

"(28) The term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"(29) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.

"(30) The terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 509.

"(31) The term 'lobbyist' means—

"(A) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); and

"(B) a person who receives compensation in return for having contact with Congress on any legislative matter.".

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking "mailing address" and inserting "permanent residence address".

SEC. 136. PROVISIONS RELATING TO FRANKED MASS MAILINGS.

(a) MASS MAILINGS OF SENATORS.—Section 3210(a)(6) of title 39, United States Code, is amended—

(1) in subparagraph (A), by striking "It is the intent of Congress that a Member of, or a Member-elect to, Congress" and inserting "A Member of, or Member-elect to, the House"; and

(2) in subparagraph (C)—

(A) by striking "if such mass mailing is postmarked fewer than 60 days immediately before the date" and inserting "if such mass mailing is postmarked during the calendar year"; and

(B) by inserting "or reelection" immediately before the period.

(b) MASS MAILINGS OF HOUSE MEMBERS.—Section 3210 of title 39, United States Code, is amended—

(1) in subsection (a)(7) by striking ", except that—" and all that follows through the end of subparagraph (B) and inserting a period; and

(2) in subsection (d)(1) by striking "delivery—" and all that follows through the end of subparagraph (B) and inserting "delivery within that area constituting the congressional district or State from which the Member was elected.".

(c) PROHIBITION ON USE OF OFFICIAL FUNDS.—The Committee on House Administration of the House of Representatives may not approve any payment, nor may a Member of the House of Representatives make any expenditure from, any allowance of the House of Representatives or any other official funds if any portion of the payment or expenditure is for any cost related to a mass mailing by a Member of the House of Representatives outside the congressional district of the Member.

TITLE II—INDEPENDENT EXPENDITURES

SEC. 201. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of FECA (2 U.S.C. 431) is amended by striking paragraphs (17) and (18) and inserting the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) The following shall not be considered an independent expenditure:

"(i) An expenditure made by a political committee of a political party.

"(ii) An expenditure made by a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(iii) An expenditure if there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure.

"(iv) An expenditure if, in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policymaking position.

"(v) An expenditure if the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office.

"(vi) An expenditure if the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office.

"(vii) An expenditure if the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to, or participate in campaign activity.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking "or" after the semicolon at the end;

(2) in clause (ii), by striking the period at the end and inserting "; or"; and

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

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

TITLE III—EXPENDITURES

Subtitle A—Personal Loans; Credit

SEC. 301. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 122, is amended by adding at the end the following new subsection:

"(k) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle, no contributions after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors.".

SEC. 302. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)), as amended by section 201(b), is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting at the end the following new clause:

"(iv) with respect to a candidate and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mailings, or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than $1,000; and

"(II) for a period greater than the period, not in excess of 60 days, for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished or the date of the mailing in the case of advertising by a mailing.".

Subtitle B—Provisions Relating to Soft Money of Political Parties

SEC. 311. CONTRIBUTIONS TO POLITICAL PARTY COMMITTEES.

(a) INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000; or".

(b) MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subpara-

graph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to political committees established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000; or".

(c) INCREASE IN OVERALL LIMIT.—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end thereof the following new sentence: "The limitation under this paragraph shall be increased (but not by more than $5,000) by the amount of contributions made by an individual during a calendar year to political committees which are taken into account for purposes of paragraph (1)(C).".

SEC. 312. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end thereof the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures in connection with the general election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e). This paragraph shall not authorize a committee to make expenditures for audio broadcasts (including television broadcasts) in excess of the amount which could have been made without regard to this paragraph.".

(b) CONTRIBUTION AND EXPENDITURE EXCEPTIONS.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (xi), by striking "direct mail" and inserting "mail"; and

(B) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended by repealing clauses (viii) and (ix).

(c) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—(1) Title III of FECA is amended by inserting after section 323 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 324. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a)—

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) Except as provided in paragraph (3), any of the following activities during a Federal election period shall be treated as in connection with an election for Federal office:

"(A) Voter registration and get-out-the-vote activities.

"(B) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified.

"(C) The preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified.

"(D) Development and maintenance of voter files.

"(E) Any other activity affecting (in whole or in part) an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are not activities described in paragraph (2)(A).

"(E) Administrative expenses of a State or local committee of a political party, including expenses for—

"(i) overhead;

"(ii) staff (other than individuals devoting a substantial portion of their activities to elections for Federal office); and

"(iii) conducting party elections or caucuses.

"(F) Research pertaining solely to State and local candidates and issues.

"(G) Development and maintenance of voter files other than during a Federal election period.

"(H) Activities described in paragraph (2)(A) which are conducted other than during a Federal election period.

"(I) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on June 1, of any even-numbered calendar year (April 1 if an election to the office of President occurs in such year), and

"(B) ending on the date during such year on which regularly scheduled general elections for Federal office occur.

In the case of a special election, the Federal election period shall include at least the 60-day period ending on the date of the election.

"(c) SOLICITATION OF COMMITTEES.—A national committee of a political party may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) AMOUNTS RECEIVED FROM STATE AND LOCAL CANDIDATE COMMITTEES.—(1) For purposes of subsection (a), any amount received by a national, State, district, or local committee of a political party (including any subordinate committee) from a State or local candidate committee shall be treated as meeting the requirements of subsection (a) and section 304(d) if—

"(A) such amount is derived from funds which meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount, and

"(B) the State or local candidate committee—

"(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether such requirements are met, and

"(ii) certifies to the other committee that such requirements were met.

"(2) Notwithstanding paragraph (1), any committee receiving any contribution described in paragraph (1) from a State or local candidate committee shall be required to meet the reporting requirements of this Act with respect to receipt of the contribution from such candidate committee.

"(3) For purposes of this subsection, a State or local candidate committee is a committee established, financed, maintained, or controlled by a candidate for other than Federal office.".

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(5)(A) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 324(b)(2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)).

"(B) Expenditures authorized under this paragraph shall be in addition to other expenditures allowed under this subsection, except that this paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4).

"(C) No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990.

"(D) For purposes of this paragraph—

"(i) a local committee of a political party shall only include a committee that is a political committee (as defined in section 301(4)); and

"(ii) a State committee shall not be required to record or report under this Act the expenditures of any other committee which are made independently from the State committee.".

(3) Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following new sentence:

"For purposes of subparagraph (C), any payments for get-out-the-vote activities on behalf of candidates for office other than Federal office shall be treated as payments exempted from the definition of expenditure under paragraph (9) of this section.".

(4) Section 301(8)(B)(viii) of FECA (2 U.S.C. 431(8)(B)(viii)) is amended by striking "defray" and inserting "pay indebtedness incurred prior to January 1, 1993, for the purpose of defraying".

(d) GENERIC ACTIVITIES.—Section 301 of FECA (2 U.S.C. 431), as amended by section 135, is amended by adding at the end thereof the following new paragraph:

"(31) The term 'generic campaign activity' means a campaign activity the preponderant purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate.".

SEC. 313. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) STATE FUNDRAISING ACTIVITIES.—Section 315 of FECA (2 U.S.C. 441a), as amended by section 301, is amended by adding at the end thereof the following new subsection:

"(l) LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS AND CERTAIN POLITICAL COMMITTEES.—(1) For purposes of this Act, a can-

didate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, and are not from sources prohibited by this Act with respect to elections to Federal office.

"(2)(A) The aggregate amount which a person described in subparagraph (B) may solicit from a multicandidate political committee for State committees described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2)(B) for the calendar year.

"(B) A person is described in this subparagraph if such person is a candidate for Federal office, an individual holding Federal office, or any national, State, district, or local committee of a political party (including subordinate committees).

"(3) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(4) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law.

"(5) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

(b) TAX-EXEMPT ORGANIZATIONS.—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(m) TAX-EXEMPT ORGANIZATIONS.—(1) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns.

"(2) For purposes of this subsection, an individual shall be treated as holding Federal office if such individual is described in section 101(f) of the Ethics in Government Act of 1978.".

SEC. 314. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d) POLITICAL COMMITTEES.—(1) The national committee of a political party and any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 324 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 324).

"(3) Any political committee to which section 324 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 324(c) and the reason for the transfer.

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election.

"(5) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by inserting at the end thereof the following:

"(C) The exclusions provided in clauses (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of $200 shall be reported.".

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by inserting at the end thereof the following:

"(C) The exclusions provided in clause (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of $200 shall be reported.".

(d) CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end the following: "For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election.".

(e) REPORTS BY STATE COMMITTEES.—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(e) FILING OF STATE REPORTS.—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under State law if the Commission determines such reports contain substantially the same information.".

TITLE IV—CONTRIBUTIONS

SEC. 401. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purpose of this subsection:

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the intermediary or conduit rather than the intended recipient; or

"(ii) the intermediary or conduit is—

"(I) a political committee;

"(II) an officer, employee, or agent of such a political committee;

"(III) a political party;

"(IV) a partnership or sole proprietorship;

"(V) a lobbyist; or

"(VI) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C)(i) Except as specified in section 315(a)(8)(B)(ii)(V), the term 'intermediary or conduit' does not include—

"(I) a candidate or representative of a candidate receiving contributions to the candidate's principal campaign committee or authorized committee;

"(II) a professional fundraiser compensated for fundraising services at the usual and customary rate;

"(III) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(B); or

"(IV) an individual who transmits a contribution from the individual's spouse.

"(ii) The term 'representative' means an individual who is expressly authorized by the candidate to engage in fundraising, and who occupies a significant position within the candidate's campaign organization, provided that the individual is not described in subparagraph (B)(ii).

"(iii) The term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting.

"(iv) The term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(ii)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

"(iii) bona fide fundraising efforts conducted by and solely on behalf of an individual other than a lobbyist for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, but only if all contributions are made directly to a candidate or a representative of a candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient.".

SEC. 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 313(b), is amended by adding at the end the following new subsection:

"(n) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

SEC. 404. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking "and" after the semicolon at the end;

(2) in clause (xiv), by striking the period at the end and inserting: "; and"; and

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

"(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 10 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $500 with respect to an election.".

TITLE V—REPORTING REQUIREMENTS

SEC. 501. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of section 304(b) of FECA (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for Federal office)".

SEC. 502. PERSONAL AND CONSULTING SERVICES.

Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his or her authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

SEC. 503. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of FECA (2 U.S.C. 434(b)(3)(A)) is amended by striking "$200" and inserting "$50".

SEC. 504. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of FECA (2 U.S.C. 438(a)) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

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

"(11) maintain computerized indices of contributions of $50 or more.".

TITLE VI—FEDERAL ELECTION COMMISSION

SEC. 601. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate.".

SEC. 602. REPORTING REQUIREMENTS.

(a) OPTION TO FILE MONTHLY REPORTS—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end;

(2) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(3) by inserting the following new subparagraph at the end:

"(C) in lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-primary election report and a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year.".

(b) FILING DATE.—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 603. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) VACANCY IN THE OFFICE OF GENERAL COUNSEL.—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by adding at the end the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed.".

(b) PAY OF THE GENERAL COUNSEL.—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence; and

(2) by striking the third sentence.

SEC. 604. ENFORCEMENT.

(a) BASIS FOR ENFORCEMENT PROCEEDING.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking "it has reason to believe that a person has committed, or is about to commit" and inserting "facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit".

(b) AUTHORITY TO SEEK INJUNCTION.—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(B) in paragraph (11) by striking "(6)" and inserting "(6) or (13)".

SEC. 605. PENALTIES.

(a) PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of $5,000 or an amount equal to any contribu-

tion or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation".

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of $10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation".

(b) PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found.".

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986.".

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation.".

SEC. 606. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

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

"(2) Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process. This paragraph does not apply to an authorized committee of an eligible Senate candidate subject to audit under section 505(a) or an authorized committee of an eligible House of Representatives candidate subject to audit under section 605(a).".

SEC. 607. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

SEC. 608. REGULATIONS RELATING TO USE OF NON-FEDERAL MONEY.

Section 306 of FECA (2 U.S.C. 437c) is amended by adding at the end the following new subsection:

"(g) The Commission shall promulgate rules to prohibit devices or arrangements which have the purpose or effect of undermining or evading the provisions of this Act restricting the use of non-Federal money to affect Federal elections.".

TITLE VII—MISCELLANEOUS

SEC. 701. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of FECA (2 U.S.C. 432(e)) is amended—

(1) by amending paragraph (3) to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."; and

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

"(6)(A) A candidate for Federal office or any individual holding Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

"(B) For one year after the effective date of this paragraph, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified under section 501(c)(3) of the Internal Revenue Code of 1986; making a contribution to the treasury of the United States; contributing to the national, State or local committees of a political party; or making contributions not to exceed $1,000 to candidates for elective office.".

SEC. 702. POLLING DATA CONTRIBUTED TO CANDIDATES.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 314(b), is amended by inserting at the end the following new subparagraph:

"(D) A contribution of polling data to a candidate shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.".

TITLE VIII—EFFECTIVE DATES; AUTHORIZATIONS

SEC. 801. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1995.

SEC. 802. SENSE OF THE SENATE REGARDING FUNDING OF SENATE ELECTION CAMPAIGN FUND.

It is the sense of the Senate that—

(1) the current Presidential checkoff should be increased to $5.00, its designation changed to the "Federal Election Campaign Checkoff", and individuals should be permitted to contribute an additional $5.00 to the fund in additional taxes if they so desire;

(2) the Internal Revenue Service and the Federal Election Commission should be required to develop and implement a plan to publicize the fund and the checkoff to increase citizen participation; and

(3) funds to pay for the increase in the checkoff to $5.00 should come from the repeal of the tax deduction for business lobbying activity and the elimination of newsletter franking by the Congress.

SEC. 803. SEVERABILITY.

Except as provided in sections 101(c) and 121(b), if any provision of this Act (including 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 provision of this Act, or the application of such provision to other persons and circumstances, shall not be affected thereby.

SEC. 804. EXPEDITED REVIEW OF CONSTITUTIONAL ISSUES.

(a) DIRECT APPEAL TO SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued by any court ruling on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDITION.—The Supreme Court shall, if it has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, advance on the docket, and expedite the appeal to the greatest extent possible.

SUMMARY OF CAMPAIGN FINANCE BILL

This legislation is based on S. 3, the campaign finance bill passed by the Senate in the 102nd Congress, as modified in the final version of the bill vetoed by President Bush. Its provisions regarding spending limits, political action committees, bundling, soft-money and other matters are based on that legislation, apart from provisions designed to replace private sources of funding with public funding, and other minor modifications intended to strengthen last year's bill by eliminating possible loop-holes that might undermine the goal of spending limits.

PUBLIC FUNDING PROVISIONS

The bill would establish a public funding system similar to that of the Presidential system, under which candidates would receive matching funds for primary elections and full funding for general elections, once they had reached a threshold of contributions from individuals (10 percent of the general election limit) in amounts of $250 or less, half of which is from in-state. Of the general election amount, half of the total would be in the form of communication vouchers, to be used for purchases of broadcast media during the general election.

TREATMENT OF POLITICAL ACTION COMMITTEES (PAC'S)

This bill would reduce the limits on permissible contributions by PACs to individual candidates from the current limit of $5,000 to a maximum of $1,000 per election, and 20 per-

cent of the total spending limit in an election by a candidate. Given the system of full public funding established for general elections, PACs would in practice be able to contribute up to 20 percent of the total spending limit for a candidate in primaries and runoffs.

ANTI-BUNDLING PROVISIONS

The bill is based on S. 3, but eliminates the loophole that would have permitted the bundling for non-connected political organizations. This bill would preclude any political organization from evading the contribution limits in the legislation through bundling. This change is designed to prevent organizations from establishing "non-connected" affiliates which could be used to circumvent the anti-bundling intent and provisions of reform.

SOFT-MONEY PROVISIONS

The bill is based on S. 3, but toughens soft-money provisions in a few areas. First, it would phase-out the exemption from federal election law for national party building funds, apart from servicing existing mortgages for these funds. These funds have in the past not been subject to any form of reporting, and hence have been viewed by some critics of the current system as inherently subject to abuse.

SPECIAL RESTRICTIONS ON LOBBYISTS

The bill contains S. 3's restrictions on bundling by lobbyists, but eliminates an exemption that would permit lobbyists to continue to raise funds for candidates through hosting political fundraisers, thus allowing them to circumvent provisions designed to limit special-interest access as a result of political fundraising activity. The bill specifies that those who receive payment in return for lobbying Congress may not engage in this activity.

RECOMMENDED MECHANISM TO MAKE LAW BUDGET-NEUTRAL

This bill contains a Sense of the Senate concerning financing for public funding, which would make it budget-neutral through off-setting the public funding through repeal of the deductibility of business lobbying expenses, and through reduction of the deductibility of business meals from 80 percent, as under current law, to 75 percent. The total amount available for all candidates in each election cycle under the public funding system would depend on the actual amount authorized by taxpayers through a voluntary checkoff system, which would be increased to $5 per individual, and in the event that voluntary earmarks were insufficient for funding the system, candidates would be permitted to raise funds subject to federal election limits from individuals.

By Mr. LUGAR (for himself, Mr. DOLE, Mr. KENNEDY, Mr. COCHRAN, Mr. SIMON, Mr. MCCAIN, and Mr. ROTH):

S. 88. A bill to amend the National School Lunch Act to remove the requirement that schools participating in the school lunch program offer students specific types of fluid milk, and for other purposes.

NATIONAL SCHOOL LUNCH ACT AMENDMENTS

• Mr. LUGAR. Mr. President, today I am pleased to introduce legislation to help our Nation's children develop healthier eating habits.

Joining as original cosponsors of this bill today are Senators DOLE, KENNEDY, COCHRAN, SIMON, MCCAIN, and ROTH.

This legislation is identical to a measure that I had sponsored in the 102d Congress which would allow local school lunch professionals to choose the type or types of milk to serve children in the school lunch program. Current law mandates that both whole milk and unflavored lowfat milk be offered to the 25 million students that eat a federally subsidized school lunch each day.

We now know that there is a connection between diet and good health. High fat intake is associated with higher obesity rates and greater incidence of heart disease, and could be linked to higher risk of certain types of cancer.

The Dietary Guidelines for Americans, published jointly by the Departments of Agriculture and Health and Human Services, confirms that many American diets contain too many calories and too much fat (especially saturated fat), cholesterol, and sodium. Because of this, the Dietary Guidelines recommend that people over age two drink skim or lowfat milk. In addition, the 1988 Surgeon General's Report on Nutrition and Health identified excessive fat consumption as the biggest problem in the American diet.

My legislation would encourage local professionals to help students choose foods that are lower in fat. An easy way to reduce fat in the diet is to encourage consumption of lowfat and skim milk rather than whole milk. Eating habits developed in childhood tend to continue throughout life. Starting healthful eating patterns early in life will help prevent diet-related health problems later on and will help ease our Nation's skyrocketing health care expenses.

The Federal mandate to serve various types of milk also is an administrative headache for those indiviauls who manage the school lunch program locally. I firmly believe that local school food service professionals are more qualified to determine what type of milk to serve children in their school lunches than is Congress.

Contrary to what some have claimed, my bill does not preclude local professionals from serving whole milk, but leaves the decision in their hands. There may be some children that local professionals determine need whole milk. Nor is it my intention, through this bill, to denigrate the wholesomeness or nutritional value of milk. This bill would encourage consumption of the lower fat varieties of milk which generally speaking provide the same nutrients as whole milk but without as much fat.

Eliminating the whole milk requirement is supported by a number of organizations including the American School Food Service Association, Public Voice for Food and Health Policy, the American Heart Association, the American Dietetic Association, the Society for Nutrition Education, the Food Research and Action Center, and the Center for Science in the Public Interest.

I strongly urge my colleagues to join as cosponsors of this important measure to encourage local school lunch professionals to serve lower fat lunches to students.

By Mr. DOLE:

S. 89. A bill to amend 2 U.S.C. 437c.

FEDERAL ELECTION CAMPAIGN COMMISSION AMENDMENTS

Mr. DOLE. Mr. President, I am today introducing a bill to improve the operations of the Federal Election Commission. My bill would restructure the Federal Election Commission so that the Commission is composed of the Secretary of the Senate, the Secretary for the Minority, the Clerk of the House of Representatives and the Minority Clerk of the House of Representatives, or their designees, ex officio and without the right to vote, and six Members appointed by the President, by and with the advice and consent of the Senate.

This would give the minority the same representation on this bipartisan Commission as is presently enjoyed by the majority.

This was the original intent of the legislation when it was first passed, and I am sure that it was by inadvertence that this principle was deviated from in later amendments to the act.

I ask that the bill together with a section-by-section analysis be printed in the RECORD, and the bill be appropriately referred.

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

SECTION-BY-SECTION ANALYSIS

The bill provides that the Secretary for the Minority of the Senate and the Minority Clerk of the House of Representatives or their designees, shall be members ex officio and without the right to vote of the FEC.

S. 89

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, 2 U.S.C. 437c is amended by striking:

"437c. Federal Election Commission

"(a)(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate and the Clerk of the House of Representatives or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate."

And inserting in lieu thereof,

"437c. Federal Election Commission

(a)(1) There is established a commission to be known as the Federal Election Commission. The Commission is composed of the Secretary of the Senate, the Secretary for the Minority, to be paid at the same rate and from the same account, the Clerk of the House of Representatives and the Minority Clerk of the House of Representatives, to be paid the same amount and from the same ac-

count or their designees, ex officio and without the right to vote, and 6 members appointed by the President, by and with the advice and consent of the Senate."

By Mr. HOLLINGS:

S. 90. A bill to improve the enforcement of the trade laws of the United States, and for other purposes; to the Committee on Finance.

TRADE ENFORCEMENT ACT OF 1993

• Mr. HOLLINGS. Mr. President, today, we begin a new era, an era in which our Government and industry will work together to revitalize the American economy. Gone are the days when Government officials smugly proclaim that it doesn't matter whether we manufacture computer chips or potato chips. A decade of Government indifference produced a 12-percent decline in real wages and a steady erosion of market shares in important industries from basic manufacturing like textiles, steel, and automobiles to high technology products like aircraft and computers.

For decades, governments in Europe and Asia used a variety of policy measures including protection for infant industries, massive subsidies to develop critical technologies, and aggressive use of antidumping and voluntary restraint agreements to create economic powerhouses and export super powers. In the past we answered these policies not with tough action or vigorous enforcement of our trade laws, but with stern lectures on the magic of free markets. Now, however, a new administration, a new economic team has taken power—a team which understands that our Nation's ability to sustain its leadership position in the world rests upon our economic strength, and our economic strength can be revitalized by an activist trade policy with the Government acting as an ally rather than a foe.

The bill which I introduce today is designed to give the administration the power to combat the unfair trade practices that have crippled important sectors of our manufacturing base.

Specifically, this bill will strengthen our antidumping and countervailing duty laws, our first line of defense against predatory trade practices that have devastated such vital industries as consumer electronics, steel, and semiconductors. In addition, this legislation strengthens our ability to take unilateral action to open markets by reinstating Super 301. By tightening enforcement of our bilateral textile agreements, it will end the decade-long deluge of textile imports that has cost 500,000 Americans their jobs. A number of studies show that the American worker is the most productive worker in the world. The most productive worker in the world should not be forced to compete against imports that are the products of the exploitation of children or the work of slave labor. This bill gives the new administration the authority to keep these imports from competing against the products of American labor.

To coordinate a new trade and economic policy, it gives a statutory mandate to President Clinton's new National Economic Council. This idea is an important step in recognizing that the foundation of our leadership is our economic strength and that rebuilding the American economy will require the same commitment to economic security that we gave during the cold war to national security.

Finally, to restore faith in the integrity of our trade officials, this legislation will shut the revolving door and ensure that our negotiators are cutting the best deal for our interest rather than their own interests.

I look forward to working with the new administration to forge a trade policy that protects the interests of American industry and the American workers.•

By Mr. THURMOND:

S. 91. A bill to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes; to the Committee on Governmental Affairs.

LAND AUTHORIZATION ACT

Mr. THURMOND. Mr. President, I rise today to introduce a bill to authorize the sale of property located in Washington, DC, from the Federal Government to the Columbia Hospital for Women. This property will be used for the construction of a facility to house the National Women's Health Resource Center [NWHRC]. I would also like to note that this legislation was introduced by Representative TRAFICANT on Wednesday, January 20, 1993. In the last Congress, similar legislation passed the House of Representatives.

The NWHRC is dedicated to the improvement of women's health. The NWHRC was established in 1988 as a nonprofit subsidiary of the Columbia Hospital for Women Foundation. The hospital is the only women's hospital in the country to have a Federal charter. The mission of the NWHRC is to provide information to professionals and consumers about women's health issues, including menopause, hormone replacement therapy, breast cancer, cardiovascular disease, osteoporosis, and domestic violence. When constructed, the NWHRC will be a multidisciplinary facility, emphasizing educational and clinical research facilities, and including space for specialty clinical services such as the Betty Ford Comprehensive Breast Center and the Incontinence Center. This will be the only center in the Nation dedicated solely to women's health services.

Under the provisions of the bill, Columbia Hospital for Women will purchase the property for $12.8 million. Previously, the property was appraised at $18 million; however, the General Services Administration agreed that the $12.8 million purchase price reflects existing zoning restrictions and a changing economic environment. Columbia Women's Hospital will pay the purchase price in full upon conveyance of the property. As further compensation for the property, Columbia Women's Hospital will establish and operate three satellite health centers in Washington, DC, at no cost to the Federal Government. These women and infant centers will focus on prenatal care, social services, substance abuse, nutrition, and education.

Mr. President, I am pleased to introduce this important legislation to address the critical need for greater research of women's health concerns, and I encourage my colleagues to support this important legislation. I ask that a copy of this legislation be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

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

S. 91

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

SECTION 1. CONVEYANCE OF LAND.

(a) ADMINISTRATOR OF GENERAL SERVICES.—Subject to sections 2 and 4, the Administrator of General Services (hereinafter in this Act referred to as the "Administrator") shall convey, for $12,800,000 to be paid in accordance with the terms set forth in subsection (d)(2) and other consideration required by this Act, to the Columbia Hospital for Women (formerly Columbia Hospital for Women and Lying-in Asylum; hereinafter in this Act referred to as "Columbia Hospital"), located in Washington, District of Columbia, all right, title, and interest of the United States in and to those pieces or parcels of land in the District of Columbia, described in subsection (b), together with all improvements thereon and appurtenances thereto. The purpose of the conveyance is to provide a site for the construction by Columbia Hospital of a facility to house the National Women's Health Resource Center (hereinafter in this Act referred to as the "Resource Center"), as described in the Certificate of Need issued for the Resource Center in conformance with District of Columbia law and in effect on the date of conveyance.

(b) PROPERTY DESCRIPTION.—The land referred to in subsection (a) was conveyed to the United States of America by deed dated May 2, 1888, from David Fergusson, widower, recorded in liber 1314, folio 102, of the land records of the District of Columbia, and is that portion of square numbered 25 in the city of Washington in the District of Columbia which was not previously conveyed to such hospital by the Act of June 28, 1952 (Public Law 82-423). Such property is more particularly described as square 25, lot 803, or as follows: all that piece or parcel of land situated and lying in the city of Washington in the District of Columbia and known as part of square numbered 25, as laid down and distinguished on the plat or plan of said city as follows: beginning for the same at the northeast corner of the square being the corner formed by the intersection of the west line of Twenty-fourth Street Northwest,

with the south line of north M Street Northwest and running thence south with the line of said Twenty-fourth Street Northwest for the distance of two hundred and thirty-one feet ten inches, thence running west and parallel with said M Street Northwest for the distance of two hundred and thirty feet six inches and running thence north and parallel with the line of said Twenty-fourth Street Northwest for the distance of two hundred and thirty-one feet ten inches to the line of said M Street Northwest and running thence east with the line of said M Street Northwest to the place of beginning two hundred and thirty feet and six inches together with all the improvements, ways, easements, rights, privileges, and appurtenances to the same belonging or in anywise appertaining.

(c) DATE OF CONVEYANCE.—

(1) DATE.—The date of the conveyance of property required under subsection (a) shall be the date which is 1 year after the date of receipt by the Administrator of written notification from Columbia Hospital that the hospital needs such property for use as a site to provide housing for the Resource Center.

(2) DEADLINE FOR SUBMISSION OF NOTIFICATION.—A written notification of need from Columbia Hospital shall not be effective for purposes of subsection (a) and paragraph (1) unless the notification is received by the Administrator before the date which is 1 year after the date of the enactment of this Act.

(d) CONVEYANCE TERMS.—

(1) IN GENERAL.—The conveyance of property required under subsection (a) shall be subject to such terms and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States. Such terms and conditions shall be consistent with the terms and conditions set forth in this Act.

(2) PAYMENT OF PURCHASE PRICE.—Columbia Hospital shall pay the $12,800,000 purchase price in full by not later than the date of conveyance under subsection (c).

(3) QUITCLAIM DEED.—Any conveyance of property to Columbia Hospital under this Act shall be by quitclaim deed.

(e) TREATMENT OF AMOUNTS RECEIVED.—Amounts received by the United States as payment under this Act shall be paid into, administered, and expended as part of the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

SEC. 2. LIMITATION ON CONVEYANCE.

No part of any land conveyed under section 1 may be used, during the 30-year period beginning on the date of conveyance under section 1(c)(1), for any purpose other than to provide a site for a facility to house the Resource Center and any necessary related appurtenances to that facility.

SEC. 3. SATELLITE HEALTH CENTERS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 4 years after the date of the conveyance under section 1, Columbia Hospital, after consultation with the District of Columbia Commission of Public Health and the District of Columbia State Health Planning and Development Agency, shall establish, maintain, and operate 3 satellite health centers.

(2) PERSONS TO BE SERVED.—One of the satellite health centers shall provide comprehensive health and counseling services exclusively for teenage women and their children. The other 2 satellite health centers shall provide comprehensive health and counseling services for women (including teenage women) and their children.

(3) LOCATION.—The satellite health centers shall be located in areas of the District of Columbia in which the District of Columbia Department of Public Health has determined that the need for comprehensive health and counseling services provided by the centers is the greatest. In locating such centers, special consideration shall be given to the areas of the District with the highest rates of infant death and births by teenagers.

(b) COMPREHENSIVE HEALTH AND COUNSELING SERVICES.—In subsection (a), comprehensive health and counseling services include—

(1) examination of women;

(2) medical treatment and counseling of women, including prenatal and postnatal services;

(3) treatment and counseling of substance abusers and those who are at risk of substance abuse;

(4) health promotion and disease prevention services;

(5) physician and hospital referral services; and

(6) extended and flexible hours of service.

(c) REQUIRED CONSIDERATION.—The establishment, operation, and maintenance of satellite health centers by Columbia Hospital in accordance with this section shall be part of the consideration required by this Act for the conveyance under section 1.

SEC. 4. REVERSIONARY INTEREST.

(a) IN GENERAL.—The property conveyed under section 1 shall revert to the United States—

(1) on the date which is 4 years after the date of such conveyance if Columbia Hospital is not operating the Resource Center on such property; and

(2) on any date in the 30-year period beginning on the date of such conveyance, on which the property is used for a purpose other than that referred to in section 2.

(b) REPAYMENT.—If property reverts to the United States under subsection (a), the Administrator shall pay to Columbia Hospital, from amounts otherwise appropriated from the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), an amount equal to all sums received by the United States as payments for the conveyance under section 1, without interest on such amount.

(c) ENFORCING REVERSION.—The Administrator shall perform all acts necessary to enforce any reversion of property to the United States under this section.

(d) INVENTORY OF PUBLIC BUILDINGS SERVICE.—Property that reverts to the United States under this section—

(1) shall be under the control of the General Services Administration; and

(2) shall be assigned by the Administrator to the inventory of the Public Buildings Service.

SEC. 5. DAMAGES.

(a) DAMAGES.—Subject to subsection (b), for each year in the 26-year period beginning on the date which is 4 years after the date of conveyance under section 1(c)(1), in which Columbia Hospital does not operate 3 satellite health centers in accordance with section 3 for a period of more than 60 days, the Columbia Hospital shall be liable to the United States for damages in an amount equal to $200,000, except that this subsection shall not apply after the date of any reversion of property under section 4.

(b) LIMITATION IN DAMAGES.—The maximum amount of damages for which Columbia Hospital may be liable under this section shall be $3,000,000.

(c) ADJUSTMENTS FOR INFLATION.—The amount of damages specified in subsection (a) and the maximum amount of damages specified in subsection (b) shall be adjusted biennially to reflect changes in the consumer price index that have occurred since the date of the enactment of this Act.

(d) ASSESSMENT AND WAIVER.—For any failure by Columbia hospital to operate a satellite health center in accordance with section 3, the Administrator may—

(1) seek to recover damages under this section; or

(2) waive all or any part of damages recoverable under this section for that failure, if the Administrator—

(A) determines the failure is caused by exceptional circumstances; and

(B) submits a statement to the District of Columbia Commission of Public Health and the Congress, that sets forth the reasons for the determination.

(e) CONVEYANCE DOCUMENTS.—The Administrator shall include in the documents for any conveyance under this Act appropriate provisions to—

(1) ensure that payment of damages under this section is a contractual obligation of Columbia Hospital; and

(2) require the Administrator to provide to Columbia Hospital notice and an opportunity to respond before the Administrator seeks to recover such damages.

SEC. 6. REPORTS.

During the 5-year period beginning one year after the date of the conveyance under section 1, Columbia Hospital shall submit to the Administrator, the appropriate committees of the Congress, and the Comptroller General of the United States annual reports on the establishment, maintenance, and operation of the Resource Center and the satellite health centers.

By Mr. HOLLINGS (for himself, Mr. HEFLIN, Mr. BIDEN, and Mr. ROBB):

S. 92. A bill to create a legislative line-item veto by requiring separate enrollment of items in appropriations bills; to the Committee on Rules and Administration.

LEGISLATIVE LINE-ITEM VETO SEPARATE ENROLLMENT AUTHORITY

Mr. HOLLINGS. Mr. President, I rise today to introduce legislation which enables the President to control wasteful and unnecessary appropriations and thereby reduce the Federal deficit. This bill, a statutory, separate enrollment line-item veto, is identical to a measure previously considered by the 99th Congress as well as legislation reported favorably by a bipartisan vote out of the Senate Budget Committee on July 25, 1990.

Currently, 43 States have, in one form or another, a line-item veto allowing the chief executive to limit legislative spending. As a former Governor who inherited a budget deficit in a poor State, I can testify that a line-item veto is invaluable in imposing fiscal restraint.

The fiscal problems of our Nation have been painfully documented. Our Government currently faces annual deficits well over $400 billion and a total debt eclipsing $4 trillion. For years now, we have been toying with freezes, asset sales and sham summits, but the deficit and debt continue to grow.

The American taxpayer, as well as the Congress, have grown weary of the smoke and mirrors and are past ready for a serious deficit reduction package. If ever there was a problem that needed to be attacked from every possible angle, it is this deficit. Over the past few months President Clinton has repeatedly stressed his resolve to attack the burgeoning deficit monster. In order to hold him to that commitment, we should send him into battle well armed. By restoring accountability and responsibility throughout the appropriations process, the line-item veto would force Members of Congress and the President to stop fixing the blame and to start fixing the problem.

This legislation provides that each item shall be enrolled as a separate bill and sent to the President for his approval. Therefore, each item of an appropriations bill would be subject to veto or approval, just like any other bill, and the override provisions found in article I of the Constitution would apply in the case of a veto. Item is defined as any numbered section and any unnumbered paragraph of an appropriations bill. The enrolling clerk would merely break an appropriations bill down into its component parts and send each separately enrolled provision to the President.

Finally, this legislation also contains a 2-year sunset provision allowing for a reasonable testing period and requiring an evaluation of the line-item veto's success. I have no question but that it will be demonstrated to be a modest, but effective, method of restraining fiscal profligacy. I hope that Senators will join me in this effort, and I ask that the full text of the bill be printed in the RECORD at this time.

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

S. 92

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

TITLE XI—LEGISLATIVE LINE ITEM VETO SEPARATE ENROLLMENT AUTHORITY LEGISLATIVE LINE ITEM VETO

"SEC. 1101. (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

"(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

"(A) shall be enrolled without substantive revision;

"(B) shall conform in style and form to the applicable provision of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this title); and

"(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

"(b) A bill or joint resolution enrolled pursuant to subsection (a)(1) with respect to an item shall be deemed to be a bill under clauses 2 and 3 of section 7 of article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

"(c) For purposes of this concurrent resolution, the term 'item' means any numbered section and any unnumbered paragraph of—

"(1) any general or special appropriation bill; and

"(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.".

(b) The amendment made by subsection (a) shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this Act.

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. INOUYE, Mr. CONRAD, and Mr. DASCHLE):

S. 93. A bill to amend the Public Health Service Act to establish the National Center for Nursing Research as a National Institute, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL INSTITUTE OF NURSING RESEARCH ACT

• Mr. HARKIN. Mr. President, I rise today to reintroduce, on behalf of myself, Senator KENNEDY, Senator INOUYE, and Senator CONRAD, the National Institute for Nursing Research Act. This important legislation would appropriately elevate the status of the successful National Center for Nursing Research [NCNR] at the National Institutes of Health to that of an institute—the National Institute for Nursing Research.

The legislation we are reintroducing today is simple and straightforward. It redesignates the National Center for Nursing Research as the National Institute for Nursing Research, a change which appropriately reflects the fact the NCNR's existing structure and range of activities is in line with other institutes at NIH. Our bill has the support of a large number of national organizations as well as a bipartisan coalition in Congress. The text of the bill was included in the NIH Reauthorization bill passed by Congress and vetoed by President Bush last year. I am pleased to say that it will be incorporated into the new NIH Reauthorization bill being introduced today. I want to thank and commend Senator KENNEDY for his leadership and assistance in making this happen.

Mr. President, as I said in introducing this legislation last Congress, it is not only appropriate that Congress take the important step of elevating the status of the Nursing Center to that of an Institute, it is a step that is overdue. America's nearly 2 million nurses have for too long been denied the recognition and status they deserve within our health care system. Throughout our Nation's history, nurses have been at the core of our health care system, providing high-quality, cost-effective care. Yet, the role and accomplishments of nurses within the health care system have too often not been given appropriate equal recognition. And so it has been in the area of research. While NCNR has proven itself as a major force within NIH and despite a structure and list of activities which put it on par with other Institutes, it has not been recognized as such by being given the designation as an Institute.

In 7 years since its establishment, the National Center for Nursing Research has established itself as the world's leader in nursing research. NCNR supports a broad range of research to better our ability to prevent and treat the numerous diseases and disabilities confronting Americans. Its research focuses on how people of all ages respond to disease and its treatment, physiologically and psychologically, and on the promotion of improved health and the prevention of disease and disability. This emphasis on preventive health is most appropriate as nurses have long been at the forefront of health promotion and disease and disability prevention. As aptly noted by NCNR, because of nurses' close proximity to patients and their families, they are ideally situated to carry out these kinds of research and to translate findings directly into nursing practice and better health care outcomes.

Mr. President, the National Center for Nursing Research has been tremendously successful in its short history. Through its Division of Extramural Programs and Division of Intramural Research, NCNR has produced critical research findings that are already resulting in more affordable, higher quality health care for many Americans. For example, through a grant from NCNR, nurse researchers at the University of Iowa are developing cost effective ways of reducing the incidence of falls among frail older Americans. The results of this research will greatly improve the quality of life for many older Americans, while lowering long-term care costs for themselves and their families by reducing the incidence of broken hips, a leading cause of nursing home admissions.

Another notable NCNR supported study, by researchers at the University

of Wisconsin School of Nursing, resulted in improved care and reduced costs for prematurely born babies. As recently reported in the New York Times, by creating a less stressful hospital environment for premature babies, project directors were able to demonstrate an improvement in their breathing and eating, a reduction in complications, improved neurological development and shorter hospital stays. The cost of care for the infants in the study was significantly reduced, by an average of $12,250 per baby.

Mr. President, I have been pleased, as chairman of the Senate Appropriations Subcommittee that funds the National Institutes of Health, to have been able to preside over a significant expansion of support for NCNR. In my 4 years as chairman, we have been able to increase funding for nursing research by nearly 50 percent, from $33 million in fiscal year 1990 to $48.2 million this fiscal year. And I am convinced that this investment is among the wisest and most cost effective we have made. I have been particularly pleased with the investment NCNR has in turn made in critical areas such as women's health, long-term care for the elderly and disabled, and the special health care needs of rural America.

The elevation of NCNR to institute status will help further build on nursing research's impressive beginning at NIH.

Mr. President, I again want to thank the members of my Nurses Advisory Committee for their input and assistance on this proposal. I formed this organization, which is made up of nurse leaders from across Iowa, in 1985 to study health care issues and to give me advice and recommendations for reform. They have been of invaluable assistance to me over the past 8 years, providing me with expert advice and ideas that have turned into legislative action here in the Senate. I met with leaders of the group last month and will be looking to their advice as we tackle the difficult issue of health care reform this year. Their work is valued and trusted and I would recommend to my colleagues the formation of similar nurse advisory groups.

Mr. President, in closing I simply would urge my colleagues to join us in supporting this legislation and hope that it gains swift approval so that nursing research can take its rightful position at the NIH.

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

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

S. 93

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Institute of Nursing Research Act".

SEC. 2. REDESIGNATION OF NATIONAL CENTER FOR NURSING RESEARCH AS NATIONAL INSTITUTE OF NURSING RESEARCH.

(a) IN GENERAL.—Subpart 3 of part E of title IV of the Public Health Service Act (42 U.S.C. 287c et seq.) is amended—

(1) in section 483—

(A) in the heading for the section, by striking "center" and inserting "institute"; and

(B) by striking "The general purpose" and all that follows through "is" and inserting the following: "The general purpose of the National Institute of Nursing Research (hereafter in this subpart referred to as the 'Institute') is";

(2) in section 484 by striking "Center" each place such term appears and inserting "Institute";

(3) in section 485—

(A) in subsection (a), in each of paragraphs (1) through (3), by striking "Center" each place such term appears and inserting "Institution";

(B) in subsection (b)—

(i) in paragraph (2)(A), by striking "Center" and inserting "Institute";

(ii) in paragraph (3)(A), in the first sentence, by striking "Center" and inserting "Institute"; and

(C) in subsections (d) through (g), by striking "Center" each place such term appears and inserting "Institute".

(b) CONFORMING AMENDMENTS.—

(1) ORGANIZATION OF NATIONAL INSTITUTE OF HEALTH.—Section 401(b) of the Public Health Service Act (42 U.S.C. 281(b)) is amended—

(A) in paragraph (1) by adding at the end the following new subparagraph:

"(N) The National Institute of Nursing Research."; and

(B) in paragraph (2), by striking subparagraph (D).

(2) TRANSFER OF STATUTORY PROVISIONS.—Sections 483 through 485A of the Health Service Act, as amended by subsection (a) of this section—

(A) are transferred to part C of title IV of such Act;

(B) are redesignated as sections 464L through 464O of such part; and

(C) are inserted, in the appropriate sequence, after section 464F of such part.

(3) HEADING FOR NEW SUBPART.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended—

(A) in part C, by inserting before section 464L the following new heading:

"Subpart 14—National Institute of Nursing Research"; and

(B) by striking the heading for subpart 3 of part E.

(4) CROSS-REFERENCES.—Title IV of the Public Health Service Act, as amended by the preceding provisions of this section, is amended in subpart 14 of part C—

(A) in section 464M, by striking "section 483" and inserting "section 464L";

(B) in section 464N(g), by striking "section 486" and inserting "section 464O"; and

(C) in section 464O, in the last sentence, by striking "section 485(g)" and inserting "section 464N(g)".●

By Mr. DOMENICI:

S. 94. A bill to provide a comprehensive congressional campaign financing reform to encourage grassroots campaign giving, lessen the role of special economic interests, prohibit the use of soft money, discourage candidate expenditures of personal wealth, and otherwise restore greater competitive balance to the congressional electoral process; to the Committee on Rules and Administration.

GRASSROOTS CAMPAIGNING AND ELECTION REFORM ACT OF 1993

Mr. DOMENICI. Mr. President, I am going to send a bill to the desk on campaign reform and I am going to say very boldly, if you want a bill that is real reform, that will restrain the amount of money raised, and that will rid political fundraising of the image that it consumes all of our time and leaves Senators and Representatives beholden to all kinds of national groups, you should give this bill serious consideration.

I believe before we are finished more than just Senators are going to catch onto its simplicity and its effectiveness.

Mr. President, this bill restricts the acceptance of campaign contributions so that you only can receive contributions for your campaign from people who reside in your State. The limits on those contributions remain the same as current law, a maximum of $1,000 per individual per election, primary and general.

Second, political action committees can continue to contribute, but only $500, and they must be located within your State or you cannot accept contributions from them.

Third, there was a renewed vigor in the last cycle of candidates funding their campaigns with their own wealth. I did not know that until I read a flowsheet of all the new Members and their wealth and how much they contributed for their campaigns.

This Senator is not trying to limit the right, recognized by the Supreme Court, to contribute to one's own campaign. What I am doing in this bill, very simply I call it millionaires' equity. It merely says those who are going to fund campaigns with their own money must certify if they are going to spend over $100,000 for a House seat or over $250,000 for a Senate seat. And they must do that early in the campaign. Then 90 days before the election, candidates can no longer use their own fortune to pump up their campaign right at the end. In that intermediate time they can spend all they want. But the limitations are removed from the candidate who is not using his own money and instead of $1,000 they can raise $10,000 per citizen. It seems to me that makes it a bit more equitable.

Inherent in this approach is the fact that you will greatly reduce the amount of money spent, you will greatly reduce the time spent away from your constituents if you adopt this grassroots funding approach. And if a Senator or House Member wants to run using their own fortune, then the candidate running against him in either party is given an extra advantage of raising money to try to equalize the disparity.

Frankly, all soft money is abolished. Under this legislation, corporations and labor unions would be out of the business of indirectly funding Senate and House campaigns. You raise it all from your constituents as I have just stated.

Mr. President, the bill I send to the desk I believe has already added—and will continue to add—constructively to the Senate's debate over the importance of campaign finance reform. My colleagues will note that I have cosponsored other legislation introduced today dealing with this issue. The bill I now send to the desk should be an important component of the Senate's consideration as to how Federal campaigns are financed.

This legislation is identical to legislation I introduced in the 102d Congress, S. 91, and is very similar to legislation I introduced in the 101st Congress, S. 2265, both of which I believe added constructively to the Senate's debate over this important issue.

The need for reform is obvious. For example, spending has increased dramatically over the past 2 years, a reported 41 percent from 1990 for House races alone. As important, I have come to the conclusion that possibly the greatest failure of our current system is that it has damaged the faith our constituents have in us to represent their interests. It is time to offer real reform—reform that takes back to those we represent—our own State or district voters.

For far too long, Members of Congress have been forced to rely on special interest groups, PAC's, and big spenders to fund their campaigns. If we don't rely on our own constituents, how can we expect them to rely on us?

I hope that the 103d Congress offers us an opportunity that simply wasn't available in previous Congresses—an opportunity to restore the faith of the American people in the way their elected representatives are chosen. That will require more than simply further regulating the current system. Today I introduce legislation that I think addresses the real problem.

My bill makes four very straightforward and specific changes in the law, each of which I believe the American people will support with enthusiasm.

First, this legislation imposes a flat out prohibition on House and Senate candidates raising money outside their home State;

Second, my bill abolishes PAC's as we know them.

Third, this bill creates a strong disincentive to super wealthy candidates throwing masses of family money into a campaign; and

My bill eliminates "soft money" so often used to get around controls on fundraising.

With the outline, let me describe the specifics of this legislation.

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TITLE

Section 1 of this legislation is the short title, and a most accurate one: The Grassroots Campaigning and Election Reform Act of 1993.

IN-STATE GIVING

Section 2 is the heart and soul of this omnibus approach to campaign reform.

First of all, section 2 leaves in place the existing $1,000 limit on individual donations, and then places new, restrictive guidelines on those donations.

Section 2 says that, as of the date of enactment of this act, no candidate for the Congress—either the Senate or the House of Representatives—may raise any funds from outside the State in which that candidate is running.

If you are a candidate for the U.S. Senate in New Mexico, you must henceforth raise your money from contributors who live in Albuquerque, Farmington, Las Cruces, and Roswell. You can no longer raise funds from persons or organizations in New York, Los Angeles, or Dallas.

Obviously, such an out-of-State prohibition—or even a sharp limitation—would make it far tougher to raise large sums of campaign money. Therefore, this section will inherently reduce spending, which is the goal of so many in this Chamber.

This section restrains campaign spending not with some arbitrary, partisan, federally imposed ceiling—one giving incumbents a great advantage. Nor does my approach use tax dollars to underwrite our campaigns.

Section 2 simply requires that we Members of the Congress return to our own constituents for our full support.

To this Senator, this represents a fair and reasonable approach.

PAC'S

Section 3 of the bill is also vitally important. It essentially eliminates PAC's. My view is that if individuals want to give, let them give directly to their home-State candidate.

When the American people are asked about campaign financing, there is no doubt that they state their strongest concerns over the role of PAC's, political action committees.

We must listen to the American people.

I have voted in the past to prohibit PAC's, Section 3 prohibits PAC's established by banks, businesses, and labor unions. That is a flat-out prohibition.

And because of the constitutional problems involving other types of PAC's, my bill reduces to $500, from $5,000, the amount that any other PAC can give to a candidate. I believe that will render such contributions relatively ineffective, particularly in conjunction with section 2 of the bill, which says a PAC must be headquartered in the candidate's State in order to give a legal contribution.

So section 3, in combination with section 2, eliminates PAC's as a player in the political effort to elect Members of the House and Senate. That is a wise course for the Congress to take. It is one the American people will applaud.

WEALTHY CANDIDATES

A growing problem in congressional politics, we know, is the specter of the super-wealth candidate "buying" a seat in this body. There is no doubt that the danger of such a "buy" would be magnified under the contribution constraints of section 2.

So I have included section 4 to ensure fairness when a wealthy candidate runs against a candidate of more modest means.

As my colleagues may recall, I have worked to reduce the ability of a wealthy candidate to buy a seat for some time. I introduced S. 597 and S. 2265 during the 101st Congress and then included similar provisions in S. 91, my campaign finance reform bill last year.

We all know the tremendous advantages available to the very wealthy candidate, when that candidate decides to spend large sums of his or her own money on the campaign.

Under the provisions of section 4, the current dollar limits on contribution—$1,000, plus the in-State limit—remain in effect and unchanged, so long as all candidates in a race restrain personal spending to certain limits: $250,000 when running for the Senate or $100,000 for a House campaign, totals that include personal loans to the campaign.

But should a wealthy candidate unleash the family treasury section 4 gives the opponent a chance to compete. In that case, section 4 eliminates the in-State requirements of section 2 in this bill, and it raises the individual giving limit for that specific race to $10,000.

These limits would be loosened for the opponent or opponents of the wealthy candidate, not the wealthy candidate.

Thus a wealthy candidate would cross that big-spending threshold at his or her great peril. But that is his or her choice.

But let me reiterate: if all candidates hold to the family contribution limits I have cited, all other contribution limits will be maintained, and this section would have no impact whatsoever on that race.

Section 4 also deals with the problem of a last-minute deluge of money. It prohibits personal contributions or loans by any candidate or the candidate's family during the final 90 days before any election, regardless of whether the candidate has breached the personal limitations prior to that date.

Thus, the wealthy candidate must make his or her strategy known by early August at the latest, giving the opposition time to compete in the political money markets.

Under this approach, every candidate can be assured that he or she will never confront a last minute avalanche of

family money—money the poorer opponent could never offset with last-minute contributions.

SOFT MONEY

Section 5 controls another very pervasive problem in our political system, what has come to be called soft money—contributions for voter registration drives and other forms of spending designed to assist one party or one candidate.

We all know that huge sums of money are spent outside the regular process, but in full coordination with many candidates. That is money the public never hears about, but it is spending that often shows up in far larger chunks than anything an individual or a PAC can otherwise contribute.

This is money that truly distorts the system, and we need to bring it into the open, so it either disappears or becomes a contribution directly to the candidate, and reported to the public. Let the public judge to whom a candidate might stand beholden.

Section 5 says that banks, businesses, and labor unions no longer can distort the system with soft money. They won't like that, but the American people will.

Mr. President, campaign reform is an issue that we must resolve, once and for all. Our constituents expect it, and they deserve it.

I am convinced that this legislation represents an effective way to reform campaign financing, rebuilding the link between candidates for Congress and constituents.

I send that bill to the desk and my in-depth analysis regarding it, and ask it be referred appropriately.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

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

S. 94

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Grassroots Campaigning and Election Reform Act of 1993".

RELIANCE ON IN-STATE CONTRIBUTIONS

SEC. 2. (a) Chapter 2, section 441 of title 2, United States Code, is amended by inserting a new subection (h), and relettering subsequent sections appropriately:

"(h)(1) It shall be unlawful for any candidate for the Senate of the United States or the House of Representatives of the United States to solicit or accept any funds for the purposes of election to the Senate or the House of Representatives from any individual, organization, or political action committee that does not reside or have its headquarters within the State from which such candidate seeks election.

"(2) Each contributor to a candidate under the terms of paragraph (1) of this subsection shall provide evidence of the State of residence of such contributor, pursuant to limits described in paragraph (3) of this subsection.

"(3)(A) For the purposes of determining the accuracy of any declaration of residence by a contributor, each candidate for the Congress of the United States shall maintain records of the home State of each contributor.

"(B) It shall be presumed that a contributor is a resident of the candidate's State if the contribution is made in the form of a check drawn on a bank within such State, and if the contribution is physically presented to the candidate or his agent in such State or mailed in an envelope postmarked in such State.

"(C) For any contribution in cash in excess of $99, such name and address shall be accompanied by a notarized statement attesting to the accuracy of such name and address.

"(D) Notwithstanding the provisions of subparagraph (B) of this subsection, any contribution in excess of $499 shall be accompanied by a notarized statement attesting to the accuracy of the name and address of the contributor.

"(E) Any contribution from a political party to a candidate shall be accompanied by a notarized statement as to the residence of the contributors of such funds.

"(4) Any contribution that fails to meet the criteria described in paragraph (3) of this subsection shall, within ten days of receipt, be returned to the contributor, if known, or given to a nonpolitical health or educational charitable organization of the candidate's choice within the candidate's State.

"(5) Each violation of this section shall subject the candidate to a civil penalty of $1,000".

(b)(1) As of January 31, 1993, each Member of the Senate of the United States elected in 1992 and each Member of the House of Representatives of the United States shall rebate to each Member's contributors, on a pro rata basis, all campaign funds retained as of January 1, 1993, or donate such funds to a nonpolitical health or educational charitable organization of the Member's choice within the Member's State.

(2) As of January 31, 1993, each Member of the Senate of the United States who was not a candidate for election in 1992 shall rebate to each Member's contributors, on a pro rata basis, all campaign funds raised as of such date, or donate such funds to a nonpolitical health or educational charitable organization of the Member's choice within the Member's State.

(3) Any funds not rebated or contributed pursuant to this subsection shall subject the Member to a civil penalty equal to twice the sums involved.

LIMITATIONS ON POLITICAL ACTION COMMITTEES

SEC. 3. (a) Chapter 2, section 441b of title 2, United States Code, is amended by deleting all of the text following subsection (b)(2)(B).

(b) Chapter 2, section 441a(a)(2) of title 2, United States Code, is amended by striking out "5,000" and inserting in lieu thereof "500" in subsection (A), and by placing a period after the word "committee" and striking all that follows in subsection (C).

(c) Chapter 2, section 441b of title 2, United States Code, is amended by inserting the following 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.".

USE OF PERSONAL WEALTH FOR CAMPAIGN PURPOSES

SEC. 4. Chapter 2, section 441 of title 2, United States Code, is amended by inserting a new subsection (i), and relettering subsequent sections appropriately:

"(i)(1)(A) Within fifteen days after a candidate qualifies for the ballot, under applicable State law, such candidate shall file with the Commission, a declaration stating whether or not such candidate intends to expend, in the aggregate:

"(i) At least $250,000, if a candidate for the Senate of the United States, or

"(ii) At least $100,000 if a candidate for the House of Representatives of the United States,

from his personal funds, and the funds of his immediate family, and incur personal loans in excess of such amount, in connection with his campaign for such office.

"(B) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, sister, half-brother, or half-sister of the candidate, and the spouse of any such person and any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate's spouse, and the spouse of any such person.

"(C) The statement required by this subsection shall be in such form, and shall contain such information, as the Commission may, by regulation, require.

"(2) Notwithstanding any other provision of law, in any election in which a candidate declares that he intends to expend more than the limits described in subparagraph (A) of paragraph (1), or does expend and incur loans in excess of such limits, or fails to file the declaration required by this subsection, the limitations on contributions in subsection (h) of this section, as they apply to all other candidates in such election in such State, shall be waived and the limitations on contributions in subsection (a) of this section, as they apply to all other individuals running for such office, shall be increased for such election as follows:

"(A) The limitations provided in subsection (a)(1)(A) shall be increased to an amount equal to 1000 per centum of such limitation, and

"(B) The limitations provided in subsection (a)(3) shall be increased to an amount equal to 150 per centum of such limitation, but only to the extent that contributions above such limitation are made to candidates affected by the increased levels provided in subparagraph (A).

"(3) If the limitations described in paragraph (2) of this subsection are increased pursuant to paragraph (2) for a convention or a primary election, as they relate to an individual candidate, and such individual candidate is not a candidate in any subsequent election in such campaign, including the general election, the provisions of paragraph (2) shall no longer apply.

"(4) Any candidate who—

"(A) declares, pursuant to subparagraph (1) of this paragraph that he does not intend to expend, in the aggregate, more than the limit described in subparagraph (1)(A); and

"(B) subsequently does expend and incur loans in excess of such amounts, or intends to expend and incur loans in excess of such amounts,

such candidate shall notify and file an amended declaration with the Commission and shall notify all other candidates for such office within twenty-four hours after changing such declaration or exceeding such limits, whichever first occurs, by sending such notice by certified mail, return receipt requested. Failure to so notify and so file shall subject such candidate to a civil penalty equal to twice the funds so expended.

"(5) Any candidate who incurs personal loans in connection with his campaign under

this Act shall not repay, either directly or indirectly, such loans from any contributions made to such candidate or any authorized committee of such candidate, if such contribution was made following the date of such election.

"(6) Notwithstanding any other provision of law, no candidate under this title may make expenditures from his personal funds or the personal funds of his immediate family, or incur personal loans in connection with his campaign for election to such office at any time after ninety days before the date of such election, or twenty-four hours after the primary election for such office, whichever date shall later occur. The provisions of this paragraph shall apply to all candidates regardless of whether such candidate has reached the limits provided in paragraph (1) of this subsection. Violation of this paragraph shall subject such violator to a civil penalty three times the funds so expended.

"(7) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to assure compliance with the provisions of this subsection.".

SOFT MONEY

"SEC. 5. (a) At the appropriate place in Federal Election Campaign Act of 1971 (2 U.S.C. 441), insert the following new section:

"( )(A) Any amount solicited, received or spent by a national, State, or local committee of a political party, directly or indirectly, shall be subject to the provisions of this Act, if such amount is solicited, received, or spent in connection with a Federal election. No part of such amount may be allocated to a non-Federal account or otherwise maintained in, or paid from, an account that is not subject to this Act. This section shall not apply to amounts described in section 431 (b)(B)(viii) of title 2.

"(B) For purposes of this section, the term "in connection with a Federal election" includes any activity that may affect a Federal election, including but not limited to the following:

"(1) Voter registration and get-out-the-vote activities;

"(2) Generic activities, including but not limited to any broadcasting, newspaper, magazine, billboard, mail, or similar type of communication or public advertising;

"(3) Campaign materials which identify a Federal candidate, regardless of any other candidate who may also be identified.".

SEVERABILITY

SEC. 6. 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.

By Mr. HARKIN (for himself, Mr. PACKWOOD, Mr. HATFIELD, and Mr. LIEBERMAN):

S. 95. A bill to amend the Public Health Service Act to provide for the development and operation of centers to conduct research with respect to contraception and centers to conduct research with respect to infertility, and for other purposes; to the Committee on Labor and Human Resources.

CONTRACEPTIVE AND INFERTILITY RESEARCH CENTERS ACT OF 1993

Mr. HARKIN. I rise today on behalf of myself and Senators PACKWOOD, HATFIELD, and LIEBERMAN to introduce the Contraceptive and Infertility Research Centers Act of 1993. A companion measure is being introduced in the other body today by Congresswomen SCHROEDER and SNOWE.

Mr. President, the United States is without question the world leader in biomedical research. Yet when it comes to research and development in the areas of contraception and infertility, we have lagged behind a number of industrialized nations and even some in the developing world.

Infertility and contraception are central concerns of millions of Americans of child-bearing age. Nearly 2½ million couples desiring to have children struggle with the heartbreak and frustration of infertility. And each year about 3 million American women become pregnant who do not wish to do so.

Their anguish is great. All of these individuals can benefit from intensified research on these basic family planning issues.

We can all agree that abortion is no one's first choice for avoiding unintended births. Yet, of the 3 million women who become pregnant unintentionally each year, about half will terminate their pregnancies. It is disturbing that nearly half of all pregnancies that occur each year are among women who have become pregnant unintentionally because the contraceptive method they were using failed.

The fact is that there are only a limited number of safe and effective methods of preventing pregnancy. More research is needed in improved contraceptive methods that will reduce unintended pregnancies, and the less often such pregnancies occur, the fewer the number of abortions. That is the result we can all embrace—regardless of our political or religious beliefs.

In addition to reducing unwanted pregnancies, we must also explore ways in which sexually transmitted diseases, such as gonorrhea, syphilis, and HIV infection can be more effectively prevented. These research centers will explore new methods to prevent the transmission of these sexually transmitted diseases through the development of safe, effective, and low-cost contraception methods.

And just as those who are not prepared to bear children should have access to safe and effective contraceptive methods, whose who want to become parents should have access to safe and effective methods to help them conceive and bear children.

The causes of infertility are not always easy to diagnose, nor are they uniformly treatable. Treatments are often expensive, costing Americans approximately $1 billion in 1987. Yet even with such a large expenditure of funds, the success rate for treated couples is still generally low. Clearly, more research is needed into the causes of, and better treatments for, infertility in both men and women.

The need is clear. We simply must do more to encourage quality research in this country on contraception and infertility, and that is what this bill does. This bill gives specific authorization for the establishment of three research centers focused on developing improved methods of contraception and two research centers focused on developing better diagnosis and treatment of infertility through the National Institute of Child Health and Human Development.

The centers authorized in this bill will conduct clinical and applied research; train physicians, scientists, and other allied health professionals; develop model continuing education programs for such professionals; and disseminate information to them. The bill also provides for a loan repayment program for individuals involved in contraceptive or infertility research, in order to address the shortage of researchers in these fields.

Mr. President, this bill was introduced last Congress and was approved by the Congress as a component of the bill reauthorizing programs at the National Institutes of Health. However, much to my disappointment, the NIH bill was vetoed by President Bush. I am pleased to say that we were able to provide $3 million in the fiscal year 1991 National Institutes of Health appropriation to begin the process of establishing these critically important research centers, and support for the centers has grown somewhat since then. However, in order to assure that these centers are maintained and allowed to grow, as they need to, passage of this legislation is imperative.

I am pleased that the provisions of this bill will be included in the NIH reauthorization bill, which has been appropriately designated as S. 1. I am very hopeful that this vital legislation will be swiftly approved and signed into law.

Mr. President, as we mark the anniversary tomorrow of the Roe versus Wade decision protecting women's right to choose, I think it is most appropriate that we act on this commonsense, common ground legislation. Whatever positions we take on the question of abortion, if we are committed to helping couples have children who want them, and to reducing the incidence of abortion in the case of those who do not, this bill is a step in the right direction. I urge my colleagues to examine and to support it.

I ask unanimous consent that a summary and copy of the bill be printed in the RECORD at this point.

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

S. 95

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Contraceptive and Infertility Research Centers Act of 1993".

SEC. 2. CONTRACEPTIVE AND INFERTILITY RESEARCH CENTERS.

(a) RESEARCH CENTERS.—Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by adding at the end the following new section:

"SEC. 452A. RESEARCH CENTERS WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

"(a) IN GENERAL.—The Director of the Institute, after consultation with the advisory council for the Institute, shall make grants to, or enter into contracts with, public or nonprofit private entities for the development and operation of centers to conduct activities for the purpose of improving methods of contraception and centers to conduct activities for the purpose of diagnosing and treating infertility.

"(b) NUMBER OF CENTERS.—In carrying out subsection (a), the Director of the Institute shall, subject to the extent of amounts made available in appropriations Acts, provide for the establishment of three centers with respect to contraception and for two centers with respect to infertility.

"(c) DUTIES.—

"(1) IN GENERAL.—Each center assisted under this section shall, in carrying out the purpose of the center involved—

"(A) conduct clincial and other applied research, including—

"(i) for centers with respect to contraception, clinical trials of new or improved drugs and devices for use by males and by females (including barrier methods); and

"(ii) for centers with respect to infertility, clinical trials of new or improved drugs and devices for the diagnosis and treatment of infertility in both males and females;

"(B) develop protocols for training physicians, scientists, nurses, and other health and alied health professionals;

"(C) conduct training programs for such individuals;

"(D) develop model continuing education programs for such professionals; and

"(E) disseminate information to such professionals.

"(2) STIPENDS AND FEES.—A center may use funds provided under subsection (a) to provide stipends for health and allied health professionals enrolled in programs described in subparagraph (C) of paragraph (1), and to provide fees to individuals serving as subjects in clinical trials conducted under such paragraph.

"(d) COORDINATION OF INFORMATION.—The Director of the Institute shall, as appropriate, provide for the coordination of information among the centers assisted under this section.

"(e) CONSORTIUM.—Each center assisted under this section shall use the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such requirements as may be prescribed by the Secretary, after consultation with the Director of the Institute.

"(f) TERM OF SUPPORT AND PEER REVIEW.—Support of a center under subsection (a) may be for a period of not to exceed 5 years. Such period may be extended for one or more additional periods of not to exceed 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(g) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995 through 1998.".

"(b) LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.—Part F of title IV of such Act (42 U.S.C. 288 et seq.) is amended by inserting after section 487A the following new section:

"SEC. 487B. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO CONTRACEPTION AND INFERTILITY.

"(a) ESTABLISHMENT.—The Secretary, after consultation with the Director of the National Institute of Child Health and Human Development, shall establish a program to enter into agreements with appropriately qualified health professionals (including graduate students) under which such health professionals shall agree to conduct research with respect to contraception, or with respect to infertility, in consideration of the Secretary agreeing to repay, for each year of such service, not to exceed $20,000 of the principal and interest of the educational loans incurred by such health professionals..

"(b) ADMINISTRATIVE PROVISIONS.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a), apply to the program established in such subsection to the same extent and in the same manner as such provisions apply to the National Health Service Loan Repayment Program.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated under paragraph (1) for a fiscal year shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

"(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of the enactment of this Act.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 96. A bill to amend the Internal Revenue Code of 1986 to clarify the employment status of certain fishermen; to the Committee on Finance.

EMPLOYMENT STATUS OF CERTAIN FISHERMEN

Mr. KENNEDY. Mr. President, today I am introducing legislation that is of great importance to the economy of southeastern Massachusetts and the fishing port of New Bedford. I am pleased to be joined in this effort by my colleague, Senator KERRY. Identical legislation is being introduced today in the House by Congressmen NEAL and FRANK.

This measure is identical to a provision that was enacted by the Congress twice last session, as part of the tax bills passed in March and in October, and which unfortunately fell victim to the Presidential vetoes of those larger tax packages. It is my strong hope that Congress will approve this provision again at the earliest possible opportunity, and that the legislation will be signed into law this time.

The legislation is designed to correct a problem that has plagued hundreds of small family fishing businesses in New Bedford—the backbone of the southeastern Massachusetts economy. Since 1988, the Internal Revenue Service has been attempting to impose a controversial new interpretation of the withholding rules for fishing crews and to impose it retroactively to January 1, 1985. The IRS decided to make New Bedford a test case, and has threatened to seize the boats of the fishing fleet to collect back taxes. I understand that the Service has also begun enforcement proceedings in other coastal communities as well.

The Service's interpretation of the Tax Code was neither predictable nor logical. Our legislation will set the record straight with respect to the withholding rules. Mr. President, I ask unanimous consent that a summary of the legal issues involved here be entered in the RECORD following my brief remarks.

In short, I urge my colleagues to approve this legislation once again, so that we may finally lift the unjustified cloud that has hung for too long over the hard-working fishing families of Massachusetts.

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

SUMMARY—TAX STATUS OF FISHING CREWS

In 1988, the IRS modified its interpretation of section 3121(b)(20) of the Internal Revenue Code of 1986. The agency adopted a new interpretation as to whether service performed by individuals on certain small fishing vessels constituted "employment" for purposes of that section of the Code.

The IRS imposed this new interpretation retroactively, insisting that the boat owners should have been withholding taxes for their crew all along, and claiming that the owners owe more than $11,000,000 in back taxes, interest, and penalties. Serious questions exist as to notice and fairness, since some boat owners state that IRS personnel had earlier advised them that it was appropriate to treat crew members as self-employed. Each boat owner properly prepared and filed information returns with the IRS, reporting the gross payments to each crew member and further demonstrating their good faith in meeting the agency's requirements as they understood them at the time.

The IRS is pursuing enforcement actions against the boat owners on two grounds:

1. "Pers"—According to industry tradition dating back to the whaling days in New Bedford, a few crew members—the cook, the engineer, and the mate—are given a small payment above their share of the catch (about $25 per fishing trip), in recognition of their extra duties while at sea. Both the crew and the owner share the responsibility and cost of these small payments. Section 3121(b)(20)(B) of the Code specifies that service as a fisherman can only be excluded from the definition of employment if the individual performing the services is compensated only by receiving a share of the catch (i.e., not a fixed salary). In 1988, the IRS began taking the position that "pers" payments had the effect of treating the individual receiving them as being engaged in "employment," notwithstanding that the extra payments are de minimis and involve an industry tradition not considered by Congress when it enacted the original statute.

2. "Normally fewer than 10"—Section 3121(b)(20) of the Code requires that a fishing vessel have a operating crew of "normally fewer than 10" individuals in order for service on that vessel to be excluded from the definition of employment. For years, the industry has assumed that "normally" means over the course of a year, to account for seasonal fluctuations in crew size; the IRS implicitly endorsed this common-sense view, and raised no objections during tax audits. In 1988, however, the IRS began taking the position that "normally" must be evaluated quarter by quarter, not annually; i.e., a boat must meet the "normally fewer than 10" test in each quarter. This onerous requirement was never Congress' intent, since it ignores the variance in hiring practices on fishing vessels from peak season to slow season.

SUMMARY—PROPOSAL

Present Law—Service performed on fishing vessels may be excluded from the definition of "employment" for purposes of income and Social Security tax withholding. For the exclusion to apply, the service must be performed on a fishing vessel, the operating crew of which is normally made up of fewer than 10 individuals. In addition, the crewmembers may not receive compensation for services other than a share of the boat's catch and the amount of the individual's share must depend on the boat's catch.

Proposal—The proposal would make two modifications to section 3121(b)(20), to clarify the application of the section to fishermen in New Bedford and other ports in the country:

(a) The term "normally" would be defined in the statute to mean the average size of the operating crew on trips during the 4 preceding calendar quarters.

(b) The proposal would permit additional payments to be made to individuals on the vessel performing extra duties (such as mate, engineer or cook), if the payments were contingent on a minimum catch and did not exceed $100 per trip.

Effective Date—The proposal would generally be effective for taxable years beginning after December 31, 1984, unless the payor of remuneration treated the wages paid as subject to income and Social Security taxes when paid.

Revenue Estimate—The Joint Tax Committee estimated in October 1990 that the cost of the proposal would be $10 million in the first year and $1 million for each year thereafter.

By Mr. HARKIN (for himself and Mr. CONRAD)

S. 97. A bill to amend title XVIII of the Social Security Act and title III of the Public Health Service Act to protect and improve the availability and quality of health care in rural areas; to the Committee on Finance.

RURAL HEALTH CARE PROTECTION AND IMPROVEMENT ACT OF 1993

• Mr. HARKIN. Mr. President. I rise to reintroduce legislation I introduced last March that I believe is critical to the protection and improvement of access to health care in rural America. My bill, the Rural Health Care Protection and Improvement Act of 1993, will extend and expand three important and successful rural health programs. I am very pleased to be joined in this effort by my colleague from North Dakota, Senator KENT CONRAD.

The Rural Health Care Protection and Improvement Act of 1993 would do three things:

Extend the special Medicare-dependent small rural hospital payment provisions for 3 years, when the Medicare urban-rural hospital payment differential should be fully phased out.

Authorize an expansion of the Rural Health Outreach Grant Program that was created in the fiscal year 1991 Labor, Health and Human Services appropriations bill; and,

Keep the expiring Rural Health Transition Grant Program alive by extending it authorization for 5 more years and increasing its authorization level from $25 to $30 million a year.

Extensions of both the Medicare Dependent Hospital and Rural Health Transition Grant Programs were passed by Congress as a part of H.R. 11 last year. Unfortunately, the legislation was vetoed by President Bush. Quick action this year is essential. However, passage of this legislation is only a first step. There are many other improvements needed to assure that the special needs of rural America are met as we work this year on comprehensive health care reform legislation. As the new Democratic cochair of the Senate rural health caucus, I will be working actively to assure that these improvements are realized.

Mr. President, nowhere is our Nation's health care crisis more acute than in rural America. A particular problem for rural Americans has been the steady decline in the number of hospitals open to serve them. Between 1980 and 1990, 330 rural hospitals were forced to close their doors, in large part because of inequities in Medicare reimbursement. In 1989, Congress wisely acted to help redress these inequities by establishing the Medicare Dependent Small Rural Hospital [MDH] Program as a part of the Omnibus Budget Reconciliation Act. The MDH Program allows rural hospitals under 100 beds to quality for somewhat higher reimbursement if over 60 percent of their patient days went to caring for Medicare patients. While even with this additional assistance most of these small rural hospitals are still losing money treating Medicare patients, the MDH Program has provided the needed margin for survival for many. Its termination, which has already hit some hospitals, could force hundreds of hospitals to shut their doors or significantly scale back their operations, jeopardizing access to care for thousands of rural Americans.

It is, therefore, essential that this critical program be extended. Our bill takes the modest step of extending it until hospital reporting periods ending March 31, 1996, when the differential in what Medicare pays rural and urban hospitals hopefully will be fully phased out.

Mr. President, the end of the MDH Program is already having a profound effect on these critically important health care providers, their employees, and their patients across rural America. In my home State of Iowa, where 4 rural hospitals have closed in the last 6 years, and where a quarter of rural hospitals are now operating at a loss, the Franklin General Hospital in Hampton, IA, announced last year that it would have to lay off 25 employees, 11 percent of their staff, effective immediately due to the anticipated cutbacks in Medicare funding. If this program is not extended, the Van Buren County Hospital, a 40-bed acute care facility, will lose $149,000 next year, an amount equal to their entire bottom line last year. Francis T. Carr, administrator of the Eldora Regional Medical Center, told me that the $100,000 his hospital would lose if the Medicare Dependent Hospital Program ended would amount to 5 percent of its annual budget. Their only recourse would be raise taxes on county residents who are already bearing more than their fair share of health care costs, or to increase fees which would have the same effect, further fueling the spiraling cost of health care. Richard C. Hamilton, administrator of the Clarinda Municipal Hospital refers to the scheduled end of this program as "slow, constant financial strangulation."

Fifty-five small, rural Iowa hospitals are eligible for help under the MDH Program and 33 are being assisted by it. Expiration of the program could mean a loss of over $8.1 million a year for these hospitals. For some, that could well mean the end. And for thousands of Iowans, that would mean significantly reduced health care access.

Mr. President, the legislation I am reintroducing today also authorizes an expansion of the Rural Health Outreach Program that I worked to establish as a part of the fiscal year 1991 Labor, Health and Human Services appropriations bill. We began this innovative program to demonstrate the effectiveness of outreach programs to populations in rural areas that do not normally seek or have trouble accessing health or mental health services. The outreach grants are designed to address two major needs: First, improved outreach efforts by community and migrant health centers, local health departments, and other providers to reach many people in need of primary and preventive care who now are not being reached until they are acutely ill and need extensive and expensive hospital care, and, second, improved cooperation between health and social service agencies in reaching these people. This program has received overwhelmingly positive response from around the Nation.

In the Outreach Grant Program's short history, it has already had a great impact on improving coordination between health care providers and expanding access to needed health and

mental health services. Grants have been awarded now in all 50 States. In Iowa, the Grundy County Memorial Hospital in Grundy Center received funds to establish a hospice program to provide needed care to terminally ill individuals. Mahaska County Hospital in Oskaloosa, IA, received a grant to coordinate improved occupational health services to farm families and agribusiness employees in 15 southeastern Iowa counties. The residents of Monticello, IA, will benefit from improved access to preventive care as a result of a rural health outreach grant. Also, families of victims of Alzheimer's disease in three Iowa counties will be helped by the formation of support groups and community education programs supported by this program.

As chairman of the Labor-HHS Appropriations Subcommittee, I was pleased to be able to increase funding for this program to $24.8 million in fiscal year 1993. This legislation we are introducing today would authorize an expansion of the Outreach Grant Program to $50 million in fiscal year 1994 and such sums as necessary for fiscal years 1995 to 1998.

The Rural Health Care Protection and Improvement Act of 1993 would extend for 5 more years the Rural Health Transition Grant Program. The Transition Grant Program was to expire last year, but was extended for an additional year last year by language included in the fiscal year 1993 Labor, HHS appropriations bill.

This very successful program, established as a part of OBRA '87, helps small rural hospitals and their communities adapt to changing situations and needs. Situations such as excess hospital capacity and a declining supply of health professionals, increasing demand for ambulatory and emergency services, and the need for adequate access to emergency and inpatient care in areas where many underutilized hospital beds are being eliminated. Eligible hospitals receive grants of up to $50,000 a year for up to 3 years. In 1991, 188 hospitals in 44 States received grants under this program. Under this legislation, authorization of the Transition Grant Program from $25 to $30 million a year and extends its authorization through 1998.

Iowa has been particularly helped by the Transition Grant Program. It has consistently ranked among the top States in the number of hospitals receiving grants under the program. Among Iowa hospitals receiving new grant awards last year were the Winneshiek County Memorial in Decorah, Anamosa Community Hospital in Anamosa, Virginia Gay Hospital in Vinton, Grundy County in Grundy Center, Veterans Memorial in Waukon, Mercy in Corning, Van Buren County in Keosauqua, Story County in Nevada, Cass County Memorial in Atlantic, and Humboldt County Memorial in Humboldt.

Mr. President, rural Americans are at triple jeopardy—they are more often poor, more often uninsured, and more often without access to health care. They are at increased risk to motor vehicle injury and death with two-thirds of motor vehicle deaths occurring in rural areas. Over 12 million rural Americans also face the increased occupational risks of farming, America's most hazardous occupation. Rural America is home to a disproportionately large segment of older citizens who more often require long-term care for their illnesses and disabilities. And rural America is not immune from the social stresses of modern society. This is manifest by escalating needs for mental health services to deal with necessary alcohol- and drug-related treatment, and by the significantly higher rate of suicide in rural areas. Yet, rural Americans are increasingly becoming commuters for their health care. Rural Americans deserve to be treated equitably and this legislation takes several meaningful first steps toward assuring that quality health care is readily accessible to them.

Mr. President, while this bill is an important step toward improving health care for rural Americans, it is time for comprehensive health care reform in America that assures every American affordable, quality health care. This reform must recognize that affordable insurance is not of much help if there are no hospitals, doctors, nurses, and other health care professionals to provide needed care. It must also recognize that until we do a much better job at keeping people healthy and preventing disease and disability, we will never have a truly effective health care system. And our reforms must also protect Americans against what is for many the most devastating of costs and inhibiting to families—long-term care and personal assistance services. A need that is particularly great in rural areas because of higher elderly populations.

Mr. President, I urge my colleagues to join us in supporting this important legislation and ask unanimous consent that a copy and summary of the proposed bill be printed in the RECORD at this time.

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

S. 97

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Health Care Protection and Improvement Act of 1993".

SEC. 2. EXTENSION OF CERTAIN PAYMENT PROVISIONS FOR MEDICARE-DEPENDENT SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5)(G)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)(i)) is amended by striking "March 31, 1993" and inserting "March 31, 1996".

(b) PAYMENT.—Section 1886(b)(3)(D) of such Act (42 U.S.C. 1395ww(b)(3)(D)) is amended by striking "March 31, 1993" and inserting "March 31, 1996".

(c) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993 or 1994, the Secretary of Health and Human Services shall—

(1) notify such hospital of such failure to qualify,

(2) provide an opportunity for such hospital to decline such reclassification, and

(3) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D)) for fiscal year 1993 or 1994 as if the decision by the Review Board had not occurred.

(d) EFFECTIVE DATE.—

(1) The amendment made by subsections (a) and (b) shall be effective as of January 1, 1992.

(2) The amendments made by subsection (c) shall be effective on the date of the enactment of this Act.

SEC. 3. EXTENSION AND EXPANSION OF RURAL HEALTH TRANSITION GRANT PROGRAM.

(a) IN GENERAL.—Section 4005(e)(9) of the Omnibus Budget Reconciliation Act of 1987, as amended by section 6003(g)(1)(B) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997".

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

SEC. 4. ESTABLISHMENT OF RURAL HEALTH OUTREACH GRANT PROGRAM.

(a) IN GENERAL.—Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new section:

"SEC. 330A. RURAL HEALTH OUTREACH GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary may make grants to demonstrate the effectiveness of outreach to populations in rural areas that do not normally seek or do not have adequate access to health or mental health services. Grants shall be awarded to enhance linkages, integration, and cooperation in order to provide health or mental health services, to enhance services, or increase access to or utilization of health or mental health services.

"(b) MISSION OF THE OUTREACH PROJECTS.—Projects under subsection (a) should be designed to facilitate integration and coordination of services in or among rural communities in order to address the needs of populations living in rural or frontier communities.

"(c) COMPOSITION OF PROGRAM.—

"(1) CONSORTIUM ARRANGEMENTS.—Participation in the program established in subsection (a) requires the formation of consortium arrangements among 3 or more separate and distinct entities to carry out an outreach project.

"(2) CERTAIN REQUIREMENTS.—

"(A) A consortium under paragraph (1) must be composed of 3 or more public or private nonprofit health care or social service

providers. Consortium members may include such entities as local health departments, community or migrant health centers, community mental health centers, hospitals or private practices, or other publicly funded health or social services agencies.

"(B) Grantees currently receiving support under this program shall continue to be eligible for support.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995, 1996, 1997 and 1998.".

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

SUMMARY OF S. 97, THE RURAL HEALTH CARE PROTECTION AND IMPROVEMENT ACT OF 1993

This legislation would preserve and expand three programs that are critical to maintaining and improving access to health care in hundreds of rural communities across the nation. The "Rural Health Care Protection and Improvement Act of 1993":

Extends the special Medicare-Dependent Small Rural Hospital payment provisions for 3 years, when the urban-rural payment differential is set to be fully phased out.

Keeps the Rural Health Transition Grant Program alive by extending its authorization, set to expire this year, for five more years and increasing its authorization level from $25 million to $30 million a year.

Authorizes an expansion of the Rural Health Outreach grant program that was created in the Fiscal Year 1991 Labor, Health and Human Services Appropriations bill.

MEDICARE DEPENDENT HOSPITAL PROGRAM

Established in OBRA'89, this program provides a measure of relief to rural hospitals with 100 or fewer beds that are dependent upon Medicare for at least 60 percent of their patient days and do not qualify as sole community hospitals (SCHs). These hospitals are eligible for the same payment rules available to SCHs which allow them to receive hospital-specific rates higher than they would normally receive under PPS. 21 percent of rural hospitals are designated as Medicare Dependent Hospitals (MDHs) and 45 percent of MDHs receive higher Medicare payments because of this status. For those 243 hospitals, the average increase in Medicare payments is 17 percent over what they would otherwise be receiving.

Under current law the program ends with hospital cost reporting periods ending March 31, 1993. Many hospitals under the program have already lost assistance. This legislation extends the MDH program for an additional three years, providing strapped rural hospitals much needed relief until the urban/rural differential in Medicare payments is set to be phased out. Its provisions are retroactive until January 1, 1992 in order to assure that no hospital is penalized by the failure to enact the extension last year.

RURAL HEALTH TRANSITION GRANT PROGRAM

This very successful program, established as a part of OBRA'87, helps small rural hospitals and their communities adapt to changing situations and needs. Situations such as excess hospital capacity and a declining supply of health professionals, increasing demand for ambulatory and emergency services, and the need for adequate access to emergency and inpatient care in areas where many underutilized hospital beds are being eliminated. Eligible hospitals receive grants of up to $50,000 a year for up to 3 years. In 1991, 188 hospitals in 44 states received grants under this program. Fiscal year 1993 funding is $22.8 million.

Authorization for the transition grants expired in 1992 but was extended through the fiscal year 1993 Labor, Health and Human Services Appropriations act, this legislation would extend the program until 1997 and increase the authorization from $25 million to $30 million a year.

RURAL HEALTH OUTREACH PROGRAM

The FY'91 Labor, Health and Human Services Appropriations Act began this initiative to demonstrate the effectiveness of outreach programs to populations in rural areas that do not normally seek or have trouble accessing health or mental health services. The outreach grants, which have proven to be in great demand, are designed to address two major needs: 1) improved outreach efforts by community and migrant health centers, local health departments and other providers to reach many people in need of primary and preventive care who now are not being reached until they are acutely ill and need extensive and expensive hospital care, and, 2) improved cooperation between health and social service agencies in reaching these people. $24.8 million in rural outreach grants will be awarded to communities throughout the nation in fiscal year 1993.

This legislation would authorize an expansion of the outreach grant program to $50 million in 1994 and such sums as necessary for fiscal years 1995–1998.●

By Mr. BRADLEY:

S. 98. A bill to establish a Link-Up for Learning grant program to provide coordinated services to at-risk youth; to the Committee on Labor and Human Resources.

LINK-UP FOR LEARNING GRANT ACT

● Mr. BRADLEY. Mr. President, the poverty, hunger, illness, and family breakdown that is the tragic condition of too many American children has placed tremendous stresses on our educational system. When we look at the failures of American education, at declining test scores, at the difficulty businesses have in finding young workers with basic skills, we have to face up to the fact that many youngsters come to school unready to learn.

An empty stomach, pregnancy, homelessness, chronic illness, sleepless nights spent listening to a domestic fight in the next room or a gunfight in the street can make it impossible to focus the mind on reading, spelling, and multiplication tables. America's teachers know this, and they work hard to help each student overcome the barriers to learning. In any circumstance, this is a daunting proposition. But with class sizes of 30 students or more, inadequate facilities and stressful classroom settings, this can be a nearly impossible task. The Link-Up for Learning Act will help schools, families, and teachers connect students with the social services that will help them come to school ready to learn.

Link-Up for Learning recognizes that in every region of the country, services for children are available from many private and local government agencies. But too often neither parents nor teachers are aware of all the possibilities, so children's needs go unmet. Bringing together families, teachers, school personnel, and community social service providers will make it possible to see all of a child's needs so that all the adults involved can work together to help that child reach his or her fullest potential.

There is no single model for connecting schools, families, and social service providers. The Link-Up for Learning bill, by establishing a $100 million grant program in the Department of Education, will help various localities explore what works to meet the learning needs of at-risk kids in their schools. The common thread to all the projects will be that the districts must already be eligible to receive chapter I funds for disadvantaged students.

I expect that some of the projects funded will draw on New Jersey's School Based Youth Services Programs [SBYSP], which offer one of the most successful models for connecting schools with social services. The 29 centers established by this program offer a one-stop approach for students or dropouts between the ages of 13 and 19 who want an opportunity to complete their education or obtain other services. Many new projects will look at other ways to make the whole array of social services available to a particular young person or family.

Other programs, I expect, will link educational programs designed to address or prevent a particular problem with community-based programs in the same area. The healthy mothers/healthy babies initiative underway in 10 New Jersey cities offers a good example of this approach. Schools, prenatal care providers, social service agencies, and community and church groups work together to educate young mothers and to keep both mother and infant healthy. A successful program can help the mother complete her schooling and help her child grow up ready to learn, thus preventing two human tragedies.

I mention these models only as examples of how connecting schools, families, and community resources can help save children. The purpose of this bill is to unleash the creativity in our schools and communities to come up with new and better ways to make this connection.

Before closing, I need to acknowledge the enormous contribution made by the nation's school boards and their national association to this effort. These community-minded individuals have always been at the forefront of creating an effective school program. Their development and support for this Link-Up for Learning is proof of their commitment, and I thank them for it.

Mr. President, if we fail to educate the children who are poor in America today, we will consign one in five

Americans to a future of failure and low productivity. The millions of children who are victims of abuse and neglect each year, the 100,000 who are homeless, the millions who come from single-parent families bring enormous new problems to our schools. Teachers know that if they can find a way to address these problems, the process of learning can begin and succeed. Link-Up for Learning will help those kids find a way out of their problems so they can concentrate on learning and achieving the full potential of their minds and bodies.

I ask unanimous consent that a brief summary and the text of the bill be printed following my remarks.

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

S. 98

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Link-up for Learning Grant Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) growing numbers of children live in an environment of social and economic conditions that greatly increase the risk of academic failure when such children become students;

(2) more than 20 percent of the Nation's children live in poverty while at the same time the Nation's infrastructure of social support for such children has greatly eroded, for example, 40 percent of eligible children do not receive free or reduced price lunches or benefit from food stamps, 25 percent of such children are not covered by health insurance, and only 20 percent of such children are accommodated in public housing;

(3) many at-risk students suffer the effects of inadequate nutrition and health care, overcrowded and unsafe living conditions and homelessness, family and gang violence, substance abuse, sexual abuse, child abuse, involuntary migration, and limited English proficiency that often create severe barriers to learning the knowledge and skills needed to become literate, independent, and productive citizens;

(4) almost half of all children and youth live in a single parent family for some period of their lives, resulting in greatly reduced parental involvement in their education;

(5) high proportions of disadvantaged and minority children live with never married mothers or teenage mothers who have extremely limited resources available for early childhood development and education;

(6) large numbers of children and youth are recent immigrants or children of recent immigrants with limited English proficiency and significant unmet educational needs;

(7) services for at-risk students are fragmented, expensive, overregulated, often ineffective and duplicative, and focused on narrow problems and not the needs of the whole child and family;

(8) school personnel and other support service providers often lack knowledge of and access to available services for at-risk students and their family in the community, are constrained by bureaucratic obstacles from providing the services most needed, and have few resources or incentives to coordinate services;

(9) service providers for at-risk students such as teachers, social workers, health care givers, juvenile justice workers and others are trained in separate institutions, practice in separate agencies, and pursue separate professional activities that provide little support for coordination and integration of services;

(10) coordination and integration of services for at-risk students emphasizing prevention and early intervention offers a great opportunity to break the cycle of poverty that leads to academic failure, teenage parenthood, leaving school, low skill levels, unemployment, and low income; and

(11) coordination of services is more cost effective for schools and support agencies because it reduces duplication, improves quality of services, and substitutes prevention for expensive crisis intervention.

SEC. 3. PURPOSES.

(a) IN GENERAL.—It is the purpose of this Act to make demonstration grants to eligible entities to improve the educational performance of at-risk students by—

(1) removing barriers to such student's learning;

(2) coordinating and enhancing the effectiveness of educational support services;

(3) replicating and disseminating programs of high quality coordinated support services;

(4) increasing parental educational involvement;

(5) improving the capacity of school and support services personnel to collaborate educational services;

(6) integrating services, regulations, data bases, eligibility procedures and funding sources whenever possible; and

(7) focusing school and community resources on prevention and early intervention strategies to address student needs holistically.

(b) ADDITIONAL PURPOSES.—It is also the purpose of this Act to foster planning, coordination, and collaboration among local, county, State, and Federal educational and other student support service agencies and levels of government, nonprofit organizations, and the private sector to improve the educational performance of at-risk students by—

(1) identifying and removing unnecessary regulations, duplication of services, and obstacles to coordination;

(2) improving communication and information exchange;

(3) creating joint funding pools or resource banks;

(4) providing cross-training of agency personnel; and

(5) increasing parental and community involvement in education.

SEC. 4. GRANTS AUTHORIZED.

(a) IN GENERAL.—The Secretary is authorized to award grants to eligible entities to pay the Federal share of the costs of the activities described in section 7.

(b) SPECIAL CONSIDERATION.—In awarding grants under this Act, the Secretary shall give special consideration to—

(1) providing an equitable geographic distribution of such grants;

(2) providing grants to eligible recipients serving urban and rural districts with high proportions of at-risk students;

(3) awarding grants for programs involving interagency teams of collaborators providing case management services; and

(4) providing grants to eligible recipients serving areas that experience a significant increase in the number of at-risk students.

(c) DURATION.—Grants made under this Act may be awarded for a period of not more than 3 years if the Secretary determines that the eligible recipient has made satisfactory progress toward the achievement of the program objectives described in the application submitted pursuant to section 8.

SEC. 5. ELIGIBILITY.

(a) IN GENERAL.—For the purposes of this Act the term "eligible entity" means—

(1) at least one local educational agency in partnership with at least one public agency;

(2) at least one nonprofit organization, institution of higher education, or private enterprise in partnership with at least one local educational agency; or

(3) a local educational agency that is receiving assistance under the Head Start Transition Project Act in partnership with any agency designated as a Head Start agency under the Head Start Act.

(b) SPECIAL RULE.—An eligible entity shall only be eligible for a grant under this Act if at least one local educational agency participating in the partnership is eligible to receive financial assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

SEC. 6. TARGET POPULATION.

In order to receive a grant under this Act, an eligible entity shall serve—

(1) educationally deprived students and their families, students eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and their families, or students participating in school-wide projects assisted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and their families; and

(2) any school, grade span, or program area if the program design is of adequate size, scope and quality to achieve program outcomes.

SEC. 7. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Each eligible entity receiving a grant under this Act may use such grant for programs that—

(1) plan, develop, coordinate, acquire, expand, or improve school-based or community-based education support services through cooperative agreements, contracts for services, or direct employment of staff to strengthen the educational performance of at-risk students, including support services such as child nutrition and nutrition education, health education, screening and referrals, student and family counseling, substance abuse prevention, extended school-day enrichment and remedial programs, before and after school child care, tutoring, mentoring, homework assistance, special curricula, family literacy, and parent education and involvement activities;

(2) plan, develop, and operate with other agencies a coordinated services program for at-risk students to increase the access of such students to community-based social support services including child nutrition, health and mental health services, substance abuse prevention and treatment, foster care and child protective services, child abuse services, welfare services, recreation, juvenile delinquency prevention and court intervention, job training and placement, community-based alternatives to residential placements for students and disabilities, and alternative living arrangements for students with dysfunctional families;

(3) develop effective strategies for coordinated services for at-risk students whose families are highly mobile;

(4) develop effective prevention and early intervention strategies with other agencies to serve at-risk students and their families;

(5) improve interagency communications and information-sharing, including develop-

ing local area telecommunications networks, software development, data base integration and management, and other applications of technology that improve coordination of services;

(6) support co-location of support services in schools, cooperating service agencies, community-based centers, public housing sites, or other sites nearby schools, including rental or lease payments, open and lock-up fees, or maintenance and security costs necessary for the delivery of services for at-risk students;

(7) design, implement, and evaluate unified eligibility procedures, integrated data bases, and secure confidentiality procedures that facilitate information-sharing;

(8) provide at-risk students with integrated case planning and case management services through staff support for interagency terms of service providers or hiring school-based support services coordinators;

(9) subsidize the coordination and delivery of education related services to at-risk students outside the school site by entities such as public housing authorities, libraries, senior citizen centers, or community-based organizations;

(10) provide staff development for teachers, guidance counselors, administrators, and public agency support services staff, including cross-agency training in service delivery for at-risk students;

(11) plan and operate one-stop school-based or nearby community-based service centers to provide at-risk students and their families with a wide variety and intensity of support services such as information, referral, expedited eligibility screening and enrollment and direct service delivery; and

(12) support dissemination and replication of a model coordinated educational support services program to other local educational agencies including dissemination and replication of materials and training.

(b) LIMITATIONS.—

(1) PLANNING.—Not more than one-third of each grant received under this Act shall be used for planning a coordinated services program.

(2) DELIVERY OF SERVICES.—Not more than 50 percent of each grant received under this Act shall be used for the delivery of services.

(3) SUPPLEMENT AND NOT SUPPLANT.—Grant funds awarded under this Act shall be used to supplement and not supplant the funds that would otherwise be available from non-Federal sources for the activities assisted under this Act.

SEC. 8. APPLICATIONS.

(a) IN GENERAL.—Each eligible entity desiring a grant under this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

(1) describe the activities and services for which assistance is sought;

(2) identify the degree of need for a coordinated services plan among the students served by the program;

(3) describe the expected improvement in educational outcomes for at-risk students served by the program;

(4) describe how the eligible entity will assess the educational and other outcomes of support services provided by each public agency participating in the partnership;

(5) contain a description of how the eligible entity will improve the educational achievement of at-risk students through more effective coordination of support services, staff development and cross-agency training, and the educational involvement of parents;

(6) describe how the eligible entity will continue the support services assisted under this Act after the Federal assistance provided under this Act is terminated; and

(7) provide evidence of the capacity of the program to serve as a model program for replication by local educational agencies.

(c) ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—Each eligible entity desiring a grant under this Act shall establish a coordinated services advisory council to develop the application submitted pursuant to subsection (a).

(2) COMPOSITION.—The advisory council described in paragraph (1) shall consist of the head of each public agency participating in the partnership, a member of the local board of education, and the superintendent of schools, or the designees of such individuals, and representatives of parents, students, and the private sector.

(d) REVIEW OF APPLICATIONS.—The Secretary shall review applications submitted pursuant to subsection (a) with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate.

SEC. 9. FEDERAL INTERAGENCY TASK FORCE.

(a) ESTABLISHMENT AND COMPOSITION.—There is established a Federal Interagency Task Force (in this section referred to as the "Task Force") consisting of the Secretaries of Education, Housing and Urban Development, and Health and Human Services, and the heads of other Federal agencies as appropriate.

(b) DUTIES.—The Task Force shall identify means to facilitate interagency collaboration at the Federal, State, and local level to improve support services for at-risk students. The Task Force shall—

(1) identify, and to the extent possible, eliminate program regulations or practices that impede coordination and collaboration;

(2) develop and implement whenever possible plans for creating jointly funded programs, unified eligibility and application procedures, and confidentiality regulations that facilitate information-sharing; and

(3) make recommendations to Congress concerning legislative action needed to facilitate coordination of support services.

SEC. 10. STUDY.

(a) STUDY.—The Secretary shall conduct a study of the grants awarded under the Act to identify—

(1) the regulatory and legislative obstacles encountered in developing and implementing coordinated support services programs; and

(2) the innovative procedures and program designs developed pursuant to this Act.

(b) REPORT.—The Secretary shall report the results of the study conducted pursuant to subsection (a) to the Congress with recommendations for further legislative action to facilitate coordinated support services.

SEC. 12. PAYMENTS; FEDERAL SHARE.

(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 8 the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—The Federal share shall be 50 percent.

SEC. 13. DEFINITIONS.

For the purpose of this Act—

(1) the term "local educational agency" has the same meaning provided in section 1471(12) of the Elementary and Secondary Education Act of 1965; and

(2) the term "Secretary", unless otherwise specified, means the Secretary of Education.

SEC. 14. AUTHORIZATION OF FUNDS.

There are authorized to be appropriated $100,000,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 and 1996 to carry out the provisions of this Act.

BILL SUMMARY OF THE LINK-UP FOR LEARNING GRANT ACT

1. Purpose and Target Population: Growing numbers of children live in economic conditions that greatly increase their risk of academic failure when they enter school. The Link-Up for Learning Grant bill provides funds to coordinate educational and social support services for at-risk youth in our nation's elementary and secondary schools, and enhances the effectiveness of these services. The legislation targets educationally disadvantaged students and their families.

2. Eligibility and Authorized Uses of Funds: A Chapter One eligible school district collaborating with a public agency, a nonprofit organization, an institution of higher education, or a Head Start agency may apply for a 3 year grant. Recipients may use funds to coordinate and improve access to school-based or community-based education support services for disadvantaged youngsters. Such services can include nutrition, health screening and referrals, counseling, substance abuse prevention, extended school day programs, tutoring, literacy, parent education and involvement, child abuse services, welfare services, juvenile delinquency, job training and placement and others. Funds may also be used to establish "one-stop shopping" locations for services in schools, community centers, public housing sites or other central locations, to facilitate interagency communication, design unified eligibility procedures, coordinate case management, and train staff across agencies.

3. Limitations and Applications: Special consideration in awarding grants is given to urban and rural areas with high proportions of at-risk students. Not more than one-third of each grant shall be used for planning a coordinated service program and not more than 50 percent of each grant shall be used for the delivery of services. The federal share of the cost of the activities shall be 50 percent.

4. Other Provisions: The bill establishes a Federal Interagency Task Force to facilitate interagency collaboration at the federal, state and local levels. Finally, it directs the Secretary of Education to conduct a study of funded projects and make recommendations to Congress to improve coordination of educational support services.

5. Authorized Appropriations: $100 million is authorized for grants in Fiscal Year 1994 and such sums as are necessary are authorized in Fiscal Years 1995 and 1996.•

By Mr. METZENBAUM (for himself, Mr. GRASSLEY, Mr. SIMON, and Mr. BROWN):

S. 99. A bill to amend the antitrust laws to provide a cause of action for persons injured in U.S. commerce by unfair foreign competition; to the Committee on the Judiciary.

UNFAIR FOREIGN COMPETITION ACT

• Mr. METZENBAUM. Mr. President, I am introducing with my colleagues, CHARLES GRASSLEY, PAUL SIMON, and HANK BROWN, the International Fair Competition Act of 1993.

The act will safeguard our free markets from anticompetitive conduct

originating overseas. It does so by revamping a little-used antitrust statute to make it a useful remedy to combat foreign cartels that are exploiting American producers and consumers.

For over 102 years America's antitrust laws have outlawed abusive monopolies and price-fixing cartels that would raise consumer prices and use those ill-gotten profits to drive their competitors out of business. Our antitrust enforcement record is indisputably the best in the world.

However, our antitrust laws do not protect American consumers or producers from the devastating effects of foreign cartels that sell products here. A case in point is the Japanese price-fixing cartel for consumer electronics that operated in our markets in the 1960's and 1970's. The cartel included the biggest brand names in the business such as Matshushita, Hitachi, Sony, Sharp, and Sanyo. There is strong evidence that this cartel used the monopoly profits that it earned in Japan by fixing high prices to subsidize below cost selling in this country. Their U.S. competitors, who could not collude or fix prices, were driven out of business by the cartel.

There is also evidence that the cartel further capitalized on their success in destroying our domestic consumer electronics industry by orchestrating a resale price maintenance scheme and a restricted advertising program that cost U.S. consumers billions of dollars.

Today, our textile, paper, glass, auto, auto parts, computer and steel industries, among others, are being threatened by the same kind of unfair international competition that destroyed our domestic consumer electronics industry.

The International Fair Competition Act that I am introducing today was reported by the Judiciary Committee last year unanimously by voice vote with no recorded objections. It enjoys wide bipartisan support because it bolsters our existing antitrust laws to attack subsidized below cost selling in our markets as a form of economic crime. But, it does so using a carefully balanced approach designed to protect consumers and producers from frivolous lawsuits.

Bringing suit under the bill requires proof that goods were sold in our markets at a price below the manufacturer's cost and were exported from a home market that is closed to international competition because it is cartelized or monopolized. However, a foreign manufacturer can defeat a lawsuit simply by showing that there was a procompetitive basis for its below cost pricing.

I believe that the bill complements the Justice Department's amendment to its international antitrust enforcement guidelines. The Department is now explicitly authorized to bring suit against anticompetitive activity abroad, including price-fixing cartels, which threaten U.S. exporters. The International Fair Competition Act would allow the antitrust authorities, private firms, and consumers to bring suit when those same cartels use the monopoly profits that they earn in their home markets to subsidize below cost selling in ours.

The fact is that price-fixing cartels are in an entrenched way of life in many foreign countries. For example, the August 1992, issue of the Harvard Business Review described the cartels that operate in Japan as "a deep-footed multifaceted" system that controls the country's business and political life. And officials from the Commerce Department have testified before the Congress that Japanese consumers pay 40 to 60 percent more than American consumers for the same goods due to the cartels and keiretsus that operate in their markets.

Japan is not the only country that harbors cartels. An American bar Association special committee on international antitrust reported that many foreign governments actively encourage or are willing to tolerate cartels that operate in their own countries. This special committee warned that these foreign cartel "seriously undermine the [free] market system and impose high costs on the world."

Unfortunately, we cannot impose our high regard for fair competition on the rest of the world. However, the International Fair Competition Act of 1993 will help encourage fairness and strong competition in international markets by preventing foreign companies based in countries that do not foster free and open competition from exploiting American consumers and producers.

I ask unanimous consent that the bill be printed in the RECORD.

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

S. 99

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Fair Competition Act of 1993."

SEC. 2. FINDINGS.

The Congress finds that—

(1) all nations should enact and vigorously enforce strong competition laws to benefit consumers, encourage international competition, and foster growth in jobs, productivity, and investment;

(2) industries should not be allowed to take advantage of weak or nonexistent competition law enforcement in their home markets to compete unfairly in markets that do have strong competition laws and effective enforcement;

(3) existing United States antitrust law is inadequate to prevent international competitors from unfairly exploiting United States markets; it should be amended to recognize that lack of competition abroad should not result in unfair competition domestically; and

(4) United States antitrust laws applicable to foreign competitors that export articles to the United States market should be consistent with United States antitrust laws that are applicable to domestic business conduct.

SEC. 3. EXPORTATION TO THE UNITED STATES AND SALE OF ARTICLES BELOW COST.

(a) REPEAL OF CRIMINAL PROVISION.—The second paragraph of section 801 of the Act of September 8, 1916 (15 U.S.C. 72), is repealed.

(b) EXPORTATION OR SALE AT LESS THAN AVERAGE TOTAL COST.—Section 801 of the Act of September 8, 1916 (15 U.S.C. 72), as amended by subsection (a), is amended—

(1) by designating the first, second, and third paragraphs as subsections (a), (b), and (c), respectively; and

(2) by amending subsection (a), as designated by paragraph (1), to read as follows:

"(a)(1) It shall be unlawful for any person that exports a product from a foreign country into the United States, commonly and systematically to export the article into, cause the article to be exported into, or cause the article to be sold within the United States, at a price that is less than the average total cost of the article, if—

"(A) the exportation or sale has the effect of—

"(i) destroying or injuring commerce in the United States;

"(ii) preventing the establishment of a line of commerce in the United States; or

"(iii) substantially lessening competition or tending to create a monopoly in any part of trade and commerce in the article in the United States; and

"(B) the foreign country's market in the article—

"(i) lacks effective price competition among competitors; or

"(ii) is substantially closed to effective international competition.

"(2) Nothing shall prevent a defendant from rebutting a prima facie case made with respect to the circumstances described in paragraph (1) by showing that the circumstances described in paragraph (1)(B) were not a factor in the price charged.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall become effective on the date that is 180 days after the date of enactment of this act.●

● Mr. GRASSLEY. Mr. President, I am glad today to join Senator METZENBAUM, as well as Senators SIMON and BROWN, in reintroducing the international antitrust legislation we developed during the last Congress. The bill addresses the need for consistently strong antitrust enforcement throughout the industrialized world. It seeks to ensure that our trading partners do not tolerate, and in some cases foster, industrial cartels that exclude American firms from their home markets and engage in predatory practices in our markets. American firms should not be put at a competitive disadvantage in our antitrust laws.

This bill grew out of separate bills Senator METZENBAUM and I introduced last year, S. 2352 and S. 2610. The compromise bill we are reintroducing today disallows foreign firms from using the monopoly profits they earn through domestic cartels in their home markets, at the expense of their own consumers, to subsidize below-cost pricing in the United States. The language of our bill makes clear the pricing below average total cost is prohibited if—and only if—

the defendant is employing the benefits of a protected home market to charge such a price. The bill therefore creates a new cause of action to complement existing predatory pricing law.

This bill deals with an area that has not yet received the attention it is due: The nexus between trade policy and antitrust policy. In an international economy, the best way to promote truly open markets is by assuring free and open competition in every domestic marketplace. When a nation tolerates collusion among firms, consumers suffer from the inability of new firms to enter the market, and free international trade suffers from the unfair competitive advantage obtained by the colluding firms, who can subsidize below-cost prices in their exports with the profits of hard-core antitrust crimes back home.

This bill is the logical next step beyond the recent efforts of the Justice Department and the Trade Representative to achieve parity in antitrust enforcement with our trading partners in Asia and Europe. The revision of the Justice Department's international guidelines on extraterritorial cartel behavior, the antitrust aspects of the structural impediments initiative with Japan, and the United States-European Community antitrust accord, are all steps in the right direction, but they don't go far enough to ensure that American industries aren't destroyed by firms that refuse to obey the laws of free competition.

This bill will give American firms, and our Government, a new tool to deal with the U.S. effects of offshore antitrust crimes. It seeks to promote free competition in every market of the world, and to move beyond a retaliatory, protectionist approach to trade conflicts. The promotion of international antitrust enforcement is central to the development of a truly free international market economy, and I urge my colleagues to support this bill as a step in that direction.•

By Mr. RIEGLE:

S. 100. A bill to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; to the Committee on Finance.

ENHANCED ENTERPRISE ZONES ACT OF 1993

• Mr. RIEGLE. Mr. President, I rise today to introduce the Enhanced Enterprise Zones Act of 1993. Senators KENNEDY, BIDEN, and KERRY join me as cosponsors. The legislation we introduce today contains the provisions to establish 50 enterprise zones that were included in the Revenue Act of 1992, which was vetoed in November by former President Bush. This bill also contains the important public investment enhancement that were added to the Revenue Act by an amendment that I offered along with the Senators who now join me as cosponsors.

The moneys to pay for the public investment authorizations for 1993 were appropriated last Congress, contingent on the passage of authorizing legislation. By introducing this legislation today, we signal our intention to ensure that this appropriation is used for its intended purpose—to provide additional Federal investment in the people and the infrastructure of distressed urban and rural communities.

Our introduction of this legislation in this particular form is not intended as an endorsement of every provision as it stands. The version of the enterprise zone bill that passed the Congress was the product of compromise among legislators in both Chambers and the Bush administration. There are several provisions, particularly on the tax side, that I, and those joining me as sponsors of this bill, believe should be altered. In fact, I consider the tax incentives included in the enterprise zone bill reported by the Senate Finance Committee to be superior to the version enacted. Nonetheless, we offer this bill, which represents where we left off at the end of the last Congress, to open discussion in the new Congress. We look forward to working with returning and new Members as well as with the new President and his administration to make this legislation to assist distressed communities as effective as possible and to see that it is but one piece in a renewed effort to empower our distressed local communities and their residents to bring themselves into the economic and social mainstream.

THE LESSONS OF BENTON HARBOR

In the past year, enterprise zones have gained increased attention as a tool to combat the lack of economic opportunity and the social decay that confront the residents of many of America's inner-cities. I have long supported enterprise zones as an experiment worth trying to bring economic opportunity to inner-city residents. But I added the public investment enhancements to the enterprise zone provisions crafted by the Finance Committee last year because I was convinced that enterprise zones as traditionally conceived are only half a strategy. And half a strategy is doomed to fail unless it is made whole.

In crafting the investment enhancements, I built on what I saw and heard in Benton Harbor, an inner-city community in my home State of Michigan. Benton Harbor is Michigan's only State-sponsored enterprise zone. The lesson that Benton Harbor has learned from its enterprise zone experience is one we here in Washington should heed as we craft Federal enterprise zone legislation: Tax incentives can be helpful, but tax incentives alone will not provide an adequate new economic start for the poor and minority residents of our inner-cities.

Tax incentives tend to empower outside businesses rather than inner-city residents. Benton Harbor's enterprise zone has been credited with attracting 100 new or expanded businesses and creating 700 jobs—but only a small fraction of those jobs have gone to the residents of Benton Harbor who are largely unskilled, poor, and minorities.

The people of Benton Harbor and of similar communities throughout the Nation must have the means to improve their job skills before they can fully take advantage of new employment opportunities. They also need better access to capital to start businesses of their own and to buy or upgrade their homes. Job skills and access to capital—along with targeted tax breaks for entrepreneurs—can be the foundation for true economic empowerment. In addition, distressed communities cannot begin to turn themselves around while most of the work force lives in dilapidated housing, has inadequate access to needed child care, and is afraid to walk the streets at night because of high crime rates and a shortage of needed police.

PUBLIC INVESTMENT ENHANCEMENTS

The public investment enhancements included in this bill provide enterprise zone communities with some of the resources they need to address these barriers to economic opportunity. In addition to $2.65 billion over 5 years in tax breaks for businesses that locate in enterprise zones, the bill provides an equal amount of public investment for enterprise zones and other distressed areas.

In 1993, the bill provides $500 million in increased authorizations for Federal resources targeted to enterprise zones and nationwide urban aid programs. The legislation appropriates no money, but the $500 million in appropriations for 1993 were included in the 1992 supplemental appropriations bill, contingent on passage of authorizing legislation.

Of the $500 million for 1993, $320 million would be allocated to a block grant for enterprise zones. Seventy percent would go to urban zones and 30 percent to rural zones. Within the two categories, the money would be evenly divided. Zones could choose from a menu of Federal programs in five areas on which to spend the money: First, crime and community policing; second, job training; third, child care and education; fourth, health, nutrition, and family assistance; and fifth, housing and community development.

Zones would be required to spend 20 percent of their grant in each category but could receive special permission to spend up to 30 percent in any one category. They could not spend less than 5 percent in any one category, however.

The remaining $180 million would be reserved for programs that empower local communities through public-private partnerships between government and community-based organizations. Almost all of this money would be spent to benefit enterprise zone residents:

The Head Start preschool education program would receive $40 million.

Community Health Centers which provide primary care in low-income areas would receive $20 million.

Job Corps, which trains disadvantaged youth in a boot-camp-like environment, would receive $40 million.

The Neighborhood Reinvestment Corporation which makes grants to community-based groups that develop affordable housing would also receive $10 million.

YouthBuild—a new program included in the 1992 housing reauthorization bill through which community groups educate and train low-income youth while they rehab and construct affordable housing—would receive $10 million.

Two new programs to increase the availability of capital for business development would also be funded: The Enterprise Capital Access Program, which was included in the enhanced enterprise zone bill I introduced last Session, would be funded with $20 million to make grants to nonprofit, community-based lenders to provide loans for business and other community development in distressed communities. And a National Community Economic Partnership Program would be funded with $40 million to provide grants to Community Development Corporations to capitalize revolving loan funds for business development lending. Fifty percent of the funds for these two programs could be spent to benefit the residents of distressed communities that do not obtain enterprise zone status.

With this investment program, enterprise zones present a promising experiment to address the challenges confronting some of our most distressed inner city and other communities. But enterprise zones are only an experiment and will reach, at least initially, only a few communities. Even a balanced enterprise zone package like this one is just the beginning in a comprehensive war on the crisis confronting urban America.

BROADER COMMITMENT NEEDED

Breaking the spiral of decline and putting America's cities on an upward path demand a concerted national commitment to reach all distressed communities. This commitment will require the dedication of substantial national resources—both immediately and over the long term—by government, and the private and not-for-profit communities alike.

This commitment should build on programs that we know work—programs like Head Start to prepare preschool kids, chapter 1 to fund additional educational programs for disadvantaged elementary and secondary school students, and Job Corps to help teenagers develop practical employment skills. But we must also develop new programs in which business and community groups work with the Government in a new urban partnership to shape cities whose residents have the economic tools needed to be self-sufficient and to produce vibrant communities.

We must make this commitment so the residents of our cities can become full participants in the social and economic mainstream of our Nation. We do this not just for reasons of equity and compassion but out of concern for our Nation's future competitiveness in the world economy. For, by the year 2000, 57 percent of the new entrants to America's work force will be drawn from the minority populations concentrated in our inner cities. Unless they have world-class work skills and economic opportunities to apply those skills, America will face serious decline.

I am encouraged that we begin this new session with a President who shares my commitment to make the investments necessary to put America's economy back on track and to make our cities an integral part of a healthy economic and social future. I look forward to working with President Clinton, and I offer the legislation I introduce today to begin discussion of how we can most quickly and efficiently achieve this shared goal. I ask unanimous consent to print in the RECORD a letter of support for this legislation from the U.S. Conference of Mayors, the National League of Cities, the National Congress for Community Economic Development, the Neighborhood Reinvestment Corporation, the National Association of Community Health Centers, the HBI/Job Corps Coalition, and YouthBuild, U.S.A.

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

December 22, 1992.

Hon. DONALD W. RIEGLE,
United States Senate,
Washington, DC.

DEAR SENATOR RIEGLE: We are writing to express our appreciation for your leadership in seeing that social service interests were represented in the Urban Aid package passed by Congress last session. These programs were a key component along with the tax incentives included in H.R. 11 and will continue to be central to any debate on economic stimulus legislation in the 103rd Congress.

Despite bi-partisan support and funding provided through the 1992 Emergency Supplemental Appropriations Act, H.R. 11 was not enacted. Though urban aid has been on the nation's agenda for almost a year, funds have yet to be channeled to communities in need.

We hope you will support efforts to ensure that the urban aid provisions of H.R. 11 are re-introduced and enacted early in the 103rd Congress.

Thank you for your continued support.

Respectfully yours,

NATIONAL CONGRESS FOR COMMUNITY ECONOMIC DEVELOPMENT.
NEIGHBORHOOD REINVESTMENT CORPORATION.
HBI/JOB CORPS COALITION.
YOUTHBUILD.
LEAGUE OF CITIES.
CONFERENCE OF MAYORS.
NATIONAL ASSOCIATION OF COMMUNITY HEALTH CENTERS.

• Mr. KENNEDY. Mr. President, I am pleased to join with Senators RIEGLE, BIDEN, and KERRY in reintroducing the enterprise zone legislation which fell victim to the veto by President Bush of the tax bill H.R. 11, last fall.

The Los Angeles riots turned the Nation's attention to the drastic consequences of a decade of Federal retreat and withdrawal from the festering problems of America's cities.

The fact of Federal urban neglect is indisputable. Federal aid to the cities declined by more than 50 percent between 1981 and 1991. In the past 2 years, the serious problems caused by Federal disinvestment in the cities have all been compounded by the continuing recession.

We all know it is a long road back. Our cities are in trouble, and so are many rural areas. Their wounds cannot be healed overnight. But we must make a beginning. We would never treat our national security in the cavalier and irresponsible manner we have treated our cities. We know what is at stake—the Nation's future itself. We cannot afford the reckless gamble of doing too little.

Last spring, as a first step on the road back, Congress provided funds in the supplemental appropriations bill for time-sensitive job programs targeted to inner-city youth. As a result of that initiative, nearly 300,000 more teenagers earned a paycheck last summer—nearly a 40 percent increase in the Federal Summer Jobs Program. In the major cities, the gains were even greater. Boston, for example, added 2,600 additional jobs to a base program of 3,700 jobs.

That legislation was a worthwhile bipartisan step toward reinvesting in America, and I hope that we can take another significant step in the early weeks of the 103d Congress. Our introduction of this legislation is not an endorsement of every detail of the package. The enterprise zone bill that passed the Congress last fall was the product of compromise among legislators and the Bush administration. We should place more emphasis on tax incentives that encourage hiring zone residents. We are introducing this bill, however, because it is where we left off at the end of the last Congress, and it is the most appropriate starting point for debate in the new Congress. I look forward to working with the Clinton administration and the new Members of Congress to make this legislation as effective as possible.

The enterprise zone concept in this legislation is an experiment. If it works, the incentives will help only a small number of communities, but they

will be a large step in the right direction, because they will show the right way to thousands of other communities in all parts of America.

The bill that we are introducing is designed to enhance the enterprise zone concept by incorporating the basic principle that tax breaks alone are not enough to make the concept work.

This legislation assures that we will also invest directly in the people in the enterprise zones, and that these investments in people will be approximately equal in dollar amount to the tax incentives offered to businesses that invest in the enterprise zones.

In a sense, what we are creating by this amendment is a worthwhile competition between tax expenditures and direct expenditures, and may the best incentive win. In fact, the likely result is that the whole will be greater than the sum of its two parts, and both types of Federal spending will prove essential in achieving the goal we all share.

The funds for the public investments in 1993 were appropriated last year, contingent on the passage of authorizing legislation. I have been informed by CBO and OMB that passage of that authorization will not be scored as additional spending and will require no additional appropriation for this fiscal year.

The public investment part of this bill assures that new tax benefits to encourage private investment in enterprise zones will be accompanied by $500 million a year in new public investments in jobs, job training, housing rehabilitation, education and health care, so that residents in the zones can participate in the benefits of the businesses that move in. One hundred and eighty million dollars a year is set aside for proven approaches to urban and rural revitalization, including Head Start, Job Corps, and Community Health Centers.

Also incorporated in the bill is separate legislation entitled the "National Community Partnership Act." These provisions authorize additional funding for community development corporations to make technical and financial assistance available to small businesses.

The continuing credit crunch has made it very difficult for these enterprises to obtain the financing they need without the assistance of CDC's. For example, a Boston CDC, Nuestra Comunidad—Our Community—made five loans last year to local businesses that could not obtain financing from a traditional bank. In one case, a small party-rental firm was able to use its CDC micro-loan to obtain other loans, and it expanded to create three new jobs for local residents.

The National Community Partnership Act mandates a local dollar-for-dollar match of each Federal dollar. This approach ensures that public resources will be provided only where the private sector has made an up-front commitment to the neighborhoods of the community.

Funding is also provided to improve law enforcement in the enterprise zones through programs that encourage neighborhood policing and alternative sentencing options such as boot camps and community service. The zones are given flexibility to design a public investment program that fits the special needs of individual communities.

I hope that this measure is the start of a new national commitment to our cities and rural areas. We all know that we must do a better job of addressing the long-run domestic challenges we face in order to rebuild America's strength. A decade of neglect has red-lined the entire Nation—not just our poorest communities. We have suffered disinvestment in a wide range of vital needs such as education, job training, housing, health care, and research and development. The needs are more urgent than ever, and it is time to make a beginning. I urge the Senate to act quickly on this bill.

• Mr. KERRY. Mr. President, I rise to support the legislation proposed by my colleagues Senator RIEGLE and Senator KENNEDY to create 50 enterprise zones and to channel urgently needed funds to our neediest neighborhoods. I support this measure knowing that it does not authorize the kind of major investments in urban America that we so urgently need. This bill is only a downpayment. But it is long past time that we did something for our cities and this legislation, which represents a compromise agreement hammered out in Congress last year, stands an excellent chance of obtaining quick passage and getting aid out to those who need it.

It will do this in large part through the creation of enterprise zones in which I am a firm believer. I believe that an increased flow of private capital is an essential prerequisite to the revival of urban neighborhoods. A Federal enterprise zone program would supplement existing State programs and create opportunity where existing market conditions and incentives do not.

But this legislation will not rely only on enterprise zones which, clearly, are not sufficient. Expert after expert has testified that a comprehensive approach to urban rebuilding is needed. That includes incentives for the private sector; it also includes long term investments in education, job training, drug rehabilitiation, community policing and the basic building blocks of community life.

In recognition of this fact, this legislation authorizes $500 million in 1993 for programs that are of proven value like Head Start, Youthbuild, and community development block grants. It targets about 60 percent of the money on the enterprise zones that will be created by the bill.

These redevelopment grants, as they are called, and enterprise zones are the kinds of basic assistance that we owe our cities. In too many of our urban neighborhoods today, the first sounds infants learn to identify are police and ambulance sirens, hovering helicopters, and gunfire; there are kids barely in their teens who've lost more classmates than I lost buddies in Vietnam; the life expectancy for men in some of our cities is lower than it is in Bangladesh; and nationally one in four young black males is involved in the judicial system—awaiting trial, in jail or on probation.

We cannot go on like this. Deep down, we know we will not be able to compete internationally if too many of our young people are in jail or on drugs or always in the streets; we will never get out of debt if we must allocate billions more each year to prisons, prosecutions, emergency health care, expanded welfare and food stamps or rebuilding what the desperate among us have destroyed; and we will never have peace of mind as long as so many of us feel the need to seek security through locked doors, high fences, metal detectors, and the purchase of guns.

Deep down, we also know that it doesn't have to be this way. The random deaths, the desperation, the lives strangled by poverty, the unfairness—it's all avoidable; we have the power to choose a different road.

That choice begins, although it does not end, with money and how we spend it. Over the past 12 years, the Reagan-Bush administrations reduced the Federal share of city expenditures from 17 to 6 percent. Over the same period, Federal support for housing, in real terms, dropped by 82 percent; for job training by 63 percent, for community development, by 40 percent, and for social service and community service block grants by 40 percent. Is it any wonder that our cities erupted in anger last summer?

If, as President Clinton asks us to, we are to reinvent America, to reunite the country, we've got to reverse this pattern of abandonment of our cities.

We also must join the President in reforming Government into an effective catalyst for change. It is not enough to simply throw money at the problem; we must throw away old approaches that haven't worked, while building on those that would have worked better if only given the chance. We need community participation, not big Government. We need incentives, not entitlements. We need new ideas, like bringing ex-military personnel into our cities as teachers and counselors and community organizers. We need to motivate people to take charge of their own lives, not make it easier

for them to avoid hard choices and thereby fall into lives of dependency and complacency.

President Clinton has united the country behind this approach and this bill is very much in the spirit of pragmatism and mutual responsibility that he has emphasized. It seeks to help our cities by giving the people who live in them an effective means of helping themselves.

I am very proud to be a cosponsor of this bill and will work hard for its passage. I am also aware that our new President is in the process of assembling a talented domestic policy team which will look at these problems anew. Should President Clinton present to the Congress a different approach from the one taken here, I am confident that all who are joining in support of this bill will examine his suggestions closely and enthusiastically work with him on legislation encompassing the best of both proposals.

By Mr. GLENN:

S. 101. A bill to establish a National Commission on Executive Organization Reform; to the Committee on Governmental Affairs.

EXECUTIVE ORGANIZATION REFORM ACT

• Mr. GLENN. Mr. President, I rise today to introduce that Executive Organization Reform Act of 1993, legislation that I believe will help improve the organization and structure of the Federal Government.

A new administration and a new Congress face not only the burdens of our past, such as the massive Federal deficit, but the challenges of our future, such as national and economic security concerns. Yet the executive branch of the Federal Government that exists to meet these burdens and challenges is antiquated and poorly organized. As our Nation now looks forward, it does so with a Government that is outmoded and duplicative, a Government that is inefficient and inconsistent, a Government that is rife with waste, fraud, and mismanagement.

A smaller and leaner Federal Government is necessary for this country to solve its deficit problems. And a more effective and efficient Federal Government is necessary for this country to handle the many challenges it now faces. It is impossible, for example, for the United States to successfully promote jobs and economic growth when the Government has some 125 different employment programs scattered across the bureaucracy. And it is no wonder that the country's international competitiveness is challenged when our coordinated response comes from Commerce programs split in different departments and agencies. The same goes for Federal efforts to handle the environment, natural resources, health and housing and many other programs.

We must have a Government that responds better to our needs now and in the next century. This is why I am introducing the Executive Organization Reform Act of 1993. If Americans are to regain confidence in their Government's ability to solve problems, and if our Government is to truly help meet the needs of the next century, then we must create a structure and organization that can accomplish these tasks.

The Executive Organization Reform Act of 1993 will establish a national commission whose job it will be to study and recommend ways to reorganize and reform the Government for the next century. This is no ordinary commission, in the way that Washington sets up commissions whose recommendations are ignored and sit on a shelf. To ensure that this commission's important recommendations get appropriate attention, my bill requires that Congress vote on a joint resolution acting on the organization changes proposed by the commission.

I am aware that organizational change of the executive branch has not always been a popular topic, and that many insiders counsel against spending political capital in an area of Government that can be so difficult to change. I must say, though, that as chairman of the Governmental Affairs Committee, I have become convinced that only through improving the management of the Federal Government—and that includes its organization and structure—can we improve the programs and services Americans expect from their Government.

I am certain that not everyone will like all the recommendations that any commission to reorganize Government might propose. But political expediency should not be allowed to keep our Government from organizing itself to meet the challenges of our future. I am confident that a streamlined and more effective Government will help us better perform our public missions and regain the confidence of the American people in the process.

I ask unanimous consent that a copy and summary of the legislation be placed into the RECORD.

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

S. 101

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

SECTION 1. SHORT TITLE AND PURPOSE.

(a) SHORT TITLE.—This Act may be cited as the "Executive Organization Reform Act of 1993".

(b) PURPOSE.—The purpose of this Act is to establish a commission to examine the performance of the Federal Government's public mission and to make recommendations to improve that performance through more effective and efficient management and organization of the executive branch, particularly through the coordination and consolidation of Government activities according to and within major functions, and the elimination of outmoded or duplicative Government activities.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Commission" means the National Commission on Executive Organization Reform; and

(2) the term "executive entity" means any Federal department, agency, quasi-independent agency, independent agency, Government-sponsored enterprise or Government corporation.

SEC. 3. THE NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the "National Commission on Executive Organization Reform".

(b) DUTIES.—The Commission shall examine and make recommendations with respect to—

(1) criteria for use by the President and Congress in evaluating proposals to change the structure of the executive branch, including criteria for establishing, altering, or overseeing the structure and organization of any executive entity;

(2) the organization and structure of the executive branch and its entities, including the advisability of reorganizing, consolidating, or abolishing any such entity, and the advisability of establishing any new executive entity;

(3) the organization and delivery of Government services, including the advisability or reorganizing, consolidating or eliminating specific program activities, and the advisability of transferring activities to State or local governments; and

(4) promoting economy, improving performance, and ensuring adequate capacity of executive entities to meet and manage their public missions.

(c) APPOINTMENT.—

(1) IN GENERAL.—(A) The Commission shall be composed of 12 members.

(B) Appointments to the Commission shall be made by no later than 60 days after the enactment of this Act.

(2) MEMBERSHIP.—(A) The President shall appoint 4 members of the Commission who are not employed by the Federal Government or elected to Federal office (referred to as "citizen members"). No more than 2 of the members appointed by the President may be from the same political party as the President.

(B) The Speaker of the House of Representatives shall appoint 2 members, 1 of whom shall be a citizen member and 1 of whom shall be a Member of the House of Representatives.

(C) The Majority Leader of the Senate shall appoint 2 members, 1 of whom shall be a citizen member and 1 of whom shall be a Senator.

(D) The Minority Leader of the House of Representatives shall appoint 2 members, 1 of whom shall be a citizen member and 1 of whom shall be a Member of the House of Representatives.

(E) The Minority Leader of the Senate shall appoint 2 members, 1 of whom shall be a citizen member and 1 of whom shall be a Senator.

(3) CHAIRMAN.—The President shall designate 1 member of the Commission, after consultation with the Senate Majority Leader and the Speaker of the House of Representatives, who shall serve as Chairman of the Commission.

(d) TERMS.—Each member of the Commission shall serve until the termination of the Commission.

(e) MEETINGS.—

(1) IN GENERAL.—The Commission shall meet as necessary to carry out its respon-

sibilities. The Commission may conduct meetings outside the District of Columbia when necessary.

(2) PUBLIC ACCESS.—The provisions of section 552b of title 5, United States Code, shall apply to meetings held by the Commission.

(f) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(g) PAY AND TRAVEL EXPENSES.—

(1) PAY.—(A) Each member, other than the Chairman and Members of Congress, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) TRAVEL EXPENSES.—Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) DIRECTOR OF STAFF.—

(1) IN GENERAL.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served in Congress or been employed by the executive branch during the 1-year period preceding the date of such appointment.

(2) PAY.—The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) APPOINTMENTS WITHOUT REGARD TO COMPETITIVE SERVICE LIMITS.—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of 120 percent of the rate of basic pay payable for GS–15 of the General Schedule.

(3) DETAILEES.—Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this Act.

(4) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission with or without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(j) OTHER AUTHORITY.—

(1) INTERMITTENT SERVICES.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) LEASING AND PERSONAL PROPERTY.—The Commission may lease space and acquire personal property to the extent funds are available.

(k) FUNDING.—There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this Act. Such funds shall remain available until expended.

(l) TERMINATION.—The Commission shall terminate 2 years after the date of enactment of this Act.

SEC. 4. COMMISSION REPORT.

(a) REPORT.—The Commission shall prepare and transmit a report to the President and Congress no later than 18 months after the first meeting of the Commission. The report shall include—

(1) a description of the Commission's recommendations and reasons for such recommendations; and

(2) statutory language necessary to accomplish such terminations and combinations.

(b) DEPARTMENT AND AGENCY COOPERATION.—All Federal departments, agencies, and divisions and employees of all departments, agencies, and divisions shall cooperate fully with all requests for information from the Commission and shall respond to any such requests for information within 30 days or such other time agreed upon by the requesting and requested parties.

SEC. 5. PROCEDURE FOR IMPLEMENTATION OF REPORT.

(a) INITIAL REPORT AND APPEAL PROCEDURE.—The report required by section 4(a) shall be delivered to the President and Congress and made available to the public for 90 days after the date the initial report is submitted. During the 90-day period, the Commission shall announce and hold public hearings for the purpose of receiving comments on the report and any amendments to the report.

(b) FINAL REPORT.—The Commission shall prepare and submit to the President a final report not later than 45 days after the conclusion of the period for public hearings under subsection (a).

(c) REVIEW BY THE PRESIDENT.—

(1) IN GENERAL.—Not later than 15 days after receipt of the final report pursuant to subsection (b), the President shall approve or disapprove the report.

(2) APPROVAL.—If the report is approved the President shall submit the report to the Congress for approval under section 6.

(3) DISAPPROVAL.—If the President disapproves the final report, the President shall report specific issues and objections, including the reasons for any changes recommended in the report, to the Commission and the Congress.

(4) FINAL REPORT AFTER DISAPPROVAL.—The Commission shall consider any issues or objections raised by the President and may modify the report at its discretion based on such issues and objections. Not later than 30 days after receipt of the President's disapproval pursuant to paragraph (3), the Commission shall submit the final report (as modified if modified) to the Congress for approval pursuant to section 6.

SEC. 6. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT.

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

(1) the term "joint resolution" means only a joint resolution which is introduced within the 10-session day period beginning on the date on which the President or the Commission transmits the report to the Congress under section 5(c) (2) or (3), and—

(A) which does not have a preamble;

(B) the matter after the resolving clause of which is as follows: "That Congress approves the recommendations of the Federal Government Streamlining Commission as submitted by the President on as follows:", the blank space being filled in with the appropriate date and the matter after the colon being the report; and

(C) the title of which is as follows: "Joint resolution approving the report of the Federal Government Streamlining Commission."; and

(2) the term "session day" means a day that both the Senate and the House of Representatives are in session.

(b) REFERRAL.—A joint resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on Government Operations of the House of Representatives. A joint resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Governmental Affairs of the Senate.

(c) DISCHARGE.—If the committee to which a joint resolution described in subsection (a) is referred has not reported such joint resolution by the end of the 5-session day period beginning on the date of introduction of a joint resolution pursuant to subsection (a), such committee shall be, at the end of such period, discharged from further consideration of such joint resolution, and such joint resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.—

(1) IN GENERAL.—On or after the fifth session day after the date on which the committee to which such a joint resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a joint resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the respective House until disposed of.

(2) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the Majority Leader and the Minority Leader or their designees. An amendment to the joint resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(3) FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution described in subsection (a) and a sin-

gle quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(4) APPEALS FROM CHAIR.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.—

(1) IN GENERAL.—If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(2) FINAL DISPOSITION.—Upon disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 7. IMPLEMENTATION.

(a) RESPONSIBILITY FOR IMPLEMENTATION.—The Director of the Office of Management and Budget shall have primary responsibility for implementation of the Commission's report. The Director of the Office of Management and Budget shall notify and provide direction to heads of affected departments, agencies, and programs. The head of an affected department, agency, or program in which the program or agency is to be closed or consolidated shall be responsible for the act of implementation and shall proceed with the recommendations contained in the report as provided in subsection (b).

(b) DEPARTMENTS AND AGENCIES.—After the approval of the Commission's report under section 5, each affected Federal department and agency as a part of its annual budget request shall transmit to the appropriate committees of Congress its schedule of closures and combinations to be carried out under the Commission's report for the fiscal year for which the closure or combination is to be accomplished. In addition, the Secretary's report shall contain an estimate of the total expenditures required and the cost savings to be achieved by each closure along with the Secretary's assessment of the effect of the action. The report shall also include a report of the programs and agencies consolidated or transferred to another department as the result of the consolidations with an assessment of the effect of the action.

(c) GAO OVERSIGHT.—The Comptroller General shall have oversight responsibility over the implementation of the Commission's report. The Comptroller General shall periodically report to the Congress and the President regarding the accomplishment, the costs, the timetable, and the effectiveness of the implementation process.

SEC. 8. DISTRIBUTION OF ASSETS.

Any proceeds from the sale of assets of any department or agency pursuant to the report of the Commission shall be—

(1) applied to reduce the Federal deficit; and

(2) deposited in the Treasury and treated as general receipts.

SUMMARY—EXECUTIVE ORGANIZATION REFORM ACT OF 1993

The "Executive Organization Reform Act of 1993" establishes a twelve-member bi-partisan 2-year commission to make recommendations that have to be voted on by Congress to improve the organization of the Federal government.

SEC. 1. SHORT TITLE AND PURPOSE

The purpose of the "Executive Organization Reform Act of 1993" is to establish a commission to examine and recommend improvements in the organization of government agencies and programs, particularly involving the coordination and consolidation of activities, and the elimination of outmoded or duplicative activities.

SEC. 2. DEFINITIONS

The executive entities to be studied by the Commission include departments, agencies, independent agencies, government-sponsored enterprises and government corporations.

SEC. 3. THE NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION REFORM

The Commission is to examine and make recommendations with respect to:

(1) Criteria for use by the President and Congress in evaluating proposals to change the structure or organization of the executive branch and its entities;

(2) The organization and structure of the executive branch and its entities, including reorganizing, consolidating, abolishing or establishing any entity;

(3) The organization and delivery of government services, including whether to transfer activities to State or local governments; and

(4) Promoting economy, improving performance, and enduring adequate capacity of executive entities to meet and manage their public missions.

The Commission has 12 members, appointed within 60 days of enactment of the Act. The President appoints 4 citizen members, no more than 2 of his party. The Speaker and Minority Leader of the House and the Majority and Minority Leaders of the Senate each appoint 2 members, one a citizen member and one a Member of Congress.

Commission members are paid on a per diem (level IV) basis, with a Chair designated by the President paid on a per diem (level III) basis. The Commission shall appoint a Director and staff, and may have agency detailees. The Commission shall terminate 2 years after the date of enactment of the Act.

SEC. 4. COMMISSION REPORT

Within 18 months of the Commission's first meeting, the Commission shall make its report, along with the statutory language needed to accomplish its recommendations.

SEC. 5. PROCEDURE FOR IMPLEMENTATION OF REPORT

The Commission shall hold public hearings in a 90-day period following the submission of its report. No more than 45 days later, the Commission shall submit its final report. After 15 days for the President to approve or disapprove the report, and an additional 30 days for the Commission to modify its report upon presidential disapproval, the final report shall be submitted to Congress.

SEC. 6. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

A joint resolution to approve the Commission's report must be introduced within 10 session days of the submission of that report. Committee action must take place within 5 session days thereafter, and 5 days later the matter will be in order for consideration on an expedited basis.

SEC. 7. IMPLEMENTATION

OMB is responsible for implementing the Commission's report. Each executive branch entity affected by the report will include in its annual budget request a description of actions taken to carry out the report, and an estimate of expenditures and savings associated with those actions. GAO will oversee implementation of the Commission's report and will periodically report to Congress and the President.

SEC. 8. DISTRIBUTION OF ASSETS

Proceeds from the sale of executive branch assets per the Commission's report will be used to reduce the Federal deficit and deposited in the Treasury as general receipts.●

By Mr. MACK (for himself, Mr. BOND, Mr. BURNS, Mr. COATS, Mr. D'AMATO, Mr. GRAMM, Mr. CRAIG, Mr. GRASSLEY, Mr. HELMS, Mr. MURKOWSKI, Mr. NICKLES, Mr. SMITH, Mr. THURMOND, Mr. GORTON, Mr. BROWN, Mr. WALLOP, Mr. KEMPTHORNE, Mr. BENNETT, Mr. LOTT, Mr. DOLE, and Mr. COVERDELL):

S. 102. A bill to provide for a line-item veto; capital gains tax reduction; enterprise zones; raising the Social Security earnings limit; and workfare; to the Committee on Finance.

ECONOMIC RECOVERY ACT OF 1993

● Mr. MACK. Mr. President, the new President, like those before him, will be judged in large part by how well he keeps his campaign commitments. That is an appropriate test.

In recent days, there has been some criticism of the new President for backing away from certain campaign promises.

Bill Clinton was elected on the basis of his convictions, commitments, and pledges to the American people, especially when it comes to the economy. Today, I and many other Senate Republicans stand ready to help President Clinton follow through on his core commitment to spur the economy and revitalize the American spirit of innovation and competition. There are a number of policies he advocated during the campaign that Republicans have supported for years.

During these next 100 days, we urge the President to move forward in these areas of substantial agreement to ensure that the following five Clinton proposals become law: enacting a line-item veto; cutting certain taxes on long-term capital gains; creating Federal enterprise zones; lifting the Social Security earnings test limit to allow more seniors to work; and implementing workfare to encourage self-sufficiency.

A number of Senate Republicans pledge to stand shoulder to shoulder with President Clinton to fight for these ideas.

We've taken these five Clinton initiatives from his book "Putting People First" and have used his details to introduce a legislative package that must be passed immediately to help get America moving.

The American people supported these Clinton initiatives and the group of Senate Republicans intends to see them passed.

First, enact the line-item veto. Bill Clinton ran on the promise of a line-item veto, saying "to eliminate pork-barrel projects and cut government waste, give the President the line-item veto." He should fight for it and stick to his promise by rejecting attempts to water down the issue in Congress.

Our legislative package includes the line-item veto bill introduced in the 102d Congress as S. 196 by Senators MCCAIN and COATS. It would give President Clinton the authority to rescind portions of spending bills and, in contrast to present law, require the Congress to act in order to override the rescission.

Second, cut capital gains taxes. The bill is taken from the President's statement that he would "Help small businesses and entrepreneurs by offering a 50-percent tax exclusion to those who take risks by making long-term investments in new businesses." He's right. Few initiatives would stimulate growth and investment in the economy like a capital gains tax cut.

Our legislation includes a bill introduced by Senator BUMPERS in the previous Congress that allows investors in small business ventures to receive a 50-percent reduction in capital gains tax on investments held for 5 years.

Third, create Federal enterprise zones. Perhaps Jack Kemp's most brilliant idea, enterprise zones, would provide companies with incentives to locate in areas of high unemployment. President Clinton said that he wants to:

> Create urban enterprise zones in stagnant inner cities, but only for companies willing to take responsibility by hiring inner city residents. Business taxes and Federal regulations will be minimized to provide incentives to set up shop. In return, companies will have to make jobs for local residents a priority.

Our bill is based on legislation developed last year by then-Senator Lloyd Bentsen, Clinton's Treasury Secretary, which would create 50 enterprise zones. In these zones, employers would receive a 15-percent tax credit based on the wages it pays to its employees. Also, 50 percent of capital gains from investments would be exempt from tax if held in an enterprise zone for at least 5 years.

Fourth, lift the Social Security earnings test. Clinton said:

> Lift the Social Security earnings test limitation so that older Americans are able to help rebuild our economy and create a better future for all.

As senior Americans remain in the work force longer, a law enacted in the 1930's penalizes senior workers who also receive Social Security.

Our plan, which is based upon legislation introduced by Senator Bentsen last year, raises the limit on earnings for recipients from the current $10,560 in 1993 to $51,000 in 2001.

Fifth, implement workfare. Bill Clinton pledged that welfare reform would be a top priority. He said:

> Scrap the current welfare system to make welfare a second chance, not a way of life. Empower people on welfare with education, training, and child care they need for up to two years so they can break the cycle of dependency. After that, those who are able will be required to work, either in the private sector or through community service. Provide placement assistance to help everyone find a job, and give the people who can't find one a dignified and meaningful community service job.

Our bill includes a directive to the new President's Departments of Labor and Health and Human Services to develop a legislative package which mirrors Clinton's words, and send it to Congress within 100 days.

Bill Clinton was elected on the economic promises he made. Our hand is extended to the new President to enact his five initiatives for the good of the Nation. We'll stand up and fight for them. We hope the President will do the same.

By Mr. NICKLES (for himself, Mrs. KASSEBAUM, Mr. PACKWOOD, Mr. BROWN, Mr. COATS, Mr. KEMPTHORNE, and Mr. COVERDELL):

S. 103. A bill to fully apply the rights and protections of Federal civil rights and labor laws to employment by Congress; to the Committee on Governmental Affairs.

CONGRESSIONAL AND PRESIDENTIAL ACCOUNTABILITY ACT

• Mr. NICKLES. Mr. President, today the bill I send to the desk with Senator KASSEBAUM, Senator BROWN, Senator COATS, and Senator KEMPTHORNE is similar to one I and some of my colleagues introduced last Congress and is intended to eliminate the double standard which presently exists for the Congress and the executive branch in certain labor, civil rights and health and safety laws it has passed in the last 50 years.

Traditionally, Congress has exempted itself from civil rights, health, safety and many other labor laws which have been applied to the private sector as well as the Federal executive and judicial branch. This idea that Congress should not impose laws on the Nation that it will not live under itself is not a new one. A quote by James Madison in the Federalist Papers clearly states this:

> Congress can make no law which will not have its full operation on themselves and their friends, as well as on the great mass of society.

During consideration of the Civil Rights Act of 1991, I offered an amendment which would have made Congress and its instrumentalities subject to all regulations and remedies contained in the following laws: the National Labor Relations Act of 1935, Fair Labor Standards Act of 1938, Equal Pay Act of 1963, Civil Rights Act of 1964, Age Discrimination Act of 1967 and amendments of 1975, Occupational Safety and Health Act of 1970, Equal Employment Opportunity Act of 1972, Rehabilitation Act of 1973, Americans With Disabilities Act of 1990. In amendment form, this legislation received 38 votes last Congress and I believe with the influx of new Members calling for change, this legislation can pass. Later, I introduced the amendment as a free-standing bill, the Congressional and Presidential Accountability Act.

Since my first efforts on the Civil Rights Act of 1991 and the efforts of those before me on this issue, we have made some progress. With the adoption of the Civil Rights Act of 1991 and the establishment of a bipartisan task force to study the problem of Congress living under the laws it enacts, we have taken a step in the right direction. However, I simply do not believe Congress has gone far enough in making sure Congress lives under the same laws as everyone else. I want to ensure that the task force is not just window dressing.

My colleagues and I recognize that this legislation is not perfect. This legislation represents a starting point for the task force to begin its deliberations. We introduce this legislation hoping that the task force can use it to reach a consensus on our ultimate objective—Congress living under the laws it enacts for the rest of the American people.

A clear ultimatum was issued in the general election: Congress must lead by example and not by exemption. If we are going to impose these standards, remedies, and procedures on Federal agencies, State and local governments, and the private sector we must impose them on ourselves.

If business runs afoul of any of the laws listed in my bill, they face endless bureaucratic headaches and Federal court litigation. Congress has exempted itself from the above-mentioned

laws completely or has limited redress to be determined by only an internal mechanism with no right to judicial appeal. Would we allow major corporations to set up their own rules for dealing with complaints under these laws? The answer is obviously, no.

Congress must no longer tell the American public that we are exempt from the laws which we pass in this Chamber every day. Therefore, I encourage my colleagues to support this important piece of legislation.•

By Mr. HATFIELD (for himself, Mr. KENNEDY, Mr. CHAFEE, and Mr. SIMON):

S. 104. A bill to establish a National Center for Sleep Disorders Research within the National Heart, Lung, and Blood Instutute, to coordinate sleep disorders research within the National Institutes of Health to further facilitate the study of sleep disorders, and to establish a mechanism for education and training in sleep disorders, and for other purposes; to the Committee on Labor and Human Resources.

NATIONAL CENTER FOR SLEEP DISORDERS RESEARCH

• Mr. HATFIELD. Mr. President, today, along with my colleagues, Senators KENNEDY, CHAFEE, and SIMON, I am introducing legislation to create a National Center for Sleep Disorders Research within the National Heart, Lung, and Blood Institute of the National Institutes of Health. Since there is presently no entity within the Federal Government that deals expressly with sleep and considering the catastrophic effect of sleep disorders on our society, today marks a historic step toward finding potential answers to sleep disorders through the promise of biomedical research.

The National Commission on Sleep Disorders Research was established by Congress in 1988. It was charged with assessing the problem and prevalance of sleep disorders, reviewing Federal sleep disorders research, prevention and education programs, and making recommendations to the executive and legislative branches on improving the Federal response to sleep disorders.

Recently the National Commission completed the most comprehensive study ever conducted into the state of sleep disorders in this country. During the last 3 years, this group held eight public hearings, commissioned dozens of formal position papers and reviewed the testimonies of several hundred individuals whose lives had been affected by sleep disorders. The result of this painstaking research is a report which powerfully states the extent to which sleep disorders adversely affect our country.

The National Commission found that sleep disorders exact a tremendous toll on our Nation's population—nearly 40 million Americans are chronically ill with a sleep disorder and an additional 20 to 30 million experience intermittent sleep-related problems. In addition to the tremendous personal pain and suffering they inflict, sleep disorders are a tremendous drain on the productivity and safety of our country: Falling asleep at the wheel is one of the most costly and devastating problems on American highways; accidents in the workplace due to sleep deprivation are commonplace and damaging to industry—the annual cost to society is over $50 billion.

The adverse affects of sleep disorders have been tragically evident in my home State of Oregon. In a recent Portland-area case that gained national publicity, the McDonald's Corp. was held liable for a fatal traffic accident caused by an employee who fell asleep at the wheel after working all night. A second example occurred on November 22, 1992, in Harrisburg, OR, and involved the collision of two Southern Pacific freight trains. According to the National Transportation Safety Board, the trains collided because the engineers had fallen asleep and not responded to a stop signal in a timely manner. While the accident had the potential for serious injury, it fortunately caused only three minor injuries. Costs, however, to the company were estimated at nearly $3.5 million.

The grounding of the *Exxon Valdez* on March 24, 1989, provides an additional illustration of the consequences of sleep deprivation in the workplace. The final report of the National Transportation Safety Board concluded that, "the probable cause of the grounding of the *Exxon Valdez* was the failure of the third mate to properly maneuver the vessel because of fatigue and excessive work load." Unfortunately, vehicular and other accidents caused by sleep disorders are all too common.

Just as damaging is society's complete lack of awareness of sleep disorders and their consequences. In addition to finding little awareness of sleep disorders, the National Commission found serious gaps in medical research and alarmingly few young investigators in the pipeline. It seems highly probable that this "reservoir of ignorance" is a major reason why 95 percent of all individuals afflicted with a sleep disorder remain undiagnosed.

In order to address these problems, the National Commission recommended that the Federal Government undertake a series of initiatives. The cornerstone of these recommendations calls for the establishment of a National Center for Sleep Disorders Research within an existing Institute of the National Institutes of Health.

My belief in the establishment of a National Center for Sleep Disorders Research was further reinforced at a special hearing of the Senate Appropriations Committee in Portland last November 3. This hearing brought together a wide array of individuals with an interest in sleep disorders, including several fellow Oregonians whose lives were personally and professionally affected by sleep disorders. I found the personal testimonies of Mary Eichler, Sgt. Tim Weaver, Freddy-Lou Barneberg, and Dr. Gary Hoffman particularly compelling. In addition, Dr. Gerald Rich and Dr. Robert Sack of the Oregon Health Sciences University were persuasive in their testimony supporting the establishment of a National Center for Sleep Disorders Research. As patients and professionals whose lives have been affected by sleep disorders, their support for the establishment of a National Center for Sleep Disorders Research was instrumental in my decision to introduce legislation today.

Several leading medical groups, representing the diverse interests of patients, professionals and industry, have also endorsed the establishment of a National Center for Sleep Disorders Research, including American College of Chest Physicians, American Sleep Disorders Association, American Thoracic Society, Association of Polysomnographic Technologists, Sleep Research Society, American Narcolepsy Association, American Sleep Apnea Association, A.W.A.K.E. Network, Better Sleep Council, Narcolepsy Network, and the National Sleep Foundation.

The National Commission's work is done—they have eloquently stated the problems and laid the solutions before us. As policymakers, we now must act. I am pleased that my colleague from Massachusetts, Senator KENNEDY, has included authorization for the Center within his version of legislation reauthorizing the National Institutes of Health and I look forward to working with him and other members of the Senate Labor Committee to see this legislation enacted into law.

I also want to commend Dr. William Dement, Chairman of the National Commission on Sleep Disorders Research, and the other commissioners for their hard work, perseverance and leadership on this issue. By providing Congress with a clear cut policy mandate, the commissioners have served their profession with distinction. I will include for the RECORD, a summary of the findings and recommendations of the National Commission on Sleep Disorders Research.

Mr. President, the Federal Government has a role to play in issues which cross state-lines and affect millions of Americans, particularly when the cost in terms of lives, dollars, and human suffering is high. In the case of sleep disorders the cost is too high. America cannot afford to hit the snooze button, roll over and go back to sleep when it comes to this problem. At least for those who are able to sleep.

I also ask that the text of my legislation be included in the RECORD.

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

S. 104

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

SECTION 1. NATIONAL CENTER FOR SLEEP DISORDERS RESEARCH.

Part C of title IV (42 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 17—National Center for Sleep Disorders Research

"SEC. 464W. NATIONAL CENTER FOR SLEEP DISORDERS RESEARCH.

"There shall be in the National Heart, Lung and Blood Institute an agency to be known as the National Center for Sleep Disorders Research (hereafter referred to in this subpart as the 'Center') to be headed by a Director who shall be appointed by and report directly to the Director of the Institute.

"SEC. 464X. PURPOSE OF THE CENTER.

"The general purpose of the Center is the conduct and support of biomedical and related research and research training, the dissemination of health information, and the conduct of other programs with respect to various sleep disorders, the basic understanding of sleep, biological and circadian rhythm research, chronobiology and other sleep related research.

"SEC. 464Y. SPECIFIC AUTHORITIES.

"In carrying out the purpose described in section 464X, the Director of the Center may—

"(1) award grants and enter into cooperative agreements and contracts;

"(2) provide for clinical trials with respect to sleep disorders treatment and sleep medications;

"(3) support sleep disorders research and training centers;

"(4) support sleep disorders research conducted or supported by more than one such agency;

"(5) support and conduct the collection of epidemiology data on sleep disorders;

"(6) conduct a National Education Campaign and establish a National Sleep Disorders Information Clearinghouse;

"(7) in consultation with the Directors of the National Heart, Lung and Blood Institute, the National Institute on Aging, the National Institute of Neurological Disorders and Stroke, the National Institute of Child Health and Human Development, the National Institute of Mental Health, and other Institutes, support and coordinate ongoing research, centers, training and other grant activities;

"(8) coordinate the activities of the Center with similar activities of other agencies of the Federal Government, including the other agencies of the National Institutes of Health, and with similar activities of other public entities and of private entities; and

"(9) with the approval of the Director of the National Institutes of Health and advisory board established under section 464BB, appoint technical and scientific peer review groups in addition to any such groups appointed under section 492.

"SEC. 464Z. RESEARCH PLAN.

"(a) DEVELOPMENT.—After consultation with the Director of the Center, the advisory board established under section 464BB, and the coordinating committee established under section 464AA, the Director of the National Institutes of Health shall develop a comprehensive plan for the conduct and support of sleep disorders research.

"(b) CONTENTS.—The plan developed under subsection (a) shall identify priorities with respect to such research and shall provide for the coordination of such research conducted or supported by the agencies of the National Institutes of Health.

"(c) REVISION.—The Director of the National Institutes of Health (after consultation with the Director of the Center, the advisory board established under section 464BB, and the coordinating committee established under section 464AA) shall revise the plan developed under subsection (a) as appropriate.

"SEC. 464AA. COORDINATING COMMITTEE.

"(a) ESTABLISHMENT.—The Director of the National Institutes of Health shall establish a committee to be known as the Sleep Disorders Coordinating Committee (hereafter in this subpart referred to as the 'Coordinating Committee').

"(b) COMPOSITION.—The Coordinating Committee shall be composed of the directors of the National Institutes of Health, the National Institute on Aging, the National Institute of Child Health and Human Development, the National Heart, Lung and Blood Institute, the National Institute of Neurological Disorders and Stroke, the National Institute of Mental Health, and of such other national research institutes as the Director of the National Institutes of Health determines to be appropriate, and shall include representation from other Federal departments and agencies whose programs involve sleep disorders.

"(c) DUTIES.—The Coordinating Committee shall make recommendations to the Director of the National Institutes of Health and the Director of the Center with respect to the content of the plan required in section 464Z, with respect to the activities of the Center that are carried out in conjunction with other agencies of the National Institutes of Health, and with respect to the activities of the Center that are carried out in conjunction with other agencies of the Federal Government.

"SEC. 464BB. ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Director of the National Institutes of Health shall establish a board to be known as the Sleep Disorders Research Advisory Board (hereafter in this section referred to as the 'Advisory Board').

"(b) DUTIES.—The Advisory Board shall advise, assist, consult with, and make recommendations to the Director of the National Institutes of Health and the Director of the Center concerning matters relating to the scientific activities carried out by and through the Center and the policies respecting such activities, including recommendations with respect to the plan required in section 464Z.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Director of the National Institutes of Health shall appoint to the Advisory Board 12 appropriately qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, eight shall be representatives of health and scientific disciplines with respect to sleep disorders and four shall be individuals representing the interests of individuals with or undergoing treatment for sleep disorders.

"(2) EX OFFICIO MEMBERS.—The following officials shall serve as ex officio members of the Advisory Board:

"(A) The Director of the National Institutes of Health.

"(B) The Director of the Center.

"(C) The Director of the National Heart, Lung and Blood Institute.

"(D) The Director of the National Institute of Mental Health.

"(E) The Director of the National Institute on Aging.

"(F) The Director of the National Institute of Child Health and Human Development.

"(G) The Director of the National Institute of Neurological Disorders and Stroke.

"(H) The Assistant Secretary for Health.

"(I) The Assistant Secretary of Defense (Health Affairs).

"(J) The Chief Medical Director of the Veterans' Administration.

"(d) CHAIRPERSON.—The members of the Advisory Board shall, from among the members of the Advisory Board, designate an individual to serve as the chairperson of the Advisory Board.

"(e) CONSTRUCTION.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 406 shall apply to the advisory board established under this section in the same manner as such provisions apply to any advisory council established under such section.

"SEC. 464CC. RELATED AGENCY ACTIVITY.

"(a) SECRETARY OF TRANSPORTATION.—The Secretary of Transportation is authorized to collect data, conduct studies and disseminate public information concerning the impact of sleep disorders and sleep deprivation on transportation safety. The Secretary of Transportation is authorized to coordinate these activities with the Center.

"(b) SECRETARY OF DEFENSE.—The Secretary of Defense is authorized to collect data, conduct studies and disseminate public information concerning the impact of sleep disorders and sleep deprivation on military readiness. The Secretary of Defense is authorized to coordinate these activities with the Center.

"(c) SECRETARY OF EDUCATION.—The Secretary of Education is authorized to collect data, conduct studies and disseminate public information concerning the impact of sleep disorders and sleep deprivation on learning and education. The Secretary of Education is authorized to coordinate these activities with the Center.

"(d) SECRETARY OF LABOR.—The Secretary of Labor is authorized to collect data, conduct studies and disseminate public information concerning the impact of sleep disorders and sleep deprivation in the workplace and in industry with a particular emphasis on shiftwork, hours of service and other scheduling issues. The Secretary of Labor is authorized to coordinate these activities with the Center.

"(e) SECRETARY OF COMMERCE.—The Secretary of Commerce is authorized to collect data, conduct studies and disseminate public information concerning the impact of sleep disorders and sleep deprivation on the commerce and industrial capacity of the United States. The Secretary of Commerce is authorized to coordinate these activities with the Center.".

OVERVIEW OF THE FINDINGS OF THE NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH

Millions of Americans are affected by sleep disorders. 40 million Americans are chronically ill with various sleep disorders and an additional 20 to 30 million experience intermittent sleep related problems. The consequences of sleep disorders are diverse, serious and often catastrophic.

Sleep disorders affect all age groups. Few people are aware that sleep disorders exist at every age level from the sudden infant death syndrome to sundowning in the elderly. Children, adolescents, young adults, middle-aged

adults and especially the elderly are afflicted.

Minorities and the poor have extremely limited access to sleep medicine. Current research also indicates that these groups may have an even higher incidence of sleep related disorders, especially those associated with obesity, such as sleep apnea.

America is seriously sleep-deprived with disastrous consequences. Falling asleep at the wheel is one of the most costly and devastating problems on American highways. Accidents in the workplace due to sleep deprivation are commonplace and damaging to industry. Students asleep in class miss opportunities that will help them foster careers. Every component of society is seriously impaired by sleep deprivation.

The cost in dollars, lives and human suffering is very high. There are no well-established databases on the cost of sleep disorders and sleep deprivation. The Commission was able to definitely assign $15.9 billion as the direct cost of sleep disorders with an estimated $50 to $100 billion in indirect and related costs when the cost of individual accidents associated with sleep disorders and sleep deprivation are assessed including litigation, destruction of property, hospitalization and death.

Pervasive failure of knowledge transfer. The Commission found no component of society adequately aware of sleep disorders and the facts of sleep deprivation. Most importantly, primary care physicians are in desperate need of adequate information. Currently 95 percent of patients with sleep disorders remain undiagnosed.

There are many serious gaps in research. Many important areas in sleep research remain uninvestigated due to a lack of funding and coordination on a federal level. Some of the most crucial areas, such as insomnia (which affects approximately one in three Americans), have little or no current research activity.

Alarmingly few young investigators in the pipeline. At present, there are under twenty young investigators in training programs for sleep research. Due to the multidisciplinary nature of sleep research and sleep medicine, there are many qualified individuals within existing disciplines such as molecular biology and neurochemistry. With increased funding for training and research many could pursue careers in the field of sleep research.

RECOMMENDATIONS

The National Commission on Sleep Disorders Research has proposed for immediate implementation, six basic recommendations that will ensure the greatest benefit at the smallest cost. Even if resources were unlimited, the ambitious goal of changing the way society deals with sleep could not be accomplished overnight. These six recommendations will launch the long-range national plan to create an environment in which research findings and education programs will lead to early diagnosis and prevention of sleep disorders and reduce the impact of sleep deprivation.

Recommendation One: Establish a National Center

Our nation needs an accountable structure to coordinate education and research on sleep disorders. The Commissioners unanimously agreed that the best possible mechanism to address the urgent needs of American society would be a national center within an existing Institute of the National Institutes of Health. The Commission recommends that the Congress authorize the establishment of and appropriate sufficient funds to support a National Center for research and education on sleep and sleep disorders to be housed within an existing NIH Institute. The center's activities will complement the sleep and sleep disorder related research currently undertaken by the various National Institutes of Health and Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), and, through its own award authority, shall encourage and support gap-filling and crosscutting research, and develop new research programs and educational/training initiatives in the field.

Recommendation Two: Strengthen Ongoing Programs

Solving society's biggest sleep related problems must be a national priority. The Commission recommends that federal support for basic, clinical, epidemiological, health services, and prevention research on sleep and sleep disorders be expanded. Existing research commitments by the NIH and ADAMHA Institutes, as well as the Centers for Disease Control, Department of Veterans Affairs, Department of Defense, and other federal agencies currently engaged in sleep and sleep disorders research should be strengthened.

Recommendation Three: Accountability in All Federal Agencies

The Commission found a near total absence of overall coordination and accountability for issues related to sleep among widely dispersed activities managed and regulated by the many federal agencies. The Commission recommends the establishment of specifically identified offices on sleep and sleep disorders within all federal departments and agencies whose programs affect or are affected by issues of sleep and sleep disorders, and that the Office of Science Technology Policy undertake a feasibility study for the establishment of a special body to ensure coordination, cooperation, and collaboration among the separate agency-based sleep/sleep disorder offices.

Recommendation Four: Training and Career Development

The Commission identified a serious lack of career and training opportunities for young investigators interested in the field of sleep. Research is essential for cures and better treatment of sleep disorders. Currently, the important research questions far outnumber the available trained investigators. The Commission recommends that substantially increased levels of federal support be directed to the NIH and ADAMHA, as well as to the Centers for Disease Control, the Department of Veterans Affairs and the Department of Defense, specifically for sleep and sleep disorder research training and career development opportunities.

Recommendation Five: Education of Health Professionals

Ninety-five percent of the victims remain undiagnosed, largely because health professionals have not had the opportunity to learn about sleep disorders and sleep deprivation. There is an urgent need for physicians, nurses, and all health care professionals to be able to identify and refer or treat patients with sleep disorders. The Commission recommends that Congress encourage and support broader awareness of and training in sleep and sleep disorders spanning the full range of health care professions, particularly at the primary care level.

Recommendation Six: An Educated America

The lack of awareness throughout America about the nature and impact of sleep disorders and sleep deprivation is a national emergency. Witnesses asked repeatedly, "How many preventable deaths are going to occur this year?" "Why don't we do something right now?" The Commission has concluded that the American public has been inappropriately denied the benefits of the research knowledge its tax dollars have supported. The Commission recommends that a major public awareness/education campaign about sleep and sleep disorders be undertaken immediately by the federal government.•

By Mr. JEFFORDS (for himself, Mr. DURENBERGER, and Mrs. KASSEBAUM):

S. 105. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding; to the Committee on Finance.

PENSION FUNDING IMPROVEMENT ACT

• Mr. JEFFORDS. Mr. President, yesterday we witnessed the start of a new era in American politics with the inauguration of President Clinton. Our President referred to the event as a new beginning for our Nation, a time in which we all must take responsibility for our Nation's problems. He wisely reflected that in doing this we as a country, both individually and collectively, must change present attitudes and be prepared to stop looking for something for nothing. Everyone must give within their ability. Everybody must do their fair share.

Today, on the first day of official business, my distinguished colleagues Senator DURENBERGER, Senator KASSEBAUM, join me in introducing a bill that I believe would extend the President's philosophy to the increasingly important area of pension policy. It is a bill designed to solve the problems of a beleaguered, deficit-ridden Government agency, the Pension Benefit Guaranty Corporation or PBGC. The agency is not familiar to most of us. However, it insures the defined benefit pension plans of over 40 million Americans. Its importance and deteriorating financial condition is becoming more apparent with each passing day. Since this subject was brought up in the Presidential debates last November, there have been numerous press accounts providing us with the grim details of events involving the evasion of corporate responsibility. Such problematic behavior will surely result in less of a pension for many dedicated workers who have often given their whole lives in service to a particular company.

The problem, simply put, is that big companies in troubled times are taking advantage of our pension insurance system. They promise big pensions to workers, regularly increasing benefits, while making the most minimum funding contributions permitted under the law. The troubled companies then terminate their pension plan and pass along their pension debt to the PBGC. Billions of dollars of debt are involved.

Our solution, is the Pension Funding Improvement Act of 1993, a three-part bill we are introducing today. It assigns individual responsibility to every company that makes pension promises, saying in very unambiguous terms that if a company makes a pension promise, it had better be willing to act to keep that promise. Part I of the bill includes stronger funding rules for underfunded pension plans, to ensure the faster funding of present unfunded pension obligations. Part II, prevents a bad situation from getting worse, by requiring underfunded plan sponsors to immediately fund up their plan or put up collateral in order to increase pension benefits. Part III includes Congressional Budget Office and PBGC studies of what premium increases would be necessary to balance the PBGC's accounts.

Since the bill was first introduced last August, the case for reform has just grown stronger. Every day we wait is a day where plan underfunding increases. We have had three congressional hearings outlining the consequences of the loopholes in present pension law. Moreover, on January 6, the GAO released a report explaining that the potential risk from poorly funded pension plans is much greater than was originally anticipated. Previous to this, in December, the GAO issued a special high risk report on the PBGC. This is a special series of reports done to target Federal programs that are especially vulnerable to high risk.

How many reports and hearings will be necessary before we make needed changes in law? If experience serves as an example, the problem may well need to escalate to the point where it truly parallels the savings and loan crisis, before we enact a needed change in the law.

This is why my knowledgeable colleague, Representative JAKE PICKLE, introduced a companion PBGC bill on January 5. As chairman of the Subcommittee on Oversight of the House Ways and Means Committee, he will hold a further hearing on this issue in February, to review the impact of current law on the Federal deficit, plan retirees, and plan sponsors. I understand the House Education and Labor Committee will also hold a similar hearing.

As of today, the PBGC has a deficit of $2.5 billion. This is largely a result of the following recent pension plan terminations: First, in 1990, Eastern Airlines terminated its plan with $700 million in unfunded liabilities. Next, in 1991, Pan American Airlines terminated its plan with $900 million in unfunded liabilities. Then, in 1992, Blaw Knox terminated with $81.6 million in unfunded liabilities, C.F. & I. Steel Co. terminated with $270 million in unfunded liabilities, and Uniroyal Plastics, Inc., terminated with $156 million in unfunded liabilities.

And the trend is expected to increase. This is not surprising since current pension law has provided a way for struggling companies to shift the costs of their pension benefits. These companies routinely grant employees increases, knowing full well that if their company continues to be financially troubled they will be able to terminate their pension plans and dump the pension plan's obligations onto the PBGC. The PBGC predicts that it is significantly at risk for about $13 billion in benefits provided by pension plans of companies in the steel, auto, airline, tire, and rubber industries.

Each year the PBGC publishes a list of those top 50 underfunded pension plans who are the most at risk. When one compares corporate funding over the last 3 years, the facts unfortunately show that plan funding for the top 50 has gone down by $10.7 billion since 1988. Collectively, the top 50 are $24.2 billion in the red.

Last month TWA announced it is expected to emerge from bankruptcy this year. It also made an agreement with the PBGC to pay $500 million of its $1 billion pension debt. That's the good news. The bad news, however, is that even though TWA has promised it will pay for about half of its pension obligations, fully $300 million in promised benefits are beyond the scope of the PBGC's guarantee. Therefore, many TWA workers will never see certain early retirement benefits they have been promised. Furthermore, there is still expected to be at least $400 million in underfunded guaranteed benefits that will need to be paid for by the PBGC. Where is this money going to come from? This is my concern.

For some time now, companies with underfunded pension plans have been promising significant amounts of new benefits in lieu of wage increases. And while the trend is occurring in the steel, tire, and rubber industries, the problem is most acute in the automobile industry. At present Chrysler Corp. is $3.9 billion underfunded, and General Motors Corp. is in the red by a whopping $11.8 billion. This is according to the optimistic assumptions of their own actuaries. But both organizations will tell you not to worry because their pension promises are as good as the strength of their companies.

If this isn't bad enough, earlier this year, we witnessed further corporate practices that are just obscene: companies already in bankruptcy are agreeing to retroactive benefit increases.

Last year when TWA first filed for bankruptcy, their plan was considered 84 percent funded for guaranteed benefits. Since this time it gave a retroactive increase in benefits that caused an additional $53 million in underfunding. It is now $1.2 billion underfunded.

This past spring, a bankruptcy court approved benefit increases for Continental Airlines pilots that will almost double the plan's underfunding to about $191 million

Now, some people will argue that financially distressed companies need to minimize contributions to the pension plan so that this money can instead be put into the company, to increase productivity and competitiveness. I personally would argue that it is precisely because a company is financially vulnerable, that an extra effort should be made to be sure that the pension plan is financially sound. So if workers need to take early retirement due to financial downsizing resulting from problems in the global marketplace, they can be certain that money will be there.

Many people will also argue that the PBGC was deliberately designed to subsidize companies in ailing industries. They are, however, at direct odds with the many who believe the PBGC should operate like a private sector insurer and set premiums more precisely related to the risk that a company would have of defaulting on its pension promises.

Regardless of what one thinks about the purpose of the PBGC, the reality is our public policy options on how to rectify the PBGC's deficit problem are limited. Furthermore, it is in the best interest of the 40 million workers who currently have PBGC insurance protection, as well as the defined benefit plan system, that we review our objectives for the PBGC and act quickly to resolve the PBGC's deficit problems.

What are our options? The PBGC is currently financed exclusively from premiums plan sponsors pay into the system, those pension assets remaining in terminated underfunded plans and interest. Given this fact, one alternative would be to raise PBGC premiums that employers pay into the system. This may be inevitable, given the PBGC's current deficit. The PBGC estimates that it would have to significantly increase premiums, even if it takes on only $500 million a year in underfunded liabilities, which is very likely given recent experience. Under a middle of the road scenario, the PBGC estimates that premiums paid by all single employer plan sponsors will rise to $58 per person for well funded plans, and to as much as $219 per participant for poorly funded plans. We have already raised premiums considerably from those days in 1974 when all plan sponsors paid a dollar a head for each plan participant.

How much is too much? When will responsible employers with well funded plans say they've had enough of premium increases to pay for obligations promised by other companies, especially their competitors? When will they terminate their own defined benefit plan and instead offer to make contributions to a defined contribution plan under which employer liabilities are fixed and employees have no insur-

ance protection? I'm sure. Even at present premium levels, the trend is away from defined benefit plans. Pension experts of all political philosophies, who don't always agree on other matters, agree that the defined benefit plan universe is shrinking. The number of defined benefit plan terminations are increasing, and fewer and fewer new defined benefit plans are entering into the system.

Last August, the Senate Labor Subcommittee held a hearing on current pension trends. At this hearing our knowledgeable subcommittee chairman, Senator METZENBAUM, spoke of his deep concern about the future of the defined benefit plan system. I completely agree with his point and would like to quote from his statement, "Employers are abandoning defined benefit pension plans which are designed to provide specific levels of retirement± income." He went on to say that the effects of this trend are devastating for low-income workers. At this same hearing, the American Academy of Actuaries stated that one of the main reasons for this trend away from defined benefit plans is the unsound PBGC. To quote from the group's testimony:

> Congress and the Executive branch must work to restore confidence among defined benefit plan sponsors, that the PBGC can properly fulfill its mission of guaranteeing private defined benefit plans. Continuing speculation about the PBGC premium increases and comparison of the PBGC to the Federal Deposit Insurance Corporation [FDIC] only intensifies the pressure, subsequently driving employers away from defined benefit plan sponsorship.

Another option before Congress is to try to stabilize the premium, so as not to deter plan sponsors away from the system, and instead let the Federal Government absorb the loss. This option is a reality which even the Bush administration could not deny. In the President's budget for fiscal year 1993, the administration introduced the idea of budgeting for fixed and expected future PBGC liabilities. Unfortunately, it did not include premium income in their calculations. Therefore the likely long-term impact on the budget could not be realistically assessed. But one thing is for certain, adding billions to our $4 trillion national debt is no way to help balance the budget.

Our third option is to be sure that companies fund their pension promises and promise within their means. This can be done through stricter funding rules for underfunded plans, to require the faster funding of present obligations. An additional requirement, that companies fund up their plan or put up collateral if they increase benefits, will prevent presently underfunded plans from getting worse.

It might seem cruel to force companies to promise within their means. But it is far more cruel for workers to expect a certain level of benefits when they retire, only to find out later that the money they expected to have for their retirement isn't there. After all, even the PBGC only guarantees, on average, about 80 percent of what is currently promised.

Our bill incorporates the principles embodied in the third alternative, because as one can deduce, it is the only choice that ensures a responsible national retirement income policy.

Unfortunately, there are no quick fixes or easy answers to our PBGC problem. Retirement benefits need to be paid for. Fortunately, the vast majority of companies do a great job providing for their employees and have well-funded pension plans. Many of these companies, such as Ford Motor Co., and USX Corp., compete on a daily basis with rivals who put far less into the pension plan in order to sustain the operating budgets of their company. Is it fair for some companies to do their best for employees while others play a shell game with their pension promises? These pension promises eventually need to be paid for with real money, not IOU's.

As retirees live longer they will need a sufficient amount of pension money to be assured some quality of life. All segments of society need to play a role in this endeavor. Social Security alone will not suffice. Employees at all income levels need to save. Employers need to offer pension plans and responsibly fund for what they promise to provide. Government needs to encourage adequate funding so that pension money can earn interest. Companies should not have the stress of needing to use this year's corporate earnings to pay for this year's retirees. This is especially dangerous for companies in cyclical and declining industries, with a shrinking work force.

So let's act now to enact the Pension Funding Improvement Act. Let us not wait until 10 years down the road when the Federal Government is forced to step in to examine the debris left over from the defined benefit plan system. Let's act now and send a message to America that the defined benefit plan system, and indeed our Nation's retirement income policy as a whole, needs to grow and flourish. While enactment of the Pension Funding Improvement Act is not the total answer to our country's retirement policy problems, it will greatly diminish our PBGC deficit problem by ensuring that workers have funded pensions today in order to be sure they are not a burden to their children tomorrow. It's a positive step in the right direction, deserving the serious attention of all those concerned with the future. Hopefully, all my colleagues will consider it worthy of their serious attention.●

Mr. DURENBERGER. Mr. President, I am very pleased to take this opportunity to join my distinguished colleague from Vermont, Senator JEFFORDS, in cosponsoring this bill. We seek, through this bill, to limit the financial exposure of the Pension Benefit Guaranty Corporation [PBGC].

Mr. President, I would initially like to thank Senator JEFFORDS and extend to him my appreciation for the tremendous amount of work that he and his staff have done in the area of employee benefits legislation. I congratulate him for his leadership in a field that is of vital importance to so many Americans.

Let me begin with some background on the current problems at the PBGC. America's retirement security system is built on three pillars: Social Security, individual savings, and private pensions.

Mr. President, 10 years ago, when the Social Security system was so close to insolvency that it was borrowing money from the Medicare trust funds, we had the bipartisan courage to shore up the trust fund and ensure that Social Security would be there for our children and grandchildren.

We have learned a vital and expensive lesson from the S&L debacle that threatened the individual savings of many Americans. That lesson is this: When we see a potential disaster brewing in some area where the Government has unfunded liabilities, we must act as quickly as possible to shore up the system and prevent a problem from escalating into a catastrophe.

Had we addressed the S&L crisis early, and provided adequate financing to close down all of the bankrupt S&L's in 1986 the cost to the American taxpayer would have been less than $50 billion. But the longer we waited, the more it cost us. Now, we as a Nation are paying the price for that delay. And we will continue to do so for many years to come.

Mr. President, the third pillar of our Nation's retirement security is based upon the private pension system. When working men and women retire after a life of service to one or more companies, they often receive a pension from their employer's defined benefit plan.

In the late 1960's and early 1970's, this third pillar was in serious jeopardy. Employees who worked for 25 years were dismissed by their employers without receiving a single penny of the pension they have earned. After the failure of several well-known companies in Minnesota and across the country, including Studebaker Corp., Minneapolis Moline Corp., White Motor Freight, and others, Congress finally stepped in, and established, in 1974, enforceable vesting and fiduciary responsibilities for company pension plans.

To guarantee the promise of a pension, Congress created the Pension Benefit Guaranty Corporation [PBGC]. PBGC's purpose is to provide financial security for plan participants if their company and its plans fail. The PBGC collects premiums from viable defined benefit plans and takes over and ad-

ministers plans that terminate when employers go out of business. Thus, in a very real sense, all working men and women who are participants in defined benefit plans rely on PBGC to guarantee the future existence of their pension plans.

Mr. President, the warning signs that PBGC is in financial trouble are everywhere. The warning lights are flashing and the buzzers are sounding much too loudly to be ignored. The U.S. Senate must act appropriately and we must act now. PBGC has a $2.5 billion deficit, which is up from $1 billion just 2 years ago. The Department of Labor estimates that if we do nothing, this deficit will grow to $18 billion by 1997.

The two largest losses have occurred recently—Pan American Airways' terminated plan was underfunded by $900 million, and Eastern Airlines' plan was underfunded by $700 million.

But what worries me the most is that the pension underfunding associated with readily identifiable troubled companies grew last year by an estimated $8 billion, to $13 billion. This constitutes a huge potential liability for PBGC, and one that could threaten our entire private pension system.

Mr. President, the Jeffords-Durenberger bill is an initial step that Congress can take to stem the further undermining of our private pension system. The problem is that under current law, companies are allowed to grant pension benefit increases to their employees without actually funding the pension plan to the extent of these increases. If the plan then terminates in this underfunded state, PBGC is fully responsible for providing these benefits, including the benefit increases.

Let me repeat that. Employers may grant pension benefit increases without adequately funding the plan, and PBGC is responsible for the promised benefits.

Mr. President, as you are well aware, America's corporate executives are very smart. They know about this rule, and I believe that they have taken advantage of the American people. Employers, especially in troubled industries, know that they cannot afford significant wage increases, and many have underfunded pension plans. So what do they do then? They provide pension benefit increases without funding them. If the company turns itself around, it ends up paying the benefits; but if it goes out of business, the PBGC is stuck with the tab.

In my view, this amounts to nothing more than a risk-free loan from the PBGC to ailing companies. Congress did not establish PBGC for this purpose, and I think that this is just plain wrong. Given the current budgetary constraints that this country faces, I see this as a risk that we can ill afford to take.

The Jeffords-Durenberger bill addresses this problem directly. The bill amends the tax code to require plans that grant benefit increases to provided security in the form of cash or a bond if the plan is less than 90-percent funded, if the employers want to grant increases, they will have to pay for them.

It hardly seems too much to ask for employers to pay for the benefits that they promise their workers. If they cannot pay for the increased benefits, then they should be honest with their employees and let them know. The PBGC, as a Federal guarantee agency, should not be the dumping ground for irresponsible employer promises.

By Mr. HATCH (for himself, Mr. ROCKEFELLER, Mr. ROTH, Mr. GRASSLEY, and Mr. DANFORTH):

S. 106. A bill to modernize the U.S. Customs Service; to the Committee on Finance.

CUSTOMS MODERNIZATION AND INFORMED COMPLIANCE ACT

Mr. HATCH. Mr. President, I am introducing today a bill that is critical to the future operations of the U.S. Customs Service, as this distinguished Federal agency moves toward 200 years of service to our country.

Let me say at the outset that this bill is identical to the version passed by the last Congress. Unfortunately, the act was incorporated into the Revenue Act of 1992 which was vetoed. I am therefore inviting every Senator and Representative who supported the act in the 102d Congress to demonstrate their commitment to the improvement of our customs system by joining us as a cosponsor of this bill. I am also hoping that new Members of Congress will see the benefits for all that come from supporting this bill. Every State and district in the United States will realize a net gain in jobs, business, consumer price savings, and manufacturing productivity.

The Customs Modernization Act will allow our foreign trade community to keep apace of the unprecedented growth of our export and import system. The Mod Act, as it's referred to in this community, will provide a type of electronic, streamlined infrastructure over which the continued surge of trade will flow more smoothly.

The Mod Act benefits everyone.

Importers: Retail businesses as well as manufacturers who need imported components for integration into products for domestic or foreign sale.

Consumers: There will be a better choice of available goods at lower prices, keeping household budgets more stable.

Exporters: Faster processing of foreign-bound goods allowing for a quicker recovery of investments, settlement of bills of lading, and improved market access abroad.

Mr. President, I am convinced that the Clinton Presidency will be no less committed to the expansion of trade than the previous administration. I am therefore inviting my colleagues to join me in registering our support for this bill as evidence of the Senate's strong bipartisan commitment to the expansion of our economy through trade and trade-related production and employment.

Mr. President, I believe that we will continue this country's progress toward still greater trade development in the next 4 years. I see progress in such landmark agreements as the Uruguay round of the General Agreement on Tariffs and Trade; the North American Free-Trade Agreement; a Chilean Free-Trade Agreement; and other agreements with such likely candidates as Argentina, as well as improved trade relations with China, Japan, the European Community, and the South and Southeast Asian regions.

At the moment, without the streamlining provided in the Mod Act, we actually lag behind Europe, Korea, and many other regions and countries in customs processing. Think of it, the nation that conceived, developed, and raised computer-based management systems to new heights actually trails newcomers to these technologies. It is inexcusable, and a regrettable self-condemnation of foot-dragging. More importantly, it undermines efficiency that contributes to economies of the firm in foreign trade, as I mentioned earlier in this statement. It impedes competitiveness, in other words.

For these reasons, the bill enjoys widespread support from a broad coalition of importers, carriers, brokers, and other industries. In the last Congress, we answered the demands of everyone, even small brokers who sought extensions of time for adopting electronic cargo processing procedures. But we are willing to go still further and will entertain any objection when this bill is received in committee.

We need the Mod Act to ensure this country's rightful place in the world trade community.

Mr. President, I thank you for your consideration.

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 107. A bill to mandate a study of the effectiveness of the national drug strategy and to provide for an accounting of funds devoted to its implementation, and for other purposes; to the Committee on Labor and Human Resources.

STUDY OF THE EFFECTIVENESS OF THE NATIONAL DRUG STRATEGY

• Mr. MOYNIHAN. Mr. President, in the fall of 1990, I noted that the Congress has never mandated a comprehensive examination of our antidrug efforts to identify the most useful, cost-efficient methods. I made the same point on the first day of the 102d Congress. Today, as the 103d Congress commences, I reintroduce a bill to require such a study.

In 1988 I cochaired a Democratic Working Group on drug policy with our esteemed colleague Senator NUNN. The Group developed a comprehensive approach which was written into law as the Anti-Drug Abuse Act of 1988. This bill distinguished between the problems of supply and demand for illegal drugs. Significantly, it emphasized demand.

I have long been skeptical of antidrug programs that place primary emphasis on an attempt to interrupt the supply of drugs. To be sure, antisupply programs have their place, but as long as there is significant demand, restricting the supply has the adverse effect of making the drug business more profitable for those who succeed in circumventing the law. There will always be those who try.

The point here is that the plan proposed by the Democratic Working Group embodied a broad approach. It included law enforcement and interdiction, but also emphasized the importance of providing treatment on request or application.

In 1990, the administration issued a white paper which, for all intents and purposes, rejected the specific, legislatively mandated goal of providing treatment on request. Former drug czar William Bennett said that he thought it was not sensible to put those seeking treatment in the driver's seat. Nevermind the fact that Congress wrote that goal into the law.

In December of last year, I delivered the Norman E. Zinberg Lecture at the John F. Kennedy School for Government at Harvard University. There, I noted that our 1988 legislation had a brief half-life. Bennett was followed by a political appointment with no apparent views on the subject. Dr. Herbert D. Kleber, the Deputy Director for Demand—a position established by the Anti-Drug Abuse Act of 1988—left after 2 years, and his position was never filled by the administration. Nor was support for treatment as forthcoming as the legislation indicated it ought to be.

The recent administration's hostility toward treatment on request is all the more reason that we should conduct a thorough, nonpartisan, scientific review of what actually works—dollar for dollar—and what does not. As we approach the $10 billion level in annual drug program appropriations, it is time that we ask the simple question: "What works?"

Research was an important part of the recent administration's drug strategy. But we need a comprehensive review of all our efforts. If we are to succeed—especially in this time of fiscal constraint—in reducing the level of epidemic drug addiction in the United States, then we need to compare the various possible approaches and make intelligent, informed choices among the competing priorities. The study mandated by this legislation in the sine qua non of making these choices is an intelligent manner.

This bill would require the Secretary of Health and Human Services to arrange for the National Academy of Sciences to conduct this study. It also provides for an annual audit report of our drug programs by the General Accounting Office. Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD at this point.

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

S. 107

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

SECTION 1. FINDINGS.

The Congress finds that—

(1) there is great disagreement concerning the causes of the problem of epidemic drug addiction in the United States and about the most effective way to reduce it;

(2) one of the factors which most inhibits an effective response to the problem of epidemic drug addiction in the United States is the lack of accurate information concerning both the problem and the specific effectiveness of each individual element of the Nation's antidrug effort;

(3) evaluating the effectiveness of the individual elements of the Federal program to reduce epidemic drug abuse requires accurately establishing cause and effect relationship concerning drug addiction;

(4) the United States has promulgated a National Drug Strategy pursuant to the requirements of the 1988 Anti-Drug Abuse Act and will devote many billions of dollars to antidrug programs for many years to come; and

(5) it is in the interests of the Nation that these funds be spent as effectively as possible and that a permanent mechanism exist to audit their expenditure.

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) require a study of the effectiveness of federally funded antidrug programs; and

(2) create a permanent auditing mechanism for federally funded antidrug programs.

SEC. 3. STUDY OF ANTI-DRUG PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the "Secretary") shall enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of the effectiveness in reducing drug addiction of the various components of the Federal antidrug program, including—

(1) crop eradication;

(2) crop substitution;

(3) support for foreign law enforcement;

(4) interdiction, including a separate analysis of the effectiveness of the military services in the interdiction effort;

(5) education;

(6) treatment;

(7) support for local law enforcement;

(8) criminal justice system reforms; and

(9) research, including a separate analysis of effectiveness of pharmocological research and research into other types of medical treatments for drug addiction.

(b) METHODOLOGY.—The study described in subsection (a) shall to the maximum extent possible—

(1) study control for the effects of broad societal changes unrelated to specific antidrug initiatives, such as changing demographic patterns;

(2) separate the effects of such component of the Federal antidrug program from the effects of other antidrug initiatives;

(3) consider the extent to which the expenditure of Federal funds on job training, education, and other health, education, and welfare programs contribute to reducing epidemic drug addiction;

(4) study the cost-effectiveness of each component of the Federal antidrug program, as well as the programs described in paragraph (3); and

(5) take into account the social and demographic factors which influence rates and forms of epidemic drug addiction and provide, where possible, information on the effectiveness of the various components of the Federal antidrug program on various demographic subgroups within the population.

(c) REPORTING.—In conducting the study described in subsection (a), the National Academy of Sciences shall provide to the Secretary and the Congress—

(1) not later than 6 months after the date of enactment of this Act a detailed written description of the manner in which the study will be conducted, including a specific set of goals for the study;

(2) not later than 18 months after the date of enactment of this Act the preliminary results of the study; and

(3) not later than 2 years after the date of enactment of this Act the final results of the study.

(d) UPDATE OF STUDY.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to update the results of the study described in subsection (a) every 2 years following the initial report.

(e) ASSISTANCE FROM FEDERAL AGENCIES.—Agencies of the Federal Government shall provide to the National Academy of Sciences such information as it may reasonably request for the purpose of conducting the study described in subsection (a).

SEC. 4. AUDIT BY THE GOVERNMENT ACCOUNTING OFFICE.

(a) IN GENERAL.—The Government Accounting Office shall provide to the Congress on an annual basis an audit report concerning the management and expenditures of the component parts of the Federal antidrug program.

(b) SEPARATE COMPONENTS.—The report described in (a) shall contain a separate section on each of the component parts of the Federal antidrug program.

(c) ACCESS TO RECORDS.—In order to carry out the purposes of this section, the Comptroller General shall have such access to records, files, personnel, and facilities of the Federal agencies involved in the Federal antidrug program, including the military and intelligence services, as the Comptroller General considers necessary.●

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 108. A bill to prohibit the importation of semiautomatic assault weapons, large capacity ammunition feeding devices, and certain accessories; to the Committee on Finance.

PROHIBITING IMPORTATION OF SEMIAUTOMATIC ASSAULT WEAPONS AND AMMUNITION

● Mr. MOYNIHAN. Mr. President, today I rise to introduce a bill to ban permanently the importation of cer-

tain assault weapons and accessories, such as large-capacity ammunition belts and rifle magazines. Representative GIBBONS, the distinguished chairman of the Ways and Means Trade Subcommittee, will introduce a similar bill in the House. In the 101st and 102d Congresses we introduced similar measures, as well.

On March 14, 1989, President Bush announced a ban on the import of certain semiautomatic rifles, such as the Uzi and AK–47. He then extended the ban to include all similar foreign-made weapons on April 5, 1989, pending a review by the Bureau of Alcohol, Tobacco and Firearms. On July 7, 1989, ATF released its report, which recommended that the ban continue. And so it has, now for well over 3 years.

The Executive's authority to ban these weapons derives from the Gun Control Act of 1968, which provides that the Secretary of the Treasury "shall authorize a firearm * * * to be imported or brought into the United States." I, along with Representative GIBBONS and most Americans, applauded the President for having taken the leadership in this sensitive issue. But the ban ought be made permanent by legislation.

The report of the ATF Working Group on the Importability of Certain Semiautomatic Rifles was unequivocal. It concluded:

These semiautomatic assault rifles were designed and intended to be particularly suitable for combat rather than sporting applications. While these weapons can be used, and indeed may be used by some, for hunting and target shooting, we believe it is clear that they are not generally recognized as particularly suitable for these purposes.

The purpose of section 925(d)(3) [Gun Control Act of 1968, Title 18, U.S.C.] was to make a limited exception to the general prohibition on the importation of firearms, to preserve the sportsman's right to sporting firearms. This decision will in no way preclude the importation of true sporting firearms. It will only prevent the importation of military-style firearms which, although popular among some gun owners for collection, self-defense, combat competitions, or plinking, simply cannot be fairly characterized as sporting rifles.

The assault weapons listed in this bill are those listed by ATF as military-style guns.

Why these guns and not some others, which may take as many or more innocent lives? Semiautomatic firearms differ in at least one important way: they are capable of firing a large number of cartridges in a short period of time. An Uzi can fire 30 rounds in 5 seconds. Patrick Edward Purdy, the gunman who killed 5 children and wounded 29 others in Stockton, CA, fired over 100 rounds in 2 minutes. This bill would also ban the importation of ammunition belts or magazines which could hold more than five rounds.

These are also the favorite weapons of drug dealers. Even teenagers now carry guns better left in the hands of professional soldiers. Police officers are outgunned by the assault weapons. Innocent lives are threatened by the spray of bullets these guns produce. It should not be surprising that the National Association of Police Organizations, the U.S. Conference of Mayors, and the American Bar Association, among others, support a ban on assault weapons.

I, too, support a ban on assault weapons, but I believe that the codification of the current import ban is a necessary first step. I hope that my colleagues will concur.

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. 108

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

SECTION 1. PROHIBITION ON IMPORTATION OF SEMIAUTOMATIC ASSAULT RIFLES AND ASSAULT PISTOLS.

(a) GENERAL RULE.—Except as provided in subsection (b), the importation into the United States of the following articles is prohibited:

(1) Semiautomatic assault rifle.

(2) Semiautomatic assault pistol.

(3) Large capacity ammunition feeding device.

(4) Semiautomatic assault weapon accessory.

(b) EXCEPTION.—Subsection (a) does not apply to the importation of an article under the authority of the United States, by a department or agency of the United States, or by a department or agency of a State or political subdivision of a State.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) SEMIAUTOMATIC ASSAULT RIFLE.—The term "semiautomatic assault rifle" means a rifle of one of the following types:

AK47 type
AK47S type
AK74 type
AKS type
AKM type
AKMS type
84S type
ARM type
84S1 type
84S3 type
HK91 type
HK93 type
HK94 type
G3SA type
K1 type
K2 type
AR100 type
M14S type
MAS223 type
SIG 550SP type
SIG 551SP type
SKS type with detachable magazine
86S type
86S7 type
87S type
Galil type
Type 56 type
Type 56S type
Valmet M76 type
Valmet M78 type
M76 counter-sniper type
FAL type
L1A1A type
SAR 48 type
AUG type
FNC type
Uzi carbine
Algimec AGMI type
AR180 type
Australian Automatic Arms SAR type
Beretta AR70 type
Beretta BM59 type
CIS SR88 type

Any other type determined by the President to be appropriate

(2) SEMIAUTOMATIC ASSAULT PISTOL.—The term "semiautomatic assault pistol" means a pistol of one of the following types:

Uzi type
Heckler & Koch SP–89 type
Australian Automatic Arms SAP type
Spectre Auto type
Sterling Mark 7 type

Any other type determined by the President to be appropriate

(3) LARGE-CAPACITY AMMUNITION FEEDING DEVICE.—The term "large-capacity ammunition feeding device" means a detachable magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 5 rounds of ammunition, including a combination of parts from which such a device can be assembled, but not including an attached tubular device designed to accept and capable of operating with only .22 rimfire caliber ammunition.

(4) SEMIAUTOMATIC ASSAULT WEAPON ACCESSORY.—The term "semiautomatic assault weapon accessory" means one of the following articles if the article is specifically designed for use with a semiautomatic weapon:

Grenade launcher
Bayonet
Flash suppressor
Night sight

Adaptor designed to facilitate the attachment of a silencer or flash suppressor

A combination of parts from which one of the foregoing articles can be assembled

A part designed solely for use in assembling one of the foregoing articles

Any other article determined by the President to be appropriate.•

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 109. A bill to amend section 923 of title 18, United States Code, to require the keeping of records with respect to dispositions of ammunition, and to require a study of the use and possible regulation of sales of ammunition; to the Committee on the Judiciary.

RECORDS ON DISPOSITION OF AMMUNITION

• Mr. MOYNIHAN. Mr. President, I rise today to introduce a measure to improve our information about the regulation and criminal use of ammunition. This bill, identical to one I introduced in the last Congress, has two components. It would require importers and manufacturers of ammunition to keep records and submit an annual report to the Bureau of Alcohol, Tobacco, and Firearms [BATF] on the disposition of ammunition, including the amount, caliber, and type of ammunition imported or manufactured. It would also require the Secretary of the Treasury, in consultation with the National Academy of Sciences, to conduct a study of ammunition use and make recommendations on the efficacy of re-

ducing crime by restricting access to ammunition.

While there are enough handguns in circulation to last well into the twenty-second century, there is only a 4-year supply of ammunition according to the best estimate. But how much of what kind of ammunition, where does it come from, and where does it go? There are currently no reporting requirements for manufacturers and importers of ammunition—earlier reporting requirements were repealed in 1986. The Federal Bureau of Investigation's annual uniform crime reports, based on information provided by local law enforcement agencies, does not record the caliber, type, or amount of ammunition used in crime. In short, our data base is woefully inadequate.

I support the Brady bill, which requires a waiting period before the purchase of a handgun, and have supported bills to stem the flow of automatic and semiautomatic firearms to criminals. But while the debate over gun control continues, I offer another alternative: ammunition control. After all, guns do not kill people, bullets do.

Ammunition control while a new idea, is not unknown. In 1982, Phil Caruso of the Patrolmen's Benevolent Association asked me do something about armor-piercing bullets. Jacketed in tungsten or other materials, these rounds penetrated four police flak jackets and five Los Angeles County telephone books. They are of doubtful sporting value. I introduced legislation, the Law Enforcement Officers Protection Act, to ban the cop-killer bullets in the 97th, 98th, and 99th Congresses. It enjoyed the overwhelming endorsement of groups and tacit support from the National Rifle Association, and was finally signed into law by President Reagan on August 28, 1986.

Local jurisdictions are aware of the benefits to be gained from ammunition control. The District of Columbia and some other cities prohibit a person from possessing ammunition without a valid license for a firearm of the same caliber or gauge as the ammunition. Beginning in 1990, the city of Los Angeles banned the sale of all ammunition 1 week prior to Independence Day and New Year's Day in an effort to reduce injuries and deaths caused by the firing of guns into the air.

Such efforts, while well-meaning and effective, are isolated attempts to solve a national problem. We need to do more, but to do so, we need information to guide policymaking. This bill fills the need by requiring annual reports to BATF by manufacturers and importers and directing a study by the National Academy of Sciences. I urge my colleagues to cosponsor this measure and ask unanimous consent that its full text be printed in the RECORD at this point.

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

S. 109

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

SECTION 1. RECORDS OF DISPOSITION OF AMMUNITION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Section 923(g) of title 18, United States Code, is amended—

(1) in paragraph (1)(A) by inserting after the second sentence "Each licensed importer and manufacturer of ammunition shall maintain such records of importation, production, shipment, sale, or other disposition of ammunition at his place of business for such period and in such form as the Secretary may by regulations prescribe. Such records shall include the amount, caliber, and type of ammunition."; and

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

"(6) Each licensed importer or manufacturer of ammunition shall annually prepare a summary report of imports, production, shipments, sales, and other dispositions during the preceding year. The report shall be prepared on a form specified by the Secretary, shall include the amounts, calibers, and types of ammunition that were disposed of, and shall be forwarded to the office specified thereon not later than the close of business on the date specified by the Secretary.".

(b) STUDY OF CRIMINAL USE AND REGULATION OF AMMUNITION.—The Secretary of the Treasury shall request the National Academy of Sciences to—

(1) prepare, in consultation with the Secretary, a study of the criminal use and regulation of ammunition; and

(2) to submit to Congress, not later than July 31, 1996, a report with recommendations on the potential for preventing crime by regulating or restricting the availability of ammunition.•

By Mr. MOYNIHAN:

S. 110. A bill to require the Administrator of the Environmental Protection Agency to seek advice concerning environmental risks, and for other purposes; to the Committee on Environment and Public Works.

ENVIRONMENTAL RISK REDUCTION ACT

• Mr. MOYNIHAN. Mr. President, environmental decisions are difficult in any circumstance, and especially so when the economy is weak and there is competition for resources both in the private sector and Government. People want a clean environment, but they don't want to pay more than is necessary. We can't do everything at once. The question of priorities arises almost unbidden. We would rather not have to think this way, but there you are. The choice is not between having priorities or not having them. Rather it is between setting them consciously or setting them by default. Thus, I rise today to introduce a bill that seeks to establish the framework needed to ensure that information needed by an informed and involved public to set workable priorities. This legislation, the Environmental Risk Reduction Act of 1993, is an update of the Environmental Risk Reduction Act of 1991.

I am convinced that risk ranking and cost-benefit analyses are valuable tools for making environmental decisions. They offer the means to set priorities and to measure success. They are not our only tools, but nor can they be ignored. It took over half a century for the dedicated public servants in the Bureau of Labor Statistics and the Council of Economic Advisors to learn how to fashion economic indicators. It will no doubt take a long time to develop reliable methodology to assess costs and benefits of environmental regulations, and to reliably measure the risks associated with environmental exposures. But this is no reason not to begin. If we don't start now we will never learn. And it must not be forgotten that there are some things that science cannot tell us. Values, for instance: Do we care more about this species or that one? Or fairness. Some questions are a matter for the legal system, not the scientists.

But we do have problems. During the Presidential campaign and transition, much discussion focused on the economy, getting and keeping it going. Dr. Paul Portney of Resources for the Future testified at a hearing last September on my bill S. 2132, the Environmental Risk Reduction Act that compliance with environmental laws was about $130 billion per year—something like 2.2 percent of GNP. Our next closest competitors in terms of environmental protection, perhaps not surprisingly, are Germany and Japan, each spending about 1.6 to 1.8 percent of GNP. While this may not be too much money to spend on environmental protection it is too much to spend unwisely.

Obviously, we are seeing a new trend. Federal environmental laws are being questioned. State and local governments are signaling that they can't afford to comply with all environmental laws. Their resources are finite and must make do for competing needs; for example, maintaining roads and buildings, providing social services, and schooling.

Dr. Edward Hayes of the Ohio State University testified last September before the Committee on Environment and Public Works about the experience in his State. The city of Columbus, OH, recently set out to analyze with as much precision as possible the impact of Federal environmental laws during recent years. City leaders wanted to know what effect those changes would have on the city's budget. The findings were reported in "Environmental Legislation: The Increasing Costs of Regulatory Compliance to the city of Columbus." It turns out that new environmental initiatives will cost the city of Columbus an additional $1.6 billion over the next decade—an extra $856 per year of increased local fees or taxes for every household in the city by the year 2000. A followup study, "Ohio Metropolitan Area Cost Report for Environmental Compliance," showed a similar impact in eight other Ohio cities.

As far as we can tell this pattern is being repeated in other places. Just other places. Just this week a bipartisan group of 114 mayors from towns and cities across the United States sent each Member of Congress a letter and report warning of an impending fiscal crisis in trying to pay for the increasing costs of environmental mandates. The President and Vice President were sent a copy of the letter and report when they took office yesterday. The editorial in the January 8 issue of Science alerts us to the "growing questioning of the factual basis for Federal command and control actions," all because of concerns over regulatory costs.

The message is clear. State and local governments will hold the Congress and EPA more accountable in the future about obligating them to spend their resources on Federal requirements. They will want proof that there is a problem and confidence that the legislated solutions will solve it. California's threat to give enforcement of its drinking water program back to EPA last spring speaks volumes. The most environmentally advanced State in the Union close to rebellion—a sobering prospect. The Science editorial suggests that we are seeing the "beginning of a revolt."

Clearly risk ranking and cost-benefit analyses aren't the sole factors for decisionmaking. Social concerns—who should bear risk for whose benefit—public preference, basic fairness must be considered, too. Truth be told, I suspect that environmental decisions have been based more on feelings than on facts. This is understandable in a prescientific field, but we are being overtaken by events. The questions that are key to making decisions about the environment are slowly but surely becoming more knowable.

There are those who discount relative risk ranking entirely because the assumptions needed to assess risk are myriad. Facts often seem scarce. What are we exposed to? What results does this produce? What portion of the population is affected? Or might be affected? There are no precise answers to these questions. And so risk assessments are controversial, at times very controversial. But we cannot forget that knowledge need not be precise to be useful.

Relative risk ranking and cost benefit analyses are tools. Crude tools today, yes, but perhaps they are sufficient in some cases to rank activity "A" as more risky than activity "B." If costs or political realities dictate that we should control "B" before "A", then great. But let us have the courage and foresight to make a conscious decision, in public, with people watching. History shows that crude tools give way to more refined ones. Experience teaches.

I'm introducing the Environmental Risk Reduction Act, to help us learn how best to practice the trades of environmental risk assessment and cost/benefit analyses. The bill will put into law the major findings of the 1990 "Reducing Risk" report by EPA's Science Advisory Board [SAB]. I agree with former EPA Administrator William Reilly's belief that science can lend much needed coherence, order, and integrity to costly and controversial decisions.

American's environmental laws are a large and diverse lot. We have only two decades of experience on this subject, and we are still learning, feeling our way. The relative risk ranking and cost/benefit analyses called for in this bill provide some common ground for looking at our environmental laws. The bill also provides the public and Congress with access to the findings. The "Reduction Risk" report states that "relative risk data and risk assessment techniques should inform (the public) judgment as much as possible." Not dictate it, but inform it.

All this will take time, decades perhaps. But let us take heart. Questions that seem difficult now can with a certain amount of effort yield to the scientific method.

I urge my colleagues to support this bill and ask unanimous consent that the text of this bill and the Science editorial be printed in the RECORD at this time.

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

S. 110

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Risk Reduction Act of 1993".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the cost of protecting the quality of the environment currently exceeds $115,000,000,000 per year;

(2) providing protection to a continually increasing population from the deleterious effects of global climatic change, stratospheric ozone depletion, the loss of biological diversity, and waste products will result in increases in the cost referred to in paragraph (1);

(3) although the cost referred to in paragraph (1) is not necessarily excessive, the amount is too substantial for the funds to be used ineffectively or inefficiently;

(4) there is a need to coordinate the development and implementation of environmental policies among policymakers of the Federal Government and the governments of States and political subdivisions of States;

(5) a key role of the Federal Government in the development of environmental policy is to support research to upgrade environmental science and engineering;

(6) ecological resources are extraordinarily valuable, and risks to the resources either directly or indirectly degrade human health and the economy;

(7) the most effective use of the funds referred to in paragraph (1) would—

(A) protect the greatest number of individuals from the most harm; and

(B) be supported by a public perception that subparagraph (A) is being carried out;

(8) pollution prevention and toxic use reduction are preferred techniques for environmental protection;

(9) the techniques referred to in paragraph (8)—

(A) should be considered, if feasible, in decisions related to environmental protection; and

(B) have recognized limitations, as some environmental hazards cannot be ameliorated through the use of the techniques;

(10) the ranking of relative risk is another important technique for environmental protection;

(11) the determination of safety is a social construct instead of a scientific one, and is based more on the values of individual control and social equity than on the knowledge of a defined risk;

(12) notwithstanding paragraph (11), scientific information plays an essential role in supporting environmental decisions by policymakers, as members of the general public use scientific information to understand the likelihood, nature, and magnitude of potential risks;

(13) it is necessary to maintain a clear conceptual distinction between the techniques of risk assessment and risk management;

(14) a risk assessment should—

(A) be the most accurate and informative quantitative evaluation of risk that is practicable to conduct; and

(B) include a statement of important identifiable uncertainties;

(15) risk management is a political process as well as a technical one;

(16) risk management integrates the findings of a risk assessment with other considerations, such as economic considerations, legislative mandates, and the level of public concern;

(17) good risk management requires a reliable and strictly objective risk assessment;

(18) the ranking of relative risks to human health, welfare, and ecological resources is a complex task, and is best performed by technical experts who do not have interests that could bias objective judgment;

(19) applying technology and resources to address the highest ranked risks within the intent of existing environmental laws and identifying highly ranked risks not addressed by law can significantly reduce risks to human health, welfare, and ecological resources;

(20) some populations of special concern appear to have a greater degree of sensitivity to environmental hazards, including pregnant women and fetuses, children, the elderly, chronically ill individuals, and individuals with certain racial and genetic characteristics;

(21) better risk assessment methodologies and a long-term commitment to collecting monitoring data on the condition of ecological resources and exposure of humans and ecosystems to pollutants are necessary to ensure—

(A) the identification of the greatest risks to human health and the environment; and

(B) that environmental laws are applied in such manner as to accomplishing the intended results of the laws;

(22) ranking risks must be an ongoing process and must reflect improvements in environmental data and scientific understanding;

(23) the Administrator needs a major national data base concerning environmental hazards to aid in the adjustment of priorities and programs to direct resources to ensure success in efforts to address the hazards;

(24) the environmental monitoring and assessment program created under this Act provides the functional equivalent of an environmental statistics program;

(25) although the National Academy of Sciences has documented flaws in the administration and management of the environmental monitoring and assessment program of the Agency in an interim report issued June 1992, the flaws can be addressed through improvements in the program, and more time is needed to address the flaws; and

(26) effective and efficient strategies to reduce risks must quantify significant costs and benefits to the greatest extent possible.

(b) POLICY.—It is the policy of the United States that—

(1) the environmental protection activities administered by the Administrator shall attain the greatest risk reduction possible with the resources available to the Administrator; and

(2) the ability to reduce risks requires—

(A) accurate, quantitative estimates of the exposure of humans and ecosystems to all important risk factors;

(B) accurate techniques for predicting the effects of the exposure referred to in subparagraph (A);

(C) an adequate understanding of technical, economic, social, and legal alternatives to achieve a reduction in exposure to risk factors; and

(D) accurate estimates of the costs and benefits of alternatives for reducing risks.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGENCY.—The term "Agency" means the Environmental Protection Agency.

(3) ECOLOGICAL RESOURCE.—The term "ecological resource" means a nonhuman living thing or habitat (and the interaction between a nonhuman living things and habitat) including a lake, stream, forest, wetland, desert, tundra, ocean, estuary, beach, grassland, agricultural area, or a vegetated urban or suburban area.

(4) EFFECT.—The term "effect" means a deleterious change in the condition—

(A) of a human or other living thing, (including death, cancer or other chronic illness, decreased reproductive capacity, or disfigurement); or

(B) of an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

(5) ENVIRONMENTAL LAW.—The term "environmental law" means any environmental law administered by the Administrator that provides for the protection of the environment, including—

(A) title XIV of the Public Health Service Act (commonly known as the Safe Drinking Water Act, 42 U.S.C. 300f et seq.);

(B) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

(C) the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq);

(E) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(F) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(G) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(H) the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499);

(I) the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq); and

(J) any law administered by the Administrator concerning protection from sources of radiation.

(6) EXPOSURE.—The term "exposure" means the juxtaposition in time and space of a stressor with a human or other living thing or an inanimate thing important to human welfare, in such manner that an effect could result.

(7) IRREVERSIBILITY.—The term "irreversibility" means the extent to which a return to conditions prior to the occurrence of an effect are either very slow or will never occur (as determined by the Administrator).

(8) LIKELIHOOD.—The term "likelihood" means the estimated probability that an effect will occur.

(9) MAGNITUDE.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

(10) RESPONSE.—The term "response" has the same meaning as the term "effect" under paragraph (4).

(11) RISK.—The term "risk" means the probability of the occurrence of an event.

(12) RISK ASSESSMENT.—The term "risk assessment" means a process that uses a factual base to—

(A) identify, characterize, and to the extent practicable quantify the potential adverse effects of exposure of individuals, populations, habitats, ecosystems, or materials to hazardous pollutants, environmental activities, or other situations; and

(B) to the extent practicable, identify and characterize identifiable important uncertainties.

(13) RISK MANAGEMENT.—The term "risk management" means, with respect to environmental decisionmaking, the process of weighing policy alternatives and seeking the most appropriate regulatory action that integrates the results of a risk assessment with social, economic, political, and other appropriate concerns to arrive at a decision.

(14) SERIOUSNESS.—The term "seriousness" means the intensity of effect, independent of the magnitude.

(15) STRESSOR.—The term "stressor" means a physical, chemical, or biological factor resulting from human activity that is capable of causing an effect on human health, welfare, or ecological resources.

(16) SUSTAINABILITY.—With respect to ecological resources, the term "sustainability" means the ability to maintain diverse, self-reproducing biological communities that are capable of meeting the current needs of humans without compromising the ability of future generations to meet needs, including—

(A) needs for natural resources such as food, fiber, lumber, fish, and game;

(B) environmental services such as flood mitigation, water storage, and the regulation of the chemistry of the atmosphere, oceans, and inland waters;

(C) opportunities for recreation and scientific study; and

(D) the need for appreciation of the beauty and diversity of nature.

(17) UNCERTAINTY.—The term "uncertainty" means the quantifiable and unquantifiable potential error in the estimation of risk that is caused by the quality of data, or the assumptions used in risk estimation.

SEC. 4. EXPERT ADVISORY COMMITTEES.

(a) REDUCTION.—

(1) IN GENERAL.—Through the careful assessment and ranking of relative risks and the options for the management of the risks, the Administrator shall use the resources available to the Administrator pursuant to environmental laws to reduce those risks to human health and welfare, and risks to ecological resources, that the Administrator determines to be the most likely, most serious, most irreversible, and of the greatest magnitude.

(2) OPERATION OF LAW.—In carrying out paragraph (1) the Administrator shall—

(A) conduct a reduction of risk in a manner consistent with the requirements of the environmental laws and any other law; and

(B) consider social, economic, and such other related concerns as the Administrator determines to be appropriate.

(3) ADVISORY COMMITTEES.—In order to ensure that the reduction of risks referred to in paragraph (1) is based on the best available scientific understanding, the Administrator shall seek the advice of the expert advisory committees established under subsections (b) and (c).

(b) COMMITTEE ON RELATIVE RISKS.—

(1) IN GENERAL.—The Administrator shall establish a Committee on Relative Risks (hereafter in this subsection referred to as the "Committee"). The Committee shall be independent from the Science Advisory Board.

(2) PURPOSE.—The Committee shall provide expert advice concerning ranking the relative risks of stressors to human health, welfare, and ecological resources.

(3) MEMBERS.—

(A) IN GENERAL.—The Administrator shall appoint 15 members to the Committee. In making appointments to the Committee, the Administrator may request nominations from the heads of the National Academy of Sciences, the National Academy of Engineering, the Science Adviser of the President, and such other individuals as the Administrator determines to be appropriate.

(B) REPRESENTATION.—The Administrator shall appoint a representative group of individuals on the basis of the recognized expertise and ability of the individuals in the areas of human health effects, ecological effects, welfare effects, engineering, economics, risk communications, and such other specialties related to risk management and risk assessment (that do not incorporate a purely statistical approach) as the Administrator considers appropriate.

(C) CONSIDERATIONS OF THE ADMINISTRATOR.—In making the appointments, the Administrator shall appoint members so as to represent a balanced spectrum of expertise and ability. The Administrator shall take such action as is necessary to ensure that—

(i) the appointments are made only on the basis of the criteria referred to in the previous sentence, and not on other criteria, such as political affiliation; and

(ii) each member appointed to the Committee has no real or apparent conflict of interest with respect to serving on the Committee.

(D) LIST.—The Administrator shall publish a list of the individuals who supply nominations pursuant to this paragraph.

(4) TERMS.—

(A) INITIAL TERMS.—Members initially appointed to the Committee shall serve for the following terms:

(i) Five members shall serve for an initial term of 2 years.

(ii) Five members shall serve for an initial term of 4 years.

(iii) Five members shall serve for an initial term of 6 years.

(B) SUBSEQUENT TERMS.—Upon completion of a term referred to under subparagraph (A), each member of the Committee subsequently appointed or reappointed shall serve for a term of 6 years. A vacancy on the Committee shall be filled in the same manner as the appointment was made.

(5) CHAIRPERSON.— Members of the Committee shall elect a Chairperson from among the members. The Chairperson shall serve for a term of 2 years.

(6) CRITERIA AND GUIDELINES.—The Committee shall establish appropriate criteria and guidelines to carry out the duties of the Committee under paragraph (7).

(7) DUTIES.—The Committee shall—

(A) identify and rank the greatest environmental risks to human health, welfare, and ecological resources, and incorporate the overall likelihood, seriousness, magnitude, and irreversibility of each of the risks;

(B) identify a common list of the greatest risks to human health, welfare, and ecological resources; and

(C) assess the state of pertinent scientific understanding and other factors contributing to uncertainty in the ranking of relative risk.

(8) IDENTIFICATION.—The Committee shall identify risks in such manner as to also identify—

(A) the need for new laws; and

(B) priorities under existing laws.

(9) PUBLIC MEETINGS.—The Committee shall hold open public meetings to solicit input from the general public and such other sources as the Committee determines to be appropriate.

(10) REPORTS.—

(A) REPORTS TO THE ADMINISTRATOR.—In accordance with this subsection, the Chairperson of the Committee shall report to the Administrator the findings of the Committee.

(B) FREQUENCY OF REPORTS.—The Chairperson of the Committee shall report the findings of the Committee to the Administrator on or before August 1, 1995, and not less frequently than every 2 years thereafter. Upon receipt of the report, the Administrator shall forward a copy of the report to the Science Advisory Board.

(11) REVIEW BY SCIENCE ADVISORY BOARD.—

(A) IN GENERAL.—The Science Advisory Board shall review each report submitted to the Administrator and to Congress pursuant to paragraph (10) by not later than 6 months after the date of issuance of the report, and report the findings of each review to the Committee and to the Administrator.

(B) REVIEW BY COMMITTEE.—The Committee shall review the findings of the Science Advisory Board, and shall by not later than 6 months after the date of receipt of the findings, revise the content of the report to take into consideration the findings of the Science Advisory Board, and submit the revised report to the Administrator.

(C) REVISED REPORT.—The Administrator shall make available copies of the revised report to the individuals and entities referred to in subsection (e).

(c) COMMITTEE ON ENVIRONMENTAL BENEFITS.—

(1) IN GENERAL.—The Administrator shall establish a Committee on Environmental Benefits (hereafter in this subsection referred to as the "Committee") to provide expert advice on estimating quantitative benefits of reducing risks. The Committee shall be independent from the Science Advisory Board.

(2) MEMBERS.—

(A) IN GENERAL.—The Administrator shall appoint 15 members to the Committee. In making appointments to the Committee, the Administrator may request nominations from the Association of Environmental and Resource Economists and such other groups and individuals as the Administrator determines to be appropriate.

(B) REPRESENTATION.—The Administrator shall appoint a representative group of individuals on the basis of the recognized expertise and ability in areas including economics, engineering, public administration, health care, risk communication, and such other specialties related to risk management and risk assessment (that do not incorporate a purely statistical approach) as the Administrator considers to be appropriate.

(C) CONSIDERATIONS OF THE ADMINISTRATOR.—In making the appointments, the Administrator shall appoint members in such fashion as to represent a balanced spectrum of expertise and ability. The Administrator shall take such action as is necessary to ensure that—

(i) the appointments are made only on the basis of the criteria referred to in the previous sentence, and not on other criteria, such as political affiliation; and

(ii) each member appointed to the Committee has no real or apparent conflict of interest with respect to serving on the Committee; and

(D) LIST.—The Administrator shall publish a list of the individuals who supply nominations pursuant to this paragraph.

(3) TERMS.—

(A) INITIAL TERMS.—Members initially appointed to the Committee shall serve for the following terms:

(i) Five members shall serve for an initial term of 2 years.

(ii) Five members shall serve for an initial term of 4 years.

(iii) Five members shall serve for an initial term of 6 years.

(B) SUBSEQUENT TERMS.—Upon completion of a term referred to under subparagraph (A), each member of the Committee subsequently appointed or reappointed shall serve for a term of 6 years. A vacancy on the Committee shall be filled in the same manner as the appointment was made.

(4) CHAIRPERSON.— Members of the Committee shall elect a chairperson from among the members. The Chairperson shall serve for a term of 2 years.

(5) CRITERIA AND GUIDELINES.—The Committee shall establish appropriate criteria and guidelines to carry out the duties of the Committee under paragraph (6).

(6) DUTIES OF THE COMMITTEE.—The Committee shall estimate, to the extent practicable, the monetary value, and such other values as the Committee determines to be appropriate, of—

(A) avoiding premature mortality;

(B) avoiding cancer, diseases, birth defects, and other health effects that reduce the quality of life;

(C) preserving biological diversity and the sustainability of ecological resources;

(D) an aesthetic environment;

(E) services performed by ecosystems (such as flood mitigation, provision of food or materials, or regulating the chemistry of the air or water) that, if lost or degraded, would have to be replaced by technology; and

(F) avoiding other risks identified by the Committee.

(7) PUBLIC MEETINGS.—The Committee shall hold open public meetings to solicit input from the general public and such other sources as the Committee determines to be appropriate.

(8) REPORTS.—

(A) REPORTS TO THE ADMINISTRATOR.—In accordance with this subsection, the Chairperson of the Committee shall report to the Administrator the findings of the Committee.

(B) FREQUENCY OF REPORTS.—The Chairperson of the Committee shall report the findings of the Committee to the Administrator on or before August 1, 1995, and not less frequently than every 2 years thereafter. Upon receipt of the report, the Administrator shall forward a copy of the report to the Science Advisory Board.

(9) REVIEW BY SCIENCE ADVISORY BOARD.—

(A) IN GENERAL.—The Science Advisory Board shall review each report submitted to the Administrator and to Congress pursuant to paragraph (8) by not later than 6 months after the date of issuance of the report, and report the findings of each review to the Committee and to the Administrator.

(B) REVIEW BY COMMITTEE.—The Committee shall review the findings of the Science Advisory Board, and shall by not later than 6 months after the date of receipt of the findings, revise the content of the report to take into consideration the findings of the Science Advisory Board, and submit the revised report to the Administrator.

(C) REVISED REPORT.—The Administrator shall make available copies of the revised report to the individuals and entities referred to in subsection (e).

(d) COMPENSATION.—

(1) IN GENERAL.—Each member of a committee established under this section who is not an officer or employee of the Federal Government shall be compensated at a rate not to exceed to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the committee. Each member of a committee established under this section who is an officer or employee of the United States shall serve without compensation in addition to that received for service as an officer or employee of the United States.

(2) TRAVEL.—The members of the committees established under this section shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(e) FINDINGS.—To ensure extensive opportunities for public participation and access, the Administrator shall communicate the findings in the reports of the committees and the Science Advisory Board reviews submitted to the Administrator pursuant to this section to—

(1) Congress;

(2) such other Federal agencies as the Administrator determines to be appropriate;

(3) the governments of such States and political subdivisions of States as the Administrator determines to be appropriate; and

(4) the general public.

(f) DISCLOSURE.—Each member of a committee established under this section shall, as a condition to serving on the committee, agree to fully disclose financial interests. The Administrator shall ensure that appropriate measures are carried out to avoid any conflict of interest with respect to a member.

(g) STUDIES.—The Administrator may enter into a contract, execute an agreement, or issue a grant for carrying out studies to generate information to assist a committee established under this section in efforts to rank relative risks and estimate environmental benefits.

(h) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Agency $3,000,000 for each of fiscal years 1994 through 2000.

SEC. 5. RISK ASSESSMENT GUIDELINES.

(a) IN GENERAL.—

(1) RISK ASSESSMENTS.—To the extent practicable, The Administrator shall protect human health and the environment by using careful risk assessments and the evaluation of options for reducing risks.

(2) PROHIBITION.—The Administrator may not interpret or apply any provision of this Act in such manner as to delay a pending regulatory decision based on the outcome of research or analysis of the Administrator.

(b) RISK ASSESSMENT GUIDELINES.—The Administrator shall develop, and revise as appropriate, guidelines to ensure consistency and technical quality in risk assessments by specifying such minimum standards for different risk assessment approaches, as are appropriate for the scale of the problem, the level of scientific understanding, and the available data.

(c) INITIAL GUIDELINES.—The initial set of guidelines referred to in subsection (b) shall include risk assessments involving—

(1) human mutagenicity;
(2) human carcinogenicity;
(3) human developmental toxicants;
(4) human reproductive effects;
(5) human systemic toxicants;
(6) ecological effects of sources of pollutants from single sites;
(7) ecological effects of pollutants that originate from many sites;
(8) ecological effects from physical alteration of the environment;
(9) ecological effects of introducing nonnative or genetically engineered organisms;
(10) pollutants affecting manmade materials; and
(11) pollutants affecting the productivity of soils.

(d) ADDITIONAL GUIDELINES.—The Administrator shall develop such additional risk assessment guidelines as the Administrator determines to be warranted—

(1) by the state of pertinent scientific understanding; and
(2) by the need for sound decisions to protect human health, welfare, and the environment.

(e) MINIMUM REQUIREMENTS.—The risk assessment guidelines developed under this section shall include the following components:

(1) A hazard identification that demonstrates whether exposure to a stressor is causally linked to an effect.

(2) An assessment that measures or estimates the exposure of well-defined individuals, habitats, populations, ecosystems, or materials to a stressor.

(3) An assessment that determines or estimates the magnitude of response of affected individuals, habitats, populations, ecosystems, or materials associated with different levels of exposure to a stressor under representative or reasonably foreseeable environmental conditions.

(4) A risk characterization that provides an overall description of the nature and magnitude of probable effects resulting from alternative risk management options (including no action), together with a quantitative estimate of the accompanying uncertainties.

(f) PUBLICATION IN THE FEDERAL REGISTER AND REPORTS TO CONGRESS.—The Administrator shall—

(1) publish all initial risk assessment guidelines referred to in subsection (c) in the Federal Register not later than 5 years after the date of the enactment of this Act, and report annually to Congress on progress toward this goal;

(2) ensure that the guidelines are reviewed by the Science Advisory Board; and

(3) after taking into account the findings of the review of the Science Advisory Board and public comments, modify the guidelines and publish such revised guidelines in the Federal Register as are required to meet under subsection (d).

SEC. 6. RISK ASSESSMENT RESEARCH.

(a) IN GENERAL.—In order to provide the most cost-effective use of environmental resources and to ensure that the risk assessment process of the Agency is based on statistically sound and adequate environmental data and scientific understanding, the Administrator shall conduct a long-term core research program concerning environmental risk assessment research.

(b) ENVIRONMENTAL MONITORING AND ASSESSMENT PROGRAM.—As part of the program referred to in subsection (a), the Administrator shall conduct a research program to—

(1) design and evaluate methods and networks to collect monitoring data on the current and changing condition of the environment (including human health, ecological resources, materials, and exposure to environmental stressors) that are relevant to making decisions at the Federal level about alternative risk assessment and risk reduction options;

(2) in cooperation with the heads of other Federal agencies with relevant programs, implement the monitoring programs referred to in paragraph (1);

(3) manage data from the monitoring programs in forms and formats that are technically accurate, objective, and readily accessible to the scientific community and the general public (including providing attention to unavoidable uncertainties with respect to the data and the interpretation of the data); and

(4) provide annual statistical reports and periodic interpretive reports of the results of the monitoring programs to Congress and the general public.

(c) ENVIRONMENTAL RISK ASSESSMENT RESEARCH PROGRAM.—As part of the program referred to in subsection (a), the Administrator shall conduct a long-term core program to establish a firm scientific basis for initial and subsequent risk assessment guidelines, including methods for—

(1) assessing the exposure of humans, ecological resources, and materials to stressors and combinations of stressors, including methods for determining the relation between an environmental exposure and the probability of and scope of the effect;

(2) accurately predicting the effects of exposure to stressors on human health, ecological resources, and materials;

(3) quantifying statistical uncertainty in exposure and stress-response estimates;

(4) quantifying the social and economic values of effects on human health, welfare, and ecological resources;

(5) evaluating and developing measurements to aid in understanding and defining public awareness of the likelihood, seriousness, magnitude, and irreversibility of each risk examined in a risk assessment; and

(6) developing methods for the effective communication of the degree of risk.

(d) LONG-TERM RESEARCH PLANNING.—At least one-half of the research activities conducted under this Act shall be under contracts or assistance agreements with universities and other nonprofit or not-for-profit organizations (as defined by the Administrator). The assistance and contracts shall be—

(1) awarded under full and open competition; and

(2) for a period of at least 3 years, under which full funding shall be obligated at the beginning of the contract or agreement.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Agency to carry out this section $80,000,000 for fiscal year 1994, $130,000,000 for fiscal year 1995, and $200,000,000 for each of fiscal years 1996 through 2000.

SEC. 7. INVOLVEMENT OF THE SCIENTIFIC AND TECHNICAL COMMUNITY.

(a) IN GENERAL.—In developing the risk assessment guidelines under section 5 and in developing and implementing the core research program concerning environmental risk assessment research under section 6, the Administrator shall, to the maximum extent practicable, use the resources and personnel of the Agency.

(b) INTENT OF CONGRESS.—It is the intent of Congress that the Administrator, in addition to using the resources and personnel of the Agency pursuant to subsection (a), should aggressively solicit the advice of the Science Advisory Board and such other specialists in scientific fields as the Administrator determines to be appropriate to develop, evaluate, and interpret technical and scientific information.

SEC. 8. INTERAGENCY PANEL ON RISK ASSESSMENT AND REDUCTION.

(a) ESTABLISHMENT.—There is established an Interagency Panel on Risk Assessment and Reduction (hereafter in this section referred to as the "Interagency Panel") for the purpose of coordinating Federal research, data gathering, and implementation of environmental risk assessment and risk reduction activities.

(b) MEMBERSHIP.—The Interagency Panel shall consist of one representative from each of the following Federal agencies, nominated by the head of the agency (or with respect to an individual described in paragraph (9), nominated by the President Chairperson of the Committee, as appropriate) and appointed by the President:

(1) The Environmental Protection Agency.
(2) The Department of the Interior.
(3) The Department of Health and Human Services.
(4) The Department of Energy.
(5) The Department of Commerce.
(6) The Department of Agriculture.
(7) The Corps of Engineers.
(8) The Council on Environmental Quality.
(9) Any other Federal department or agency that the President, or the Chairperson of the Interagency Panel, considers appropriate.

(c) CHAIRPERSON.—The member of the Interagency Panel representing the Environmental Protection Agency shall serve as the Chairperson of the Interagency Panel.

(d) COORDINATION.—The Interagency Panel shall ensure that individual risk assessments and generic risk assessment practices carried out by agencies of the Federal Government are coordinated and made consistent to the greatest extent practicable.

(e) IDENTIFICATION OF INCONSISTENCIES.—The Interagency Panel shall—

(1) identify any inconsistencies between the risk assessments and practices carried

out by Federal agencies, and document the reasons for the inconsistencies; and

(2) make recommendations concerning whether changes should be made in the practices of the Federal agencies to minimize the inconsistencies, or whether the inconsistencies should be encouraged.

(f) REPORTS.—Not later than August 31, 1996, and every 2 years thereafter, the Chairperson of the Interagency Panel shall submit a report to the appropriate committees of Congress that summarizes the findings and recommendations of the Interagency Panel under this section.

SEC. 9. REPORTS TO CONGRESS.

(a) ASSESSMENT OF ENVIRONMENTAL RISK REDUCTION OPTIONS.—Not later than 24 months after the date of enactment of this Act, the Administrator shall prepare and submit a report to Congress that includes—

(1) a prioritized list of the human health, welfare, and ecological resource risks considered by the Committee on Relative Risks established under section 4(b);

(2) an identification of public awareness of the likelihood, seriousness, magnitude, and irreversibility of each risk referred to in paragraph (1);

(3) alternative options for reducing the risks referred to in paragraph (1) and corresponding estimated costs and benefits to society, including costs to Federal agencies and the private sector, and any adverse effects that cannot (as of the date of the report) be quantified in monetary terms;

(4) the period of time required for reducing the risks through each option referred to in paragraph (3);

(5) an evaluation of the uncertainty associated with relevant aspects of the assessment process;

(6) an identification of research or data collection that would significantly reduce the uncertainty in any assessment in the 2-year period following the date of submission of the report to Congress; and

(7) such other recommendations as the Administrator determines to be appropriate.

(b) INTENT OF CONGRESS.—It is the intent of Congress that the information contained in the annual report under this section be used to assist in directing the activities of the Agency so as to result in reducing the most serious and probable risks to the greatest number of individuals and reducing the most serious and probable risks to the sustainability of ecological resources.

(c) DUTIES OF THE ADMINISTRATOR.—The Administrator shall consider social and economic concerns and such other concerns as the Administrator considers to be appropriate to carry out this Act in a reasonable and prudent manner to ensure the protection of public health and the environment. In carrying out this Act, the Administrator shall comply with applicable legal requirements and ensure that the activities of the Administrator are open to public inspection. Nothing in this Act is intended to delay the activities of the Administrator in carrying out responsibilities under other environmental laws.

(d) ONGOING ASSESSMENT.—The Administrator shall revise and update the report submitted under this section to reflect new data or scientific understanding not later than 2 years after submitting the initial report, and at least every 2 years thereafter.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Except as provided in sections 4 and 6, nothing in this Act shall constitute a new authorization for the appropriation of funds.

[From Science, Jan. 8, 1993]

REGULATORY COSTS

On 20 January, the Democrats became sole heirs to a phenomenon of regulation gone amok. In April 1992, 59 regulatory agencies with about 125,000 employees were at work on 4,186 pending regulations. The cost during 1991 of mandates already in place has been estimated at $542 billion. The fastest growing component of costs is environmental regulations, which amounted to $115 billion in 1991 but are slated to grow by more than 50 percent in constant dollars by the year 2000.

Twenty years ago, costs of federal environmental regulations were not visible to the public. However, the number and stringency of unfunded federal requirements have since increased markedly. New and tighter regulations have drained funds from cities, towns, school districts, and individuals. A result is the beginning of a revolt. There is a growing questioning of the factual basis for federal command and control actions and of the scientific competence of the regulators.

Two examples will be cited. Nine participating cities in Ohio have made an important, detailed study of impacts on them of 14 environmental regulations or issues. They estimate their compliance costs (1992 to 2001) at about $3 billion. One of the cities, Columbus, had a budget of $591 million in 1991, of which $62 million went to environmental compliance. Projected compliance costs in 1995 are $107 million (1991 dollars). Faced with difficult funding choices, Mayor Greg Lashutka decided that Columbus should create its own Environmental Science Advisory Committee. The mayor had rich scientific resources including Ohio State University, Battelle, Columbus, and Chemical Abstracts. Edward F. Hayes, Vice President for Research of Ohio State University, was named chairman of the committee.

Hayes has questioned the judgment inherent in some of the federal command and control regulations. As one example he cited the Safe Drinking Water Act, which requires that at least 133 specified pollutants be monitored. Many of the substances are not present in significant quantities in Ohio. In other instances, mandated regulatory levels are extremely tight. He cited the herbicide Atrazine. Although its average level at water intakes is far below 3 parts per billion, the city may be required to install "best available technology" for Atrazine removal at a cost of $80 million for each of two surface water plants. Hayes has stated that the action level is 3 parts per billion because effects of massive doses to rats are extrapolated to infinitesimal doses in humans, and regulators included a thousandfold factor of safety. If the factor of safety were set at 100, then a major uncertainty would be removed, and Columbus would be more free to address real health problems in the community.

Another example of questioning of the judgment of federal regulators involves the U.S. Environmental Protection Agency (EPA) and its proposal to limit levels of radon in drinking water to 300 picocuries per liter. The EPA estimated that the cost to achieve this standard nationwide would be $1.6 billion in capital costs and additional annual expenses of $180 million. The Association of California Water Agencies (ACWA) found that the cost for meeting the radon water standard in California alone would approach $3.7 billion. National costs were estimated at $12 to $20 billion, and only 1 percent of the public radon exposure would be reduced. The ACWA lined up support from 27 California members of the House of Representatives. A letter dispatched to President Bush and signed by them included: "We are deeply concerned about new regulations which place a considerable financial burden on our citizens without providing appreciable public benefit."

Senator Daniel Patrick Moynihan (D-NY) has been aware of deficiencies at EPA. In the 102nd session of Congress he introduced S. 2132, a bill designed "To require the Administrator of the Environmental Protection Agency to seek ongoing advice from independent experts in ranking relative environmental risks; to conduct the research and monitoring necessary to ensure a sound scientific basis for decision-making; and to use such information in managing available resources to protect society from the greatest risks to human health, welfare, and ecological resources." The bill was not acted on, but a modified version will be introduced in the new Congress and should receive widespread support.—PHILIP H. ABELSON.●

By Mr. MOYNIHAN:

S. 111. A bill to amend title IV of the Social Security Act to direct the Secretary of Health and Human Services to develop and implement an information gathering system to permit the measurement, analysis, and reporting of welfare dependency; to the Committee on Finance.

WELFARE DEPENDENCY ACT

● Mr. MOYNIHAN. Mr. President, I rise today to introduce the Welfare Dependency Act of 1993. The purpose of the bill, which is directly modeled on the Employment Act of 1946, is to declare it the policy and the responsibility of the Federal Government to strengthen families and promote their self-sufficiency. To this end, the bill directs the Secretary of Health and Human Services to conduct a study to determine which statistics, if collected and analyzed on a regular basis, would be most useful in tracking and predicting welfare dependency. Within 2 years, the Secretary would report the conclusions to Congress, and, a year later, would submit a first report on dependency. Thereafter, reports would be submitted annually. These reports would include annual numerical goals for recipients and expenditures within each public welfare program. For the interim, the bill establishes a goal of reducing dependency to 10 percent of families with children.

For the first time in American history the largest proportion of persons in poverty are to be found among children, not among adults or among the aged. This is new. When we first began to notice this trend in the 1960's, it seemed that we had discovered something uniquely American. Then we began to get the returns of the Luxembourg Income Survey. Children, it seems, are poorer than adults in all manner of places: Australia, Canada, Germany, England, as well as the United States. For too long we have been trying to measure a postindustrial phenomenon—dependency—with statistics designed to track industrial-era phenomena.

We used to know something about how to predict welfare dependency. In

the early 1960's when I was Assistant Secretary in the Department of Labor for Policy, Planning, and Research, we found that there was an extraordinary correlation between male unemployment and new welfare cases from the period starting in 1946 up to about 1958–59. Then the correlation weakened, until finally in 1963 the lines crossed and the relationship became negative—the lower the unemployment rate, the higher the number of AFDC cases. Now, even during prosperous periods for our Nation, a shockingly high percentage of our children are dependent on public support.

We do have some data on the magnitude of this problem, if not its origins. Back in the 1960's the Office of Economic Opportunity had the good sense to put up money for a longitudinal study of families at the Institute for Social Research at the University of Michigan. The researchers computed the incidence of welfare dependency among children born in the late 1960's. The findings are dismaying. Almost one quarter—22.1 percent—of these children were dependent on AFDC for at least 1 year before reaching their 18th birthday. That's 72.3 percent of black and 15.7 percent of nonblack children.

But these findings on the extent of the problem tell us little about what causes it or how to address it. Certainly some part of this explosion in welfare dependency can be attributed to changes in family structure. Three decades ago there was nothing notably amiss with the traditional family. American divorce rates were high, but stabilizing. The traditional family of parents with children was the norm. As recently as 1970, 40 percent of the Nation's households were made up of a married couple with one or more children. The proportion dropped to 31 percent in the next decade. It is now around a quarter of all families. Simultaneously, the proportion of families headed by a single mother has exploded. In 1970, 11.5 percent of all families with children were headed by a single mother. In 1980, 19.4 percent. In 1990, 24.2 percent. Now a quarter of all live births are out of wedlock.

Our data collection needs to become more systematic and institutionalized. As we did earlier in this century for the problem of unemployment when we enacted the Employment Act of 1946, we need to define welfare dependency as a national problem and to begin to measure, analyze, and address it. Since enactment of the Employment Act of 1946 unemployment has hardly disappeared but neither is it ignored, much less denied. I am introducing this bill on the first day of the new Congress because I believe that its passage would represent one of the most important moments in social welfare policy since Aid for Families with Dependent children was enacted as part of the Social Security Act of 1935.

I am happy to say that a virtually identical measure was included in the Revenue Act of 1992 which passed the Senate on October 8, 1992. I urge my colleagues to again pass this measure, which fell as a result of the President's veto of the Revenue Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 111

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Welfare Dependency Act of 1993".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds:

(1) In the period since 1960 the average annual caseload of the aid to families with dependent children program (hereafter referred to in this section as "AFDC") under title IV of the Social Security Act has quintupled.

(2) In 1990 there were on average almost twice as many households receiving AFDC payments as the number of households and individuals receiving unemployment compensation benefits.

(3) Nearly one-quarter of children born in the period 1967 through 1969 were on welfare (AFDC) before reaching age 18. For minority children this ratio approached three-quarters.

(4) At any given time one-quarter of school children are from single parent families, or households with neither parent. The National Assessment of Educational Progress has documented the educational losses associated with single parent or no parent households.

(5) Only one-quarter of father-absent families receive full child support and over one-half receive none.

(6) The average AFDC benefit has declined by more than one-third since 1960.

(7) The burden of welfare dependency is an issue of necessary concern to women, who in overwhelming proportion are the heads of single parent families.

(8) The rate of welfare dependency may be rising. However, the statistical basis on which to assess this national issue is wholly inadequate, much as the statistical basis for addressing issues of unemployment was inadequate prior to the Employment Act of 1946, which required the creation of the annual economic report of the President and the development of unemployment rates.

(b) CONGRESSIONAL POLICY.—The Congress hereby declares that—

(1) it is the policy and responsibility of the Federal Government to reduce welfare dependency to the lowest possible level, and to assist families toward self-sufficiency, consistent with other essential national goals;

(2) it is the policy of the United States to strengthen families, to ensure that children grow up in families that are economically self-sufficient and to underscore the responsibility of parents to support their children;

(3) the Federal Government should help welfare recipients as well as individuals at risk of welfare dependency to improve their education and job skills, to obtain access to necessary support services, and to take such other steps as may assist them to meet their responsibilities to become financially independent; and

(4) it is the purpose of this Act to aid in lowering welfare dependency by providing the public with generally accepted measures of welfare dependency so that the public can track dependency over time and determine whether progress is being made in reducing welfare dependency and enabling families to be self-sufficient.

SEC. 3. MEASUREMENT AND REPORTING OF WELFARE DEPENDENCY.

(a) IN GENERAL.—Title IV of the Social Security Act (42 U.S.C. 601 et seq.) is amended by inserting after section 413 the following new section:

"MEASUREMENT AND REPORTING OF WELFARE DEPENDENCY

"SEC. 414. (a) DEVELOPMENT OF WELFARE DEPENDENCY INDICATORS, RATES, AND PREDICTORS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture, shall develop indicators, rates, and predictors of welfare dependency.

"(2) DEVELOPMENT.—The Secretary shall—

"(A) develop—

"(i) indicators and rates related to the level of welfare dependency in the United States; and

"(ii) predictors that are correlated with welfare dependency;

"(B) assess the data needed to report annually on the indicators, rates, and predictors, including the ability of existing data collection efforts to provide such data and any additional data collection needs; and

"(C) not later than 2 years after the date of the enactment of this section, provide an interim report containing conclusions resulting from the development and assessment described in subparagraphs (A) and (B), to—

"(i) the Committee on Ways and Means of the House of Representatives;

"(ii) the Committee on Education and Labor of the House of Representatives;

"(iii) the Committee on Agriculture of the House of Representatives;

"(iv) the Committee on Energy and Commerce of the House of Representatives;

"(v) the Committee on Finance of the Senate;

"(vi) the Committee on Labor and Human Resources of the Senate; and

"(vii) the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(3) CONSIDERATIONS.—In developing the indicators, rates, and predictors, the Secretary shall consider the complexity of patterns of welfare dependency and self-sufficiency attainment, and the external factors, including the economy, that affect welfare dependency.

"(b) ADVISORY BOARD ON WELFARE DEPENDENCY.—

"(1) ESTABLISHMENT.—There is established an Advisory Board on Welfare Dependency (hereafter referred to in this section as the "Board").

"(2) COMPOSITION.—The Board shall be composed of 12 members with equal numbers to be appointed by the House of Representatives, the Senate, and the President. The Board shall be composed of experts in the fields of welfare research and statistical methodology, representatives of State and local welfare agencies, and organizations concerned with welfare issues.

"(3) VACANCIES.—Any vacancy occurring in the membership of the Board shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

"(4) DUTIES.—Duties of the Board shall include—

"(A) providing advice and recommendations to the Secretary on the development of indicators, rates, and predictors of welfare dependency, and the identification of data collection needs and existing data collection efforts, described in subsection (a)(2)(B); and

"(B) providing advice on the development and presentation of the annual report on welfare dependency indicators, rates, and predictors required under subsection (c).

"(5) TRAVEL EXPENSES.—Members of the Board shall not be compensated, but shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(6) DETAIL OF FEDERAL EMPLOYEES.—The Secretary shall detail, without reimbursement, any of the personnel of the Department of Health and Human Services to the Board to assist the Board in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(7) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the Board may accept the voluntary services provided by a member of the Board.

"(8) TERMINATION OF BOARD.—The Board shall be terminated at such time as the Secretary determines the duties described in paragraph (4) have been completed, but in any case prior to the submission of the first report required under subsection (c).

"(c) ANNUAL WELFARE DEPENDENCY REPORT.—

"(1) PREPARATION.—The Secretary shall prepare an annual report on welfare dependency in the United States. The report shall attempt to identify indicators, rates, and predictors of welfare dependency and trends in dependency, and provide information and analysis on the causes of dependency.

"(2) COVERAGE.—The report shall include analysis of families and individuals receiving assistance under means-tested benefit programs, including the program of aid to families with dependent children under this part, the food stamp program under the Food Stamp Act of 1977, and the Supplemental Security Income program under title XVI, or as general assistance under programs administered by State and local governments.

"(3) CONTENTS.—Each report shall set forth—

"(A) for each of the means-tested benefit programs described in paragraph (2)—

"(i) current trends in the number and rates of recipients and the characteristics, including age, sex, marital status, presence of children, labor force participation, and disability, of the recipients; and

"(ii) total expenditures;

"(B) the proportion of the total population receiving each of the programs and patterns of multiple program participation and recipiency duration;

"(C)(i) characteristics of each such program, including total expenditures broken down by Federal and State shares, gross income limit, need standards, and maximum potential benefit by State; and

"(ii) a description of the interactions among the programs;

"(D) in the case of the second, or a subsequent, report, changes in the information described in subparagraphs (A) through (C) from the previous year, and trends in program participation;

"(E) annual numerical goals for recipients, and expenditures, within each program and within significant subgroups within the population, for the calendar year in which the report is transmitted and for each of the following 4 calendar years, which goals shall, consistent with other essential national goals, reflect the objectives of—

"(i) reducing welfare dependency to the lowest possible level; and

"(ii) increasing family self-sufficiency at or above the Federal poverty level to the greatest extent possible;

"(F)(i) the programs and policies as the Secretary, in consultation with the Board, determines are necessary to meet the goals for each of the 5 years; and

"(ii) such recommendations for legislation, which shall not include proposals to reduce eligibility levels or impose barriers to program access, as the Secretary may determine to be necessary or desirable to reduce welfare dependency; and

"(G) interim goals for reducing the proportion of children, and families with children, who are recipients of aid to families with dependent children to 10 percent of families with children, adjusted for economic conditions.

"(4) SUBMISSION.—The Secretary shall submit such a report not later than 3 years after the date of the enactment of this section, and annually thereafter, to the committees specified in subsection (a)(2)(C). The report shall be transmitted during the first 60 days of each regular session of Congress.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on the date of the enactment of this Act.●

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By Mr. MOYNIHAN:

S. 112. A bill to establish the Hudson River Artists National Historical Park in the State of New York, and for other purposes; to the Committee on Energy and Natural Resources.

THOMAS COLE NATIONAL HISTORIC SITE

● Mr. MOYNIHAN. Mr. President, I rise to introduce a bill that would place the home and studio of Thomas Cole under the care of the National Park Service as a national historic site. Thomas Cole founded the American artistic tradition known as the Hudson River School. He painted landscapes of the American wilderness as it never had been depicted, untamed and majestic, the way Americans saw it in the 1830's and 1840's. His students and followers included Frederick Church, Alfred Bierstadt, Thomas Moran, and John Frederick Kennesett.

No description of Cole's works would do them justice, so let me just say that their moody, dramatic style and subject matter bore sharp contrast to the pastoral European landscapes that Americans had previously admired. The new country was just settled enough that some people had time and resources to devote to collecting art. Cole's new style coincided with this growing interest, to the benefit of both.

Cole began his painting career in Manhattan, but one day took a steamboat up the Hudson for inspiration. It worked. The landscapes he saw set him on the artistic course that became his life's work. He eventually moved to a house up the river in Catskill, where he in turn boarded, owned, married, and raised his family. That house, known as Cedar Grove, remained in the Cole family until 1979, when it was put up for sale. Three art collectors saved it from developers, and now the Thomas Cole Foundation is offering to donate the house to the Park Service.

In addition to designating the Cole house a national historic site, the Secretary of the Interior would be allowed to acquire at no cost some surrounding lands now owned by the State of New York which include some of the landscapes depicted by Thomas Cole and disciples. Such an area would be known as the Hudson River Artists National Historic Park, and would be as large as 19,000 acres.

Mr. President, the home of one of the most influential 19th century American painters is being offered as a donation. I believe we owe it to him, and to the many people who admire the Hudson River School and explore its origins, to accept this offer and designate it a national historic site.

I regret that none of Thomas Cole's work hangs in the Capitol, although two works by Bierstadt can be found in the stairwell outside the Speaker's lobby. Perhaps Cole's greatest work is the four-part Voyage of Life, an allegorical series that depicts man in the four stages of life. It can be found in the National Gallery, along with two other Cole paintings. The National Gallery recently had a major exhibition of works by Church, who was Cole's first student.

I urge my colleagues to seek out these and other works from the Hudson River School. They are proof enough of Cole's importance and the need to add his home to the list of National Historic Sites.

Mr. President, I ask that the text of my bill be printed at the conclusion of these remarks.

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

S. 112

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hudson River Artists National Historical Park Act of 1993".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) HUDSON RIVER ARTISTS.—The term "Hudson River artists" means artists who belonged to the Hudson River School of Landscape Painting described in section 3(a)(1).

(2) HUDSON RIVER VALLEY REGION.—The term "Hudson River Valley region" means the counties of Albany, Columbia, Dutchess, Greene, Orange, Saratoga, Putnam, Rockland, Ulster, Rensselaer, Washington, Bronx, New York, and Westchester in the State of New York.

(3) PARK.—The term "Park" means the Hudson River Artists National Historical Park established pursuant to section 4(b).

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) SITE.—The term "Site" means the Thomas Cole National Historic Site established by section 4(a).

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Hudson River School of Landscape Painting was inspired by Thomas Cole and was characterized by a group of 19th century landscape artists who recorded and celebrated the landscape and wilderness of America, particularly the Hudson River Valley region in the State of New York;

(2) Thomas Cole and his student Frederic Church have been recognized as America's most prominent landscape and allegorical painters in the mid-19th century;

(3) the Thomas Cole House in Greene County, New York, and the Olana State Historic Site and the home and studio of Frederic Church in Columbia County, New York, are listed on the National Register of Historic Places and are designated as National Historic Landmarks;

(4) within a 15-mile area of the Thomas Cole House, an area that forms a key part of the rich cultural and natural heritage of the Hudson River Valley region, significant landscapes and scenes painted by the Hudson River artists survive intact;

(5) collectively, the resources described in paragraphs (3) and (4) provide—

(A) opportunities for illustrating and interpreting cultural themes of the heritage of the United States; and

(B) unique opportunities for education, public use, and enjoyment; and

(6) New York State has established the Hudson River Valley Greenway to promote the preservation, public use, and enjoyment of the natural and cultural resources of the Hudson River Valley region.

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

(1) to preserve and interpret for the benefit, inspiration, and education of the people of the United States significant places illustrative and representative of the legacy of the Hudson River artists;

(2) to help maintain the integrity of the setting in the Hudson River Valley region that inspired artistic expression;

(3) through cooperative management, to coordinate the interpretive, preservation, and recreational efforts of Federal, State, and other entities in the Hudson River Valley region in order to enhance opportunities for education, public use, and enjoyment; and

(4) to broaden public understanding of the Hudson River Valley region and its role in American prehistory, history, and culture.

SEC. 4. ESTABLISHMENT OF SITE AND PARK.

(a) THOMAS COLE NATIONAL HISTORIC SITE.—There is established, as a unit of the National Park System, the Thomas Cole National Historic Site—

(1) consisting of the home and studio of Thomas Cole, which is comprised of the 3.4 acre site and improvements on the site that are located at 218 Spring Street, Village of Catskill, State of New York; and

(2) as generally depicted on the map entitled "Thomas Cole National Historic Site Boundary Map", found in figure 3, page 16 of the report on the Thomas Cole House Feasibility/Suitability Study (TCH80002NAR).

(b) HUDSON RIVER ARTISTS NATIONAL HISTORICAL PARK.—

(1) ESTABLISHMENT.—At such time as the Secretary determines that sufficient lands, improvements, and interests in lands and improvements have been acquired, or at such time as the Secretary has entered into cooperative agreements satisfying the interpretive, preservation, and historical objectives of this Act, the Secretary may establish the Hudson River Artists National Historical Park in the State of New York by publication in the Federal Register of—

(A) notice of the establishment; and

(B) a detailed description or map setting forth the lands and improvements included in the Park.

(2) INCLUDED LANDS.—The Park shall consist of—

(A) the Site, as depicted in the map referred to in subsection (a)(2); and

(B) the approximately 19,471 acres of lands and improvements on the lands that are—

(i) owned by the State of New York;

(ii) managed as the Kaaterskill Wild Forest, North Mountain Wild Forest, Blackhead Range Wild Forest, North/South Lake Intensive Use Area, Rogers Island Wildlife Management Area, and Rogers Island Overlook Scenic Area; and

(iii) under the jurisdiction of the Department of Environmental Conservation of the State of New York.

(c) MAPS.—The maps referred to in this section shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

SEC. 5. ACQUISITION OF REAL AND PERSONAL PROPERTY AND SERVICES.

(a) REAL PROPERTY.—

(1) IN GENERAL.—The Secretary may acquire—

(A) by donation only, the lands and improvements described in section 4(b)(2)(B); and

(B) such lands and improvements in Catskill, New York, as are necessary for the management and operation of the Site.

(2) STATE LANDS.—Lands and improvements owned by the State of New York may be acquired by the Secretary only by transfer at no cost to the Federal Government.

(b) PERSONAL PROPERTY.—For the purposes of the Park, the Secretary may acquire historic objects and artifacts and other personal property associated with and appropriate for the interpretation of the Park.

(c) OTHER PROPERTY, FUNDS, AND SERVICES.—For the purpose of carrying out this Act, the Secretary may—

(1) enter into cooperative agreements with—

(A) the Office of Parks, Recreation and Historic Preservation of the State of New York;

(B) the Department of Environmental Conservation of the State of New York; and

(C) other appropriate State, county, and local entities and individuals, including—

(i) the Thomas Cole Foundation;

(ii) the Greene County Historical Society;

(iii) the Hudson River Valley Greenway Council; and

(iv) other private museums and institutions; and

(2) accept donated funds, property, and services.

SEC. 6. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The Secretary shall administer the Park in accordance with—

(1) this Act; and

(2) all laws generally applicable to national historic sites, including the Acts entitled—

(A) "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) PRESERVATION AND INTERPRETATION.—

(1) IN GENERAL.—Subject to paragraph (2), in administering the Park, the Secretary shall—

(A) preserve and interpret the Site;

(B) preserve and perpetuate knowledge and understanding, and provide for public understanding and enjoyment, of the lives and works of the Hudson River artists; and

(C) provide assistance to public and private entities in the interpretation of the Hudson River artists, their houses and studios, and the vistas depicted by the artists throughout the Hudson River Valley region.

(2) STATE PROPERTIES.—

(A) IN GENERAL.—The Secretary shall take no action with respect to the lands and structures owned by the State of New York within the boundaries of the Park except through cooperative agreements in accordance with subsection (c).

(B) STATE FOREST PRESERVE.—With regard to lands within the State Forest Preserve, the provisions of a cooperative agreement as described in subparagraph (A) shall be in strict conformance with the pertinent provisions of the Constitution of the State of New York.

(c) COOPERATIVE AGREEMENTS WITH NEW YORK AND OTHER ENTITIES.—

(1) IN GENERAL.—

(A) AUTHORITY OF SECRETARY.—To further the purposes of this Act, the Secretary may consult with and enter into cooperative agreements with the State of New York and other public and private entities.

(B) PURPOSES OF AGREEMENTS.—Each agreement shall—

(i) facilitate the development, presentation, and funding of art exhibits, resident artist programs, and other appropriate activities related to the preservation, interpretation, development, and use of the Park; and

(ii) encourage an appreciation of the scenic and artistic tradition inspired by the Hudson River artists.

(C) TECHNICAL ASSISTANCE.—Through agreements, the Secretary may provide technical assistance to cooperating entities described in subparagraph (A) for the marking, interpretation, restoration, preservation, or interpretation of any property listed in section 4.

(D) INTERPRETATION AGREEMENTS.—The Secretary may enter into additional cooperative agreements to plan and coordinate the interpretation of the cultural and natural history of the Hudson River Valley region, which provides the context for the work of the Hudson River artists.

(2) LIBRARY AGREEMENT.—The Secretary may enter into a cooperative agreement with the Greene County Historical Society to provide for the establishment of a library and research center at the Site.

(d) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than the end of the second fiscal year that begins after the establishment of the Park, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the Site and the Park.

(2) CONSULTATION.—In preparing the plan, the Secretary, acting through the Director of the National Park Service, shall consult with advisors (including representatives of cooperating entities described in subsection (c)(1)(A), representatives of local and munici-

pal interests, nationally recognized historians, scholars, and other experts) concerning the interpretation, preservation, and visitation of, and other issues pertaining to, the Park and other sites of related historical or scenic significance in the Hudson River Valley region.

(3) REQUIREMENTS.—The plan shall be prepared in accordance with—

(A) this subsection;

(B) section 12(b) of the Act entitled "An Act to improve the administration of the national park system by the Secretary of the Interior, and to clarify the authorities applicable to the system, and for other purposes", approved August 18, 1970 (16 U.S.C. 1a-7); and

(C) other applicable law.

(4) CONTENTS.—The plan shall include—

(A) recommendations and cost estimates for the identification, marking, interpretation, and preservation of properties and landscapes associated with the Hudson River artists and located throughout the Hudson River Valley region (to be carried out through cooperative agreements and other means considered appropriate and practicable);

(B) recommendations on ways to broaden public understanding of the Hudson River Valley region and its role in American prehistory, history, and culture; and

(C) recommendations on ways to foster relevant public education, resource preservation, and appropriate levels of regional tourism.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

By Mr. MOYNIHAN (for himself and Mr. CHAFEE):

S. 113. A bill to amend title 18, United States Code, to require that persons comply with State and local firearms licensing laws before receiving a Federal license to deal in firearms; to the Committee on the Judiciary.

COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill to prevent the issuance of a Federal license to deal firearms unless the applicant has a State and local license for the same purpose. I introduced this bill in the 102d Congress and am hopeful that with all the recent publicity that this loophole has received in the press and in the media, that we will pass the measure.

We are a gun-saturated society, and we must begin to deal effectively with the firearms epidemic that exists in our country. In December 1992, the Federal Bureau of Alcohol, Tobacco and Firearms [BATF] reported that 1 in 4 guns in New York and 1 in 3 from the District of Columbia actually comes from Virginia. The Governor of the Commonwealth has studied these facts and now seeks to implement laws to rectify this problem.

And so we too must closely scrutinize our firearms laws and, like Virginia's Gov. L. Douglas Wilder, take appropriate action. I am proposing that we do just that.

Our streets are riddled with crime involving guns, and many of the guns are possessed illegally. Too often these illegal firearms get to the street from people without licenses to sell in their locality. A 3-year Federal license to deal in firearms may be obtained from the Bureau of Alcohol, Tobacco and Firearms [BATF] for $30. A valid State of local dealers license is not required. In New York City, for example, fewer than 1 in 12 people who have Federal dealer licenses holds a valid local license. In the District of Columbia, where handgun sales are banned, 35 have Federal dealers licenses. In fact, federally licensed dealerships have increased 64 percent from 174,000 in 1980 to over 285,000 today.

Law enforcement officials at every level worry that easy access to Federal dealer licenses may contravene efforts to control the flow of guns to criminals. The Gun Control Act of 1968 prohibits anyone but a federally licensed dealer from shipping guns interstate directly from the manufacturer or distributor. But the loophole permits gun running. People with licenses, says BATF, "can purchase any handgun, rifle, or shotgun anywhere and anytime." Thousands of guns are bought by federally licensed dealers and sold illegally to drug gangs, organized crime, and common street criminals.

Law enforcement agencies have attempted to stem this flow. BATF has brought criminal charges against approximately 289 dealers in the past 2 years, and New York City police have caused 18 to be surrendered. But there are 285,035 licenses nationwide, and almost 40,000 apply for new licenses each year. Only 37 of 34,000 new permit requests were denied during the same year.

This bill does not mandate new gun control legislation for the States. It simply requires that Federal licensing of dealers conforms to standards established at the State and local levels. It is simple common sense.

"It's a loophole you can drive a truck through," one Federal law enforcement official told the Washington Post. I hope my colleagues agrees it is time to close this loophole. I urge them to cosponsor this legislation.

I ask unanimous consent that the text of the bill, a letter of support sent to me by former New York City Police Commissioner Lee Brown, and articles from the New York Times and Washington Post be printed in the RECORD at this time.

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

S. 113

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

SECTION 1. COMPLIANCE WITH STATE AND LOCAL FIREARMS LICENSING LAWS REQUIRED BEFORE ISSUANCE OF FEDERAL LICENSE TO DEAL IN FIREARMS

(a) IN GENERAL.—Section 923(d)(1) of title 18, United States Code, is amended.

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following:

"(F) in the case of an application for a license to engage in the business of dealing firearms—

"(i) the applicant has complied with all requirements imposed on persons desiring to engage in such a business by the State and political subdivision thereof in which the applicant conducts or intends to conduct such business; and

"(ii) the application includes a written statement which—

"(I) is signed by the chief of police of the locality, or the sheriff of the county, in which the applicant conducts or intends to conduct such business, the head of the State police of such State, or any official designated by the Secretary; and

"(II) certifies that the information available to the signer of the statement does not indicate that the applicant is ineligible to obtain such a license under the law of such State and locality.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to applications for a license that is issued on or after the date of the enactment of this Act.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Arlington, VA, June 28, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senator, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to urge you to introduce to the Senate a bill requiring all Federal Firearm license applicants to submit proof that they are duly licensed under state and local law.

I urge you to take this action as President of the International Association of Chiefs of Police (IACP) and as Police Commissioner of the New York City Police Department.

As you know, under current federal regulations, applicants for Federal Firearm Licenses (FFL) are already required to be licensed with the state and local government of their residence. This legislation merely closes a loophole allowing FFL holders to order weapons for delivery to their houses or businesses without compliance with local licensing requirements.

In my capacity as President of IACP, one of the largest police agencies in the nation, I remind you of the paramount concern law enforcement has with stopping the entry of illegal guns into our local jurisdictions. The legislation introduced in the House by Congressman Bill Green, requiring proof of compliance with state and local law, is consistent with the stated policies of IACP. I am urging you to introduce a similar bill in the Senate.

In summary, I believe that with illegal firearms currently causing an alarming rate of death and serious injuries, the closing of this legislative loophole is both wise and timely. I urge you to give your attention to the introduction of this legislation.

Sincerely,

LEE P. BROWN,
President.

[From the Washington Post, Dec. 2, 1992]

LICENSE TO KILL

In an eye-opening series this week titled "Under the Gun," staff writer Pierre Thomas reported that getting a federal license to sell firearms is a snap. Fill out a short form, pay $30, and in about 45 days you've got a license.

No fuss and probably no bother—most records aren't audited for decades. No wonder business is jumping—with more than 270 licenses a day issued in 1991. Of 34,000 applications for new licenses last year, only 37 were denied. There were 57,327 licenses renewed and only 15 renewal applications denied. The total number of license-holders, most of them considered law-abiding, is ridiculously high—276,000, up 59 percent since 1980, while the number of federal inspectors assigned primarily to gun dealers is down 13 percent. And oh, yes: Guns have killed 60,000 people in this country in five years.

So what's the matter with the U.S. Bureau of Alcohol, Tobacco and Firearms, the agency that dishes out all these licenses and then can't begin to monitor them? This agency is only as effective as the law allows it to be, and in this case the law is just the way—weak—the NRA likes. The gun lobby prefers an agency with minimum computerized capacity to check records or use a central database. In 1986, when members of Congress were even more cowed by the gun lobby than they are today, the NRA and its semiautomatic water-carrier in the Senate at the time—Republican James A. McClure of Idaho, now retired—succeeded in weakening what law was on the books. His legislation reduced certain recordkeeping violations by dealers from felonies to misdemeanors and forbade ATF to inspect any gun dealer more than once a year.

ATF needs its teeth back. The agency is good at what it is allowed to do, including the tracking of guns, even though it may have to sift through slips of paper because it hasn't been able to computerize its records quickly enough. Good legislation has been proposed before and should be enacted now. It's obvious that tougher federal controls are needed, along with a force that can inspect all license-holders regularly. One other proposal that could take effect quickly would require any applicant for a federal license to supply certification of compliance with all state and local ordinances. This, with an accelerated automation and inspection plan, could begin to make a difference right away. So could some tighter rules on applications for renewals.

The gun manufacturers for whom the NRA fronts will insist that the killers will always get firearms without paying attention to tougher controls. Why not test their argument? As it stands, the federal system is a disgrace.

[From the New York Times, Jan. 4, 1991]

REVOKING LICENSES TO KILL

(By James B. Jacobs)

The Federal Bureau of Alcohol, Tobacco and Firearms and New York City, both license firearms dealers, but the city's licensing criteria are much more stringent, requiring fingerprints and a criminal-records check. Consequently, according to the New York City police, there are 1,043 federally licensed firearms dealers in New York City but only 77 city-licensed dealers.

Anyone with a Federal license can purchase unlimited firearms by mail order from manufacturers. The B.A.T.F. is required to grant an applicant's request for a license unless it has evidence that the applicant fails to meet Federal standards. Since the bureau does not require fingerprints or proof of eligibility, it essentially operates as an honor system. Moreover, while Federal regulations require prospective firearms dealers to follow all state and local laws and regulations, they do not require proof of having obtained a local license.

Not surprisingly, some federally licensed firearms dealers in New York City have criminal records and, even worse, are in business to supply weapons to criminals. A 1985 U.S. Department of Justice study found that 21 percent of armed criminals obtained their handguns directly through licensed gun dealers.

A small but eminently sensible step to take would be for Congress or the B.A.T.F. to require that applicants for Federal licenses provide proof to having met local laws for dealing in firearms. A New York City applicant would have to show that he had conformed to the city's demanding standards. If he could not make such a showing, he would be unable to obtain a Federal license—and unable to purchase firearms directly from legitimate manufacturers and wholesalers.

HIT-OR-MISS CONTROL OF FIREARMS SALES; ENFORCERS CAN'T KEEP UP WITH DEALERS

(By Pierre Thomas)

Getting a federal license to sell rifles, shotguns and handguns can be as easy as sending in a two-page form and paying a $30 fee. Look for the license in your mailbox 45 days or so later.

Chances are nearly nine out of 10 that no one will interview you beforehand. Once you're licensed, federal inspectors won't get around to auditing your records and business practices for about 20 years. Renewals of the three-year license are virtually automatic.

Even if you live in the District, where local law has banned handgun sales since 1976 and the homicide rate has soared, you can obtain a federal permit to sell firearms.

The District's ban on handgun sales is only as strong as dealers' willingness to limit their business to rifles and shotguns. There are 46 federally licensed gun dealers in the District, and in the last two years, inspectors have checked two. D.C. police leave responsibility for monitoring dealers to the federal government.

"It's a joke," said Melvin Abrams, a longtime Baltimore County gun dealer. "The politicians are screaming about gun control, but [the federal government] is handing out licenses to every Tom, Dick and Harry. And then they never check the people, It make you want to scream."

More than 60,000 people nationwide have been killed with guns in the last five years. The federal licensing system, meanwhile, if not a joke, is at least a well of irony, its critics and top officials agree.

At the heart of that irony is the U.S. Bureau of Alcohol, Tobacco and Firearms. It is the federal agency most responsible for enforcing federal gun-control laws and curbing illegal gun trafficking, but its mission as a licensing agency is to get permits into—not keep them out of—the hands of dealers. Congress and powerful lobbyists pressure the bureau constantly to make gun-selling in the United States as hassle-free as possible.

"Anybody can get a license to sell firearms," said Tony Haynes, head of ATF's licensing center. More than 270 licenses a day—91,000 new and renewed permits in all—were issued in 1991 by the licensing center, which is in Atlanta. Of 34,000 applications for new licenses that year, 37 were denied. The agency renewed 57,327 licenses, while denying 15 renewal requests.

Haynes said his mandate is to "issue licenses and to do it as quickly and efficiently as possible." Federal regulations require ATF to process applications within 45 days.

There are more than 276,000 federally licensed gun dealers in the United States. ATF officials say that most are law-abiding, but that the agency has issued more permits than it can hope to monitor closely.

ATF bureau has 13 percent fewer field inspectors assigned primarily to gun dealers today than it had a decade ago. The number of federally licensed dealers, however, has grown rapidly. In 1980, there were 174,000; now there are 102,000 more—an increase of 59 percent.

Stephen Higgins, director of the agency, said that at present inspection rates and with current staff levels, it will be 20 years before ATF inspectors audit some licensees. "With 280,000 licensed dealers," Higgins said, "we're not going to get around to some of these people in their lifetime."

"No, I'm not comfortable with that, but the unfortunate fact is that we are not going to get more" money for inspections, Higgins said. "It's much easier to get Congress to approve task forces . . . of agents who are going to be working street gangs or violent criminals."

Such special operations have become more common in recent years, and arrests by ATF's 1,947 agents have grown. A surprising number of dealers have been accused of breaking the law and contributing to urban violence:

At least 600 federally licensed dealers across the country have been arrested on criminal charges in the last five years, most for illegal weapons sales.

More than a dozen federally licensed dealers in Detroit have been charged with providing more than 2,000 firearms to criminals in the city.

A Richmond gun dealer recently pleaded quilty to falsifying federal firearms reports and then committed suicide after 100 guns he sold were confiscated in New York.

"There are just so many [new dealers] coming in," said Ed McKita, who supervises nine ATF inspectors responsible for monitoring 7,500 licensed Virginia dealers from a field office in Richmond. "There is just so much that you can do."

ATF'S HISTORY

Formed in 1972 as a branch of the Treasury Department, the bureau traces its history to 1863, when Congress established an office to collect taxes on alcohol.

In the 1920s, the Bureau of Prohibition was set up to track down bootleggers and gangsters. AFT agents today proudly declare themselves successors of that bureau's most famous agent, Eliot Ness, who snared mobster Al Capone and whose exploits were memorialized in a television series, "The Untouchables," and a movie of the same name.

AFT, nevertheless, has worked in the shadow of the more prestigious and better-funded Federal Bureau of Investigation, part of the Justice Department. ATF, with 4,203 employees, has a $341 million annual operating budget, less than a quarter of the FBI's.

ATF's deities include apprehending gunrunners, investigating explosions and arsons, auditing cigarette plants and tracking down the relatively few remaining moonshiners. The agency says it collects $10 billion in taxes from the industries it regulates.

The mandate for ATF's regulation of firearms is the Gun Control Act of 1968, the nation's primary gun-control law, passed after the shooting deaths of the Rev. Martin Luther King Jr. and Sen. Robert F. Kennedy.

The law provided for more comprehensive licensing of and record keeping by dealers so that weapons used in violent crimes could be traced to their original purchasers. The law also banned felons, people deemed mentally incompetent and some other from receiving, possessing or selling firearms.

ATF is charged with licensing dealers and with making sure that their sales are properly recorded and that they do not knowingly sell to prohibited buyers. It also runs the federal gun-tracing center in Landover, which helps law enforcement agencies track weapons used in violent crimes.

ATF's efforts to regulate guns have been hamstrung for years by the powerful gun lobby, led by the National Rifle Association. When, for instance, ATF tries to track a gun used in a crime, it often does so by flipping through slips of paper recording gun sales. Congress, responding to NRA assertions, has denied the agency money to computerize certain records of gun sales.

The gun lobby is opposed to any central database of gun owners, fearing it eventually could lead to confiscation of weapons from law-abiding citizens.

Proponents of stricter national gun control generally support strengthening ATF's oversight of dealers. Opponents often attack the competence of the agency and the attitudes of its agents, often described by critics as overzealous.

The agency has "made an awful lot of errors in their enforcement efforts," said James A. McClure, an Idaho Republican and frequent ATF critic who retired from the Senate in 1990. "Some pretty awful things were done—unlawful search and seizures, entrapment" of gun dealers. At times, McClure said, the agency "trampled on the Constitution."

Rep. William J. Hughes (D-N.J.), a supporter of stricter gun control, said complaints such as McClure's are "grossly overexaggerated" and part of overall efforts to "decimate the agency."

"There has been a concerted effort in recent administrations and in Congress," Hughes said, "to beat them down."

Hughes pointed to legislation cosponsored by McClure and passed in 1986 that reduced certain record-keeping violations by dealers from felonies to misdemeanors and forbade ATF to inspect any gun dealer more than once a year.

"We wanted them to get back to the field [to make criminal cases] rather than harassing dealers," McClure said. "We as Americans don't like the idea of Big Brother." Hughes countered that those changes produced a system with "no safeguards."

While required to issue permits quickly, ATF also is expected to ensure that undesirables do not get them. That process can be fraught with pitfalls.

Four ATF computer operators run names and Social Security numbers through a Treasury Department database to determine whether applicants are under federal investigation. They also check the FBI-run National Crime Information Center, a databank of crime records from federal, state and local agencies.

While some consider the FBI databanks more than adequate, others contend there are critical flaws in it. The system usually cannot determine, for example, when the name and Social Security number on an application are false.

Several years ago, in an effort to underscore that weakness, a reporter submitted a made-up Social Security number as part of the application for a gun dealer's license for a pet dog, Haynes said. The computer found no criminal record under the dog's name, Fifi, or Social Security number, and a license was issued.

"If a criminal lies, I can't catch that up front," Haynes said. "Fifi the dog was clean."

David Nemecek, the head of the National Crime Information Center, said in a recent interview that though there are more than 16 million records in the system, not all local agencies contribute information. The database, moreover, is more complete for people born in 1956 and after. Many born earlier "may or may not be in the system," Nemecek said.

FEW SAFEGUARDS UP FRONT

ATF says it does not have the money to do fingerprint checks on applicants. Moreover, Haynes said, because of limited resources, there are very few pre-approval visits, in which an ATF inspector meets the dealer-to-be, gets answers to any nagging questions and explains rules and regulations.

Guns are "probably the most deadly consumer product, and it's essentially an unregulated industry," said Dennis Henigan, director of the D.C.-based Center to Prevent Handgun Violence.

Richard Gardiner, counsel for the NRA's Institute for Legislative Action, said the vast majority of gun dealers use their licenses to purchase guns for their personal use. Strengthening ATF oversight, he said, "would only make life difficult for more law-abiding people."

Abrams's Valley Gun Store in Parkville, a Baltimore suburb, is an example of how the federal system of gun regulation is supposed to work.

The inventory of Valley Gun, which stocks virtually every gun available, is guarded by clerks carrying guns in holsters and by a closed-circuit television system.

During his 43 years in business, Abrams said, he has sold more than 200,000 guns. ATF inspects his operation once a year, partly because he is a large dealer and sells machine guns and partly because weapons purchased at some time from his store often turn up in criminal investigations.

At Abrams's store, gun purchasers fill out two government forms—one from ATF, the other from the state of Maryland. Abrams, as the dealer, is required to keep the yellow ATF form for possible inspection by the agency—especially if the weapon is used in a crime.

ATF requires no background checks before the sales are made. Maryland law, however, imposes a seven-day waiting period for handguns and requires Abrams to send the white state form to the Maryland State Police for review and a background check.

But many dealers have trouble complying with the red tape that accompanies legal gun sales. More than half of the gun dealers inspected by ATF last year were cited for violations such as incomplete records of gun buyers and reductions in gun inventories unaccounted for in sales records.

REACTING TO PROBLEMS

Pat McGlone, who has been an inspector for 22 years, said she worries that too often the agency is reacting to problems once they develop rather than working to prevent them through adequate policing of dealers.

A single bad dealer has the power to quickly put a large number of guns into the wrong hands. "Hopefully, we can catch them [bad dealers] before too much damage is done," McGlone said. "But in the meantime, how many people will have been injured or worse?"

ATF's lack of monitoring leads to poor coordination between federal and state law enforcement agencies.

In Maryland, for example, ATF has licensed about 3,000 gun dealers. Only 300, however, have registered with the state police. No one knows whether the 2,700 others are selling guns and complying with state and local firearms, tax, business and land-use laws.

The Virginia State Police, which does background checks on gun buyers in that state, recently formed a firearms section to find out more about nearly 2,000 federally licensed dealers who have not registered with the state.

Some see a distinct irony in current efforts to impose a nationwide waiting period for handgun buyers. "We don't go anywhere near that far in relation to gun dealers," said Roland Vaughn, recently retired president of the International Association of Chiefs of Police, which favors the national waiting period. "That's a significant flaw, and it ought to be corrected immediately."•

By Mr. INOUYE:

S. 114. A bill to authorize reduced postage rates for certain mail matter sent to Members of Congress; to the Committee on Governmental Affairs.

AUTHORIZING CERTAIN REDUCED POSTAGE RATES

• Mr. INOUYE. Mr. President, I rise to introduce a bill to provide for the issuance of a special 1-cent postage stamp to be used for correspondence with Members of Congress.

Mr. President, ours is a democratic Government—a representative Government—and thus, by definition, one dependent on the continuing operation of a two-way communication system between the people of this country and their elected representatives.

Each Member of Congress is directly responsible to those people in the State or district that he or she represents. He or she must not only keep communication channels open but, more importantly, must be responsive to the concerns he receives through these channels. The most practical means of transmitting these constituent concerns is through the mail. It is most difficult for many of us to imagine ourselves in a situation where the desire to express an opinion is frustrated because we must think twice about spending money on a postage stamp. Unfortunately, we must face the fact that many of our Nation's citizens are forced to consider the purchase of a 29-cent postage stamp for the purpose of expressing a grievance, or opinion or idea, as something beyond their means.

The issuance of a 1-cent stamp for this purpose would effectively remove this prohibition and allow all citizens to apprise their Representatives and Senators of their individual thoughts and position on issues facing our Nation. This measure would amend the Postal Reform Act of 1970 to provide for the issuance of these 1-cent stamps to be sold at U.S. post offices. The bill also authorizes appropriations necessary to account for the difference in postal revenue resulting from the sale of 1 cent stamps as opposed to prevailing postage rates for mail matter addressed to Congressmen which does not exceed 4 ounces in weight.

Recognizing the necessity of open communication between elected officials and people, Congress adopted the franking system allowing congressional communication by elected officials with constituents. We have neglected, however, to provide our constituents with a convenient and affordable means of access to their Senators and Congressmen. It is difficult to overstate the importance of this concept of individual expression. Each and every citizen has the right and the responsibility to participate in the democratic system, through both the ballot box and through correspondence with their Representatives between elections.

Because the effective operation of our political system is dependent upon open communications, I am hopeful this bill will receive the early approval of the Congress.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 32 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3221. Mail matter sent to Members of Congress

"(a) Any person may send any piece of mail matter, not exceeding four ounces in weight, for postage of 1 cent to (1) any Member of the Senate representing the State, and (2) the Member of the House of Representatives representing the district, in which such person resides, if that person uses a special stamp issued by the Postal Service for any such matter. The Postal Service shall issue special 1-cent stamps to be used in sending such matter, and such stamps shall be only sold at post offices.

"(b) For the purposes of this section—

"(1) 'district' includes Puerto Rico and the District of Columbia;

"(2) 'Member of the House of Representatives' includes a Representative, Delegate, and Resident Commissioner; and

"(3) a Member of the House of Representatives elected at large from a State having more than one district shall be considered a Member elected from each district of that State.".

(b) The analysis of such chapter is amended by adding after the item relating to section 3220 the following new item:

"3221. Mail matter sent to Members of Congress.".

(c) Section 2401(c) of such title is amended by inserting "3221," after "3217,".●

By Mr. INOUYE:

S. 118. A bill to require the Commodity Credit Corporation to refund to first processors of sugarcane and sugar beets marketing assessments collected by the Corporation during fiscal year 1991, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

REFUND OF CERTAIN ASSESSMENTS

● Mr. INOUYE. Mr. President, I rise to introduce a measure to correct an inequity created by the Omnibus Budget Reconciliation Act of 1990 which established marketing assessments on sugar.

Assessments were initially collected by the U.S. Department of Agriculture [USDA] on sugar produced during the 1991 through 1995 crop years. While the technical corrections amendments to the Food, Agriculture, Conservation and Trade Act of 1990 changed the basis of the assessment from the production to the marketing of sugar, it was silent on refunds for assessments made on production from July 1, 1991 to September 30, 1991. During this period, the Hawaii sugarcane producers, and some sugarbeet processors in California were the only producers that paid an assessment. Without a refund, Hawaii's producers will pay an assessment on 3 more months of production than other domestic producers in the amount of approximately $900,000.

Most unfortunately, the Hawaii sugarcane producers are experiencing serious financial difficulties with the planned shutdown of two large operations. It clearly cannot afford to let this additional 3-month assessment matter to lie in limbo.

Former U.S. Department of Agriculture Secretary Madigan, upon consultation with his legal counsel, stated that this, inequity can only be corrected by legislation. Accordingly, the USDA's legal staff drafted the attached measure which has his support.

My measure is a simple and technical one which restores not only equity, but also returns to Hawaii's sugarcane producers funds that they cannot do without during this critical period. I urge my colleagues to support this legislation.●

By Mr. INOUYE:

S. 119. A bill to restore the traditional observance of Memorial Day and Veterans Day; to the Committee on the Judiciary.

TRADITIONAL OBSERVANCE OF CERTAIN HOLIDAYS

● Mr. INOUYE. Mr. President, in our effort to accommodate many Americans by making the last Monday in May, Memorial Day, we have lost sight of the significance of this day to our Nation. My bill would restore Memorial Day to May 30 and authorize our flag to fly at half-mast on that day. In addition, this legislation would authorize the President to issue a proclamation making both Memorial Day and Veterans Day days for prayer and ceremonies. This legislation would help restore the recognition our veterans deserve for the sacrifices they have made on behalf of our Nation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) effective one year following the date of enactment of this Act—

(1) section 6103(a) of title 5, United States Code, is amended by striking out:

"Memorial Day, the last Monday in May."

and inserting in lieu thereof:

"Memorial Day, May 30."; and

(2) section 2(d) of the joint resolution entitled "An Act to codify and emphasize existing rules and customs pertaining to the display and use of the flag of the United States of America", approved June 22, 1942 (36 U.S.C. 174(d)), is amended by striking out:

"Memorial Day (half-staff until noon), the last Monday in May;"

and inserting in lieu thereof:

"Memorial Day (half-staff until noon), May 30;".

(b) The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe Memorial Day and Veterans Day as days for prayer and ceremonies showing respect for American veterans of wars and other military conflicts.●

By Mr. INOUYE:

S. 120. A bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs; to the Committee on Veterans Affairs.

FILIPINO VETERANS EQUITY ACT

● Mr. INOUYE. Mr. President, today, I rise to introduce legislation which amends title 38, United States Code, to restore full veterans' benefits, by reason of service, to certain organized military forces of the Philippine Commonwealth Army and the Philippine Scouts.

On July 26, 1941, President Roosevelt issued a military order that called members of the Philippine Commonwealth Army into the service of the United States Forces of the Far East. Under the command of Gen. Douglas MacArthur, our Filipino allies joined alongside American soldiers in fighting some of the most fierce battles of World War II.

From the onset of the war through February 18, 1946, Filipinos who were called into service under President Roosevelt's order were entitled to full veterans' benefits by reason of their active service in our Armed Forces. Unfortunately, on February 18, 1946, Congress enacted the Rescission Act of 1946, now codified as section 107, title 38, United States Code, which states that service performed by these Filipino veterans is not deemed as active service for purposes of any law of the United States conferring rights, privileges, or benefits. On May 27, 1946, Congress extended the limitation on benefits to the New Filipino Scout units.

Interestingly enough, section 107 is the only instance in this century where

Congress drew distinction between veterans with regard to entitlements on the basis of how, where, or why they served in our Armed Forces. For example, this discriminatory treatment was reserved for Filipino veterans. Over 100,000 aliens who joined our Armed Forces during World War II are entitled full veterans benefits.

Section 107 denied Filipino veterans access to health care, particularly for nonservice-connected disability, and denied them other benefits such as pensions and home loan guaranties. Additionally, section 107 limited the benefits received from service-connected disabilities and death compensation of 50 percent of what was received by their American counterparts.

As a result of the 1946 act, Filipino veterans sued to obtain relief from this discriminatory treatment. The U.S. District Court for the District of Columbia, on May 12, 1989, in Quiban versus U.S. Veterans Administration and Quizon versus U.S. District Court for the District of Columbia declared section 107 of title 38, United States Code to be unconstitutional. However, the U.S. Court of Appeals for the District of Columbia reversed that ruling and the veterans did not file a petition for certiorari to the Supreme Court, making Congress the responsible body to rectify this injustice.

For many years, Filipino veterans of World War II have sought to correct this injustice by seeking equal treatment for their valiant military service in our Armed Forces. We must not ignore the recognition they duly deserve as U.S. veterans. Accordingly, I urge my colleagues to support this measure which would restore full veterans' benefits, by reason of service, to our Filipino allies of World War II.

Mr. President, I ask unanimous consent that the text of my bill be placed in the RECORD.

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

S. 120

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Filipino Veterans Equity Act of 1993".

SEC. 2. CERTAIN SERVICE IN THE ORGANIZED MILITARY FORCES OF THE PHILIPPINES AND THE PHILIPPINE SCOUTS DEEMED TO BE ACTIVE SERVICE.

(a) IN GENERAL.—Section 107 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "not" after "Army of the United States, shall"; and

(B) by striking out ", except benefits under—" and all that follows and inserting in lieu thereof a period; and

(2) in subsection (b)—

(A) by striking out "not" after "Armed Forces Voluntary Recruitment Act of 1945 shall"; and

(B) by striking out "except—" and all that follows and inserting in lieu thereof a period.

(b) CONFORMING AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 of such title is amended to read as follows:

"107. Certain service deemed to be active service: service in organized military forces of the Philippines and in the Philippine Scouts.".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall take effect on October 1, 1993.

(b) APPLICABILITY.—No benefits shall accrue to any person for any period before the effective date of this Act by reason of the amendments made by this Act.●

By Mr. INOUYE:

S. 121. A bill to authorize a certificate of documentation for the vessel *Enterprise*; to the Committee on Commerce, Science, and Transportation.

VESSEL "ENTERPRISE" DOCUMENTATION

● Mr. INOUYE. Mr. President, this private relief bill that I am introducing would authorize a certificate of documentation for the vessel *Enterprise*, a small boat to be used for charter fishing. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 121

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

SECTION 1. DOCUMENTATION.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel *Enterprise*, United States official number 692956.●

By Mr. INOUYE:

S. 122. A bill to authorize a certificate of documentation for the vessel *Kalena;* to the Committee on Commerce, Science, and Transportation.

VESSEL "KALENA" DOCUMENTATION

● Mr. INOUYE. Mr. President, this private relief bill that I am introducing would authorize a certificate of documentation for the vessel *Kalena*, a small boat to be used for charter fishing. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 122

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

SECTION 1. DOCUMENTATION.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the vessel *Kalena*, United States official number HA-1923E.●

By Mr. INOUYE (for himself and Mr. SIMON):

S. 123. A bill to amend the Immigration and Nationality Act to provide for prompt parole into the United States of aliens in order to attend the funeral of an immediate blood relative in the United States and to deny parole status to aliens who are excludable from admission into the United States; to the Committee on the Judiciary.

PROMPT PAROLE OF CERTAIN ALIENS

● Mr. INOUYE. Mr. President, today, I introduce a bill, along with Senator SIMON, which amends the Immigration and Nationality Act to allow the prompt parole of aliens into the United States for the purpose of attending the funeral of an immediate blood relative.

The proposed measure is similar to H.R. 97, but includes a provision that addresses potential abuse. Under the provisions of this bill, an alien is required to provide a certified copy of the death certificate of the relative. The parole period shall not exceed 30 days except under circumstances specified by the Attorney General. In addition, the bill denies parole status to aliens who are excludable from admission into the United States. Further, the Attorney General is required to report to Congress any violations or abuses of the immigration law resulting from the parole of aliens into the United States.

While current statutes provide for the administrative parole of aliens into the United States to attend funerals of immediate family members, often times, aliens from certain countries are without justification delayed or denied timely entry by embassy officials. To remedy this injustice, this bill mandates expeditious entry into the United States to any alien who can prove the death of an immediate blood relative with a death certificate. Accordingly, I urge my colleagues to support this bill.●

By Mr. INOUYE:

S. 124. A bill to establish a temporary program under which parenteral diacetylmorphine will be made available through qualified pharmacies for the relief of intractable pain due to cancer, and for other purposes; to the Committee on Labor and Human Resources.

COMPASSIONATE PAIN RELIEF ACT

● Mr. INOUYE. Mr. President, today I am introducing legislation which is directed to relieving the suffering of a small but significant number of our citizens; patients who are terminally ill with cancer and whose pain has not been effectively mitigated with currently available medications.

For many years, the thought of cancer and its accompanying pain have

sent chills of fear through all of us; likewise, the thought of heroin and its addictive qualities produces similar fears. In my judgment, we are in a position now where we can make a logical and thoughtful decision to legalize the therapeutic use of heroin for the terminally ill cancer patient suffering intractable pain while at the same time safeguarding against the diversion of the drug into illicit channels.

The legislation I am introducing today is supported by thousands of Americans. Furthermore, it reflects the evolution and attitude of our Nation's health care system as evidenced by an editorial in the January 14, 1982, issue of the prestigious New England Journal of Medicine, which urged more flexibility in the use of addictive drugs in the treatment of pain. This attitude is also present in an official statement made by the American Psychiatric Association which endorses the "principle that the effectiveness of relief of pain in terminal cancer patients should take priority over a concern about additions of the terminal cancer patient and should take priority over a concern about medication diversion to addicts." A later article in the New England Journal of Medicine of August 23, 1984, by Dr. Allen Mondzac, reviewed the unique characteristics of heroin and its valuable clinical role where it is available.

The need for this legislation is dramatic. Although over the past two decades a great deal of progress has been made in treating cancer, each year an estimated 800,000 Americans are diagnosed as having cancer, and over 400,000 die from the disease. Most of these individuals will have received competent and compassionate medical care, and many will receive adequate relief of pain. Unfortunately, the reality is also that a certain number of cancer patients do not obtain relief of pain from the current available analgesic medication—even the strongest narcotics. An NIH panel that convened in May 1986, heard testimony that 50 to 60 percent of patients with cancer pain lived the last part of their lives with unrelieved severe pain. A recent 1992 survey by the Eastern Cooperative Oncology Group has found that as a general rule, patients underreport pain and physicians undertreat it. As a minimal figure, it has elsewhere been estimated that about 20 percent of terminal cancer patients suffer significant pain. Of this 20 percent, it has been estimated that 10 percent do not obtain relief with presently prescribed medications. In human terms, these percentages mean that as many as 8,000 Americans may die in agony this year because of the intractable pain associated with terminal cancer. I have been assured by my medical colleagues that in many cases this pain can be alleviated with the therapeutic use of heroin, making the last weeks, months, or days of these patients more bearable. These dying patients are not now given the option of dying with dignity because of our Nation's continued and overriding fear of heroin. In my judgment, this fear alone has continued to prevent us, the lawmakers of our Nation, from making clear and rational decisions regarding the limited use of this long-proven and already available substance.

Heroin has been proven effective with a number of patients in relieving pain. Research completed at Georgetown University's Vincent T. Lombardi Cancer Research Center has found heroin to be an effective analgesic for the control of cancer-related pain. In particular, it has been reported to be more potent than morphine in relieving cancer pain. Less than half of the dose of heroin produces the same pain relief as a dose of morphine. In the terminal phase of cancer many patients cannot take medication by mouth, and may require injections. As the disease progresses, individuals may require higher doses at more frequent intervals, to provide relief. This is when it would be desirable to have the option of using heroin in treating pain, since heroin is more potent and more soluble than morphine salts, and an effective dose can be administered in considerably smaller volumes. Thus, doctors have informed me that it is less painful to have such an injection—an important consideration in the emaciated patient with little tissue mass remaining. In addition, its euphoric effects might be beneficial for people who know they are dying.

Further, the onset of action of the heroin is also more rapid than morphine because of its solubility, giving relief of pain and a sense of well-being sooner. It is most unfortunate that the use of heroin for these patients has not been allowed up to this date. This legislation will enable physicians to treat the dying cancer patient who suffers from intractable pain with a proven, effective medication.

The time has now come to address the issue of why the heroin should not be readily available as a therapeutic medication for our Nation's physicians in very specific situations when we have dying cancer patients who are suffering extreme pain. William F. Buckley, Jr., Editor-at-Large of National Review, has described our irrational maintenance of the prohibition against such uses of heroin in very real terms. As he pointed out:

> The irony is that anybody in a major city can acquire the knowledge necessary to buy heroin from a dirty little drug pimp, but licensed doctors may not administer the identical drug to men and women—and children—literally dying from excruciating pain.

Our colleagues on the House Subcommittee on Health and the Environment held hearings on a similar bill on September 4, 1980. At the time, a number of practicing physicians and others asked that the Federal controls on heroin be eased to permit the prescription of heroin for patients for whom more conventional pain killers were inadequate. It was further pointed out that in Great Britain, heroin has been used for years for these patients and that it has been shown to be particularly effective for those 10 percent of terminal cancer patients who require injected medication. British physicians consider heroin to be an indispensable potent narcotic analgesic in the treatment of advanced cancer. Use of heroin in specific situations is also permitted in Belgium, New Zealand, China, and many other civilized nations.

Since this information was made public in the House hearings the editorial writers of our country have taken up the issue, as reflected in supportive statements by, among a number of others, the New York Times, the Washington Post, the Washington Times, the Los Angeles Times, the San Francisco Chronicle, the San Francisco Examiner, the Honolulu Star-Bulletin, the Honolulu Advertiser, the Chicago Sun-Times, the Cleveland Plain Dealer, the Rocky Mounty News, and the Richmond Times-Dispatch. Both National Review and the New Republic have backed the proposal. The American Nurses' Association has come out strongly endorsing this merciful action. As a result of widespread support among physicians and the general public, heroin has become available in Canada for terminal cancer patients.

The bill I am introducing today will give a very high priority to relief from intractable pain for terminal cancer patients. It authorizes the Secretary of the Department of Health and Human Services to establish demonstration programs which will permit the use of heroin by terminally ill cancer patients only, when suffering from pain which is not effectively treated with currently available analgesic medications.

My bill has more than adequate safeguards to prevent the drug from being introduced to the general public. For example, a diagnosis must be made by the attending physician that his or her patient is ill with cancer and is suffering from pain which is not being effectively treated with other available analgesic medications. This diagnosis must be reviewed and approved by a medical review board of the hospital which will dispense the heroin. The heroin used in the program will be from that supply now confiscated under current laws. The Secretary of Health and Human Services is further authorized to establish additional regulations for the safe use and storage of heroin, to prevent its diversion into illicit channels. This program will be in force for a 5-year period and periodic reporting is required of the Secretary on the activities under the bill.

I strongly believe that the proposal will provide substantial benefits to

those who are in intractable pain from terminal cancer and I am hopeful that my colleagues on the Senate Labor and Human Resources Committee will give this measure their prompt and most serious consideration.

Mr. President, I request unanimous consent that the text of this bill and an article be printed in the RECORD.

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

S. 124

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Compassionate Pain Relief Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) cancer is a progressive, degenerative, and often painful disease that afflicts one out of every four persons in the United States and is the second leading cause of death;

(2) in the progression of terminal cancer, a significant number of patients experience levels of intense and intractable pain that cannot be effectively treated by presently available medication;

(3) the effect of such pain often leads to a severe deterioration in the quality of life of the patient and heartbreak for the family of the patient;

(4) the therapeutic use of parenteral diacetylmorphine is not permitted in the United States but extensive clinical research has demonstrated that the drug is a potent, highly soluble painkilling drug when properly formulated and administered under the supervision of a physician;

(5) it is in the public interest to make parenteral diacetylmorphine available to patients through controlled channels as a drug for the relief of intractable pain due to terminal cancer;

(6) diacetylmorphine is successfully used in Great Britain and other countries for relief of pain due to cancer;

(7) the availability of parenteral diacetylmorphine for the limited purposes of controlling intractable pain due to terminal cancer will not adversely affect the abuse of illicit drugs or increase the incidence of pharmacy thefts;

(8) the availability of parenteral diacetylmorphine will enhance the ability of physicians to effectively treat and control intractable pain due to terminal cancer; and

(9) it is appropriate for the Federal Government to establish a temporary program to permit the use of pharmaceutical dosage forms of parenteral diacetylmorphine for the control of intractable pain due to terminal cancer.

SEC. 3. PARENTERAL DIACETYLMORPHINE PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART N—COMPASSIONATE PAIN RELIEF

"SEC. 399G. PARENTERAL DIACETYLMORPHINE.

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than three months after the date of the enactment of this part, the Secretary shall issue regulations establishing a program (referred to in this section as the 'program') under which parenteral diacetylmorphine may be dispensed from pharmacies for the relief of intractable pain due to terminal cancer.

"(2) TERMINAL CANCER.—For purposes of this section, an individual shall be considered to have terminal cancer if there is histologic evidence of a malignancy in the individual and the cancer of the individual is generally recognized as a cancer with a high and predictable mortality.

"(b) MANUFACTURING.—Regulations established under this section shall provide that manufacturers of parenteral diacetylmorphine for dispensing under the program shall use adequate methods of, and adequate facilities and controls for, the manufacturing, processing, and packing of such drug to preserve the identity, strength, quality, and purity of the drug.

"(c) AVAILABILITY TO PHARMACIES.—

"(1) REQUIREMENTS.—Regulations established under this section shall require that parenteral diacetylmorphine be made available only to pharmacies that—

"(A) are hospital pharmacies or such other pharmacies as the regulations specify;

"(B) are registered under section 302 of the Controlled Substances Act (21 U.S.C. 822);

"(C) meet such qualifications as the regulations specify; and

"(D) submit an application in accordance with paragraph (2).

"(2) APPLICATION.—An application for parenteral diacetylmorphine shall—

"(A) be in such form and submitted in such manner as the Secretary may prescribe; and

"(B) contain assurances satisfactory to the Secretary that—

"(i) the applicant will comply with such special requirements as the Secretary may prescribe respecting the storage and dispensing of parenteral diacetylmorphine; and

"(ii) parenteral diacetylmorphine provided under the application will be dispensed through the applicant upon the written prescription of a physician registered under section 302 of the Controlled Substances Act (21 U.S.C. 822) to dispense controlled substances in schedule II of such Act (21 U.S.C. 812(2)).

"(3) INTENT OF CONGRESS.—It is the intent of Congress that—

"(A) the Secretary shall primarily utilize hospital pharmacies for the dispensing of parenteral diacetylmorphine under the program; and

"(B) the Secretary may distribute parenteral diacetylmorphine through pharmacies other than hospital pharmacies in cases in which humanitarian concerns necessitate the provision of parenteral diacetylmorphine, a significant need is shown for such provision, and adequate protection is available against the diversion of parenteral diacetylmorphine.

"(d) ILLICIT DIVERSION.—Regulations established by the Secretary under this section shall be designed to protect against the diversion into illicit channels of parenteral diacetylmorphine distributed under the program.

"(e) PRESCRIPTION BY PHYSICIANS.—Regulations established under this section shall—

"(1) require that parenteral diacetylmorphine be dispensed only to an individual in accordance with the written prescription of a physician;

"(2) provide that a physician registered under section 302 of the Controlled Substances Act (21 U.S.C. 822) may prescribe parenteral diacetylmorphine for individuals for the relief of intractable pain due to terminal cancer;

"(3) provide that any such prescription shall be in writing; and

"(4) specify such other criteria for the prescription as the Secretary may determine to be appropriate.

"(f) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq. and 951 et seq.) shall not apply with respect to—

"(1) the importing of opium;

"(2) the manufacture of parenteral diacetylmorphine; and

"(3) the distribution and dispensing of parenteral diacetylmorphine,

in accordance with the program.

"(g) REPORTS.—

"(1) BY THE SECRETARY.—

"(A) IMPLEMENTATION AND ACTIVITIES.—

"(i) IMPLEMENTATION.—Not later than 2 months after the date of the enactment of this part and every third month thereafter until the program is established under subsection (a), the Secretary 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 information on the activities undertaken to implement the program.

"(ii) ACTIVITIES.—Not later than 1 year after the date the program is established under subsection (a) and annually thereafter until the program is terminated under subsection (h), the Secretary shall prepare and submit to the committees described in clause (i) a report containing information on the activities under the program during the period for which the report is submitted.

"(B) PAIN MANAGEMENT.—Not later than 6 months after the date of the enactment of this part, the Secretary 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 that—

"(i) describes the extent of research activities on the management of pain that have received funds through the National Institutes of Health;

"(ii) describes the ways in which the Federal Government supports the training of health personnel in pain management; and

"(iii) contains recommendations for expanding and improving the training of health personnel in pain management.

"(2) BY THE COMPTROLLER GENERAL.—Not later than 56 months after the date on which the program is established under subsection (a), the Comptroller General of the United States shall prepare and submit to the committees referred to in paragraph (1)(A)(i) a report containing information on the activities conducted under the program during such 56-month period.

"(h) TERMINATION AND MODIFICATION.—

"(1) IN GENERAL.—The Secretary may at any time later than 6 months after the date on which the program is established under subsection (a), modify the regulations required by subsection (a) or terminate the program if in the judgment of the Secretary the program is no longer needed or if modifications or termination are needed to prevent substantial diversion of the diacetylmorphine.

"(2) FINAL TERMINATION.—The program shall terminate 60 months after the date the program is established under subsection (a).".

[The following article is found in A.S. Trebach & K.B. Zeese (Eds.), "Strategies For Change: New Directions in Drug Policy" Washington, D.C.: Drug Policy Foundation Press, 1992]

PUBLIC PERCEPTIONS AND THE THERAPEUTIC USE OF HEROIN

(By Robert L. McCarthy and Michael Montagne)

Heroin, diacetylmorphine, has been recognized, for most of the 20th century, as a drug of abuse. There is significant evidence to support such a characterization. Unfortunately, the stigma associated with heroin has prevented it from being viewed as a drug with any legitimate medical use. Unlike its pharmacological analogs, morphine and hydromorphone, heroin's abuse potential has overshadowed, even eliminated, its consideration as a clinical agent.

This unidimensional view of diacetylmorphine is one which has developed slowly over time. It began in the early 1900s when grave concerns about the potential adverse effects of heroin resulted in its virtual exile from the arsenal of agents used in pain management. It was further developed during the drug culture of the 1960s and 1970s when heroin became a symbol for a generation of Americans using illicit substances. The resultant "opiophobia," referred to by Morgan and Pleet, led to not only the underprescribing of "accepted" narcotic analgesics, but also to the further alienation of diacetylmorphine from legitimate medicine.[1] It has become difficult, if not impossible, for the public to equate heroin with legitimate drug therapy.

Given this backdrop, the authors undertook a project to examine heroin from a public policy and ethical stance. What impact has the public perception of heroin had on its ability to be viewed as a legitimate medication, worthy of classification as such? Has this public perception also influenced governmental officials, the creators of policy, who may not wish to be considered advocates of heroin? In what ways, if any, have professional organizations within health care acted unethically, or at least unprofessionally, in their policies opposing heroin's legalization? What are the rights of patients, both legally and ethically, to have available medications which are of potential therapeutic use? This paper examines how the public's perception, with regard to heroin, has been influenced by the media. Future papers will address these additional questions.

The views of many Americans are shaped, at least in part, by what they are exposed to via the media. Both electronic and print media play an important role in shaping conclusions that are drawn by the public about a wide range of issues. This study focuses on how the print media has addressed the heroin issue and its potential influence on public perceptions. What has the media portrayed about heroin and heroin use, and have these images influenced society's perceptions? How reflective of individual and societal beliefs and public policy are these media reports?

BACKGROUND

American society did not arrive at their attitudes towards heroin over night. Concerns about the availability and usage of opiates extends back to at least the Civil War era of 1860-65. So-called "Soldier's Disease," opiate addiction which allegedly afflicted Civil War veterans as a result of freely used analgesics during the war, is an early such reference. Ironically, as Mandel points out, Soldier's Disease is a myth, concocted in the 20th century. No evidence exists that such widespread addiction, as a result of the use of opiates, ever occurred.[2] It appears that misinformation about these drugs is not solely a creation of modern times. Mandel goes on the argue that opiate abuses was not the extensive social problem it was suggested to be in the early 1900s, prior to the passage of the Harrison Narcotic Act. Further, that devoid of such a social problem, legal restriction of these agents was an unnecessary exercise. Interestingly, in sharp contrast to our present day context, the mass media virtually ignored the opiate issue.[3]

As we are all well aware, the role played by the media in the lives of Americans is much more significant than it was 80 or 90 years ago. The development and expansion of electronic media alone has made more information available to a wider audience. More importantly, the influence of the mass media in shaping public opinion is greater than ever before in the past. As Winick argues, the expectations and hopes of patients, the responsiveness of government and the marketing strategies of pharmaceutical manufacturers all may be affected by the content of the media.[4] It would be naive to suggest that our views of issues and events are not at least partially the result of the method of presentation and slant to a story provided by the media.

This impact of the mass media on the formation of public opinion may take several forms; overt endorsement, subtle support or documented opposition of an issue may all be tactics used, whether or not done so consciously. One would hope that when the media does adopt such strategies to influence public opinion, they would do so only after careful analysis of the factors involved. Unfortunately, most members of the media are not scientists, and therefore cannot be expected to utilize the scientific method in such analyses. This becomes especially frustrating to those of us trained as biomedical scientists and accustomed to careful evaluation prior to arriving at a conclusion. Cohen, writing about the media's portrayal of benzodiazepines reflects this frustration. He writes, "Trial by media can never take the place of careful scientific evaluation of a psychotropic drug. The two methods are antithetical. Scientific inquiry depends on careful examination of data. The media cannot present information in detail. It titillates, dramatizes and pulls facts out of context. It is unfortunate, but it is so."[5]

This approach to news reporting also places the media at risk for manipulation. Special interest groups with a particular social agenda, and the ability to frame their viewpoint clearly and concisely, can utilize the media to influence public opinion. DiChiara writes about just such a tactic relative to drug law reform. He argues that the media can be used to present a substance abuser as either an anomaly and a danger to society, or as the victim of an illness in need of treatment.[6]

Among the many areas in which the media plays a role in shaping societal beliefs is that of drugs and their reputations. The public's perception of penicillin, for example, is quite divergent from that of an opiate like heroin. Why? For one thing, the vast majority of individuals in the United States have taken penicillin at one time or another. The same cannot be said for heroin. With penicillin, its familiarity to the public allows people to relay less on the information provided by others—the government and media, for example—to inform them about the drug. As Maloff asserts, "The power of formal controls (with media support) to influence drug reputations is particularly salient in the case of drugs like heroin, known rarely by firsthand (or even secondhand) experience. In the absence of widespread use or transmission of users' unique knowledge to nonusers, cultural images are easily manipulated by society's so-called experts."[7]

In this paper, heroin is used as a case study of the broader relationship between the mass media and the public. We contend that heroin's negative reputation has, in large part, been created by the media. However to argue that this influence is solely unidirectional assumes that the media can insulate itself from popular opinion. We would assert that the media is both influential and reflective relative to the public at large. As Maloff writes, "Media coverage may also be taken as an indicator of public sentiment, reflecting as well as shaping heroin's reputation."[8]

METHODOLOGY

A total of 405 articles, which mentioned heroin or diacetylmorphine in either the title and/or text, published in the New York Times, Washington Post, Christian Science Monitor, USA Today, Time and Newsweek were found and reviewed. Due to factors including chronological limit of the database, number of articles in each periodical and age of the periodical, the inclusive dates of collection vary. These dates, by periodical, are listed in Table I. The periodicals were chosen for reasons of demographic diversity among readership, national distribution and database availability.

All articles were content analyzed. Article titles, prominence and themes were reviewed in an attempt to determine the way in which heroin, vis-a-vis the popular press, has been portrayed to the American public.

TABLE I

Periodical	Date of first article collected	Date of last article collected
Time	9/3/65	2/18/91
Newsweek	3/5/73	5/30/88
New York Times	6/14/80	6/22/91
Christian Science Monitor	3/11/80	12/13/90
Washington Post	4/23/83	9/1/91
USA Today	1/26/89	6/25/91

Article title themes and content themes were assigned to categories that were both created prior to analysis as well as created during article analysis. This method combines both well accepted approaches in content analysis to the creation of categories. During article review, content themes which fell into multiple thematic categories were assigned to as many categories as seemed appropriate. Therefore, the total frequency of content themes exceeds that of the total number of articles analyzed. Title themes were assigned to only a single thematic category. If the theme of the article was uncertain, it was assigned to the "unclear" category. Because of this difference in recording frequencies between title and content themes, it was impossible to do a direct correlation between the two. However, the format of Table IV does allow for comparison of frequencies between title and content themes for each thematic category.

A metaphorical analysis was conducted as a component of the content analysis of article titles. This methodological approach has been used by several other investigators, most recently in a study examining the nature of drugs and drug-taking.[9] The use of

Footnotes at end of article.

metaphors and symbols pervades newspaper headlines. They provide a description of an issue or event in terms other than those commonly used to describe it. For example, an article title which reads "Heroin Abuse Spreads Like a Plague Across the Nation" makes use of a metaphorical description. The same title without the use of a metaphor might read "Heroin Abuse on the Increase Across the Nation." The use of the metaphor "plague" provides a certain degree of fear or menace that is associated with an actual plague. Our decision to analyze these article titles in terms of metaphors was based on just such a potential public reaction. Sterotypes or biases about heroin can be based as much on the metaphors employed in article titles as they can on the actual content of the titles.

RESULTS

Although the articles analyzed date back to 1965, the vast majority of articles, 96.3 percent, were published between 1980 and 1991 (see Table II). Consequently, our results are more representative of public exposure during the past decade, than during the previous 15 years. Additionally, it is important to note that all the pre-1980 articles reviewed were from Time and Newsweek, representing a significantly smaller portion of our sample size as compared to the other periodicals.

TABLE II.—*Articles by year (n=405)*

Year:	*No. of articles reviewed*
1965	1
1966	0
1967	0
1968	0
1969	1
1970	1
1971	0
1972	0
1973	2
1974	1
1975	0
1976	3
1977	2
1978	3
1979	1
1980	15
1981	16
1982	28
1983	46
1984	54
1985	29
1986	43
1987	31
1988	43
1989	29
1990	40
1991	16

ARTICLE AUTHORSHIP AND PROMINENCE

Nearly three quarters (73 percent) of the articles reviewed were written by a staff reporter. An additional nine articles were editorials. It is our contention that such a result indicates that the periodical considered the story to be significant enough to assign a staff member to cover it as opposed to relying on the wire services. One reason for this decision could certainly be that the story was of local importance, but considering the periodicals chosen for analysis, this is unlikely. Rather, it is more likely that the issues involved were significant to American society at-large.

Additional data listed in Table III do not suggest a similar degree of importance. Only 3.3 percent of articles appeared either fully, or began, on the front page of the periodical. When those articles which appeared on the first page of a newspaper section were included (17 percent), this total still represented only slightly more than one-fifth (20.3 percent) of all articles reviewed. Similarly, more than three quarters (76.6 percent) of articles were of a length of three columns or less. This data indicates just the opposite of the authorship data, that the issues and stories covered were of lesser importance. This perception is further strengthened upon examination of one additional piece of data. We theorized that articles which held greater prominence would be accompanied by pictures, illustrations and graphs to further explain and/or elaborate the issues discussed in the story. If we are correct in our assumption, then the fact that more than two-thirds (68.8 percent) of the articles studied contained no such embellishment would seem to support a lower level of importance.

One explanation for the mixed results may lie in the differentiation between the decision to cover a story and the subsequent reporting. One might argue that an issue thought to be important enough to send a staff reporter to cover it, may have lost some significance when the story is reported and written. Such an argument is difficult to use, however, to explain such an overwhelming disparity. Still another possible explanation is how the story is covered over time. A new story might break on the first page, but subsequent coverage usually occurs further back in another section.

TABLE III.—*Article characteristics*

	Percent
Article by-line:	
Reporter	73.0
Wire service	20.2
Other	6.8
Article location:	
Front page	3.3
First page, section	17
Other	79.6
Article length (No. of columns):	
One-three	76.6
Four-six	18.9
Seven or more	4.5
Pictures/tables/illustrations:	
Yes	31.2
No	68.8

ARTICLE TITLE AND CONTENT THEMES

The results of the article title and content thematic categorization are listed in Table IV. The predominance of themes, in both the title and content thematic categories, relating to the illicit, as compared to the legitimate use of heroin, represents a significant finding. Less than four percent (1.2 to 3.2 percent) of all articles analyzed had as the theme of their title or content the therapeutic use of heroin either in the treatment of pain or addiction. On the other hand, the theme "Drug Traffickers" was represented in 14.8 percent of the article titles and nearly a third (31.7 percent) of the content of the articles studied. Likewise, the theme "Heroin Possession/Arrests/Raids" was found in more than one quarter (26.9 percent) of title themes, though substantially less (3.9 percent) content themes. When these two categories are combined, they represent 41.7 percent of title themes and 35.6 percent of content themes, by far the greatest plurality of articles.

The question of the decriminalization of heroin and other illicit drugs did receive some discussion in the periodicals studied (2.0 percent title and 5.1 percent content themes), but this was more than offset by the theme "Heroin's Adverse Effects/Deaths/Overdoses" (8.1 percent title and five percent content). This would suggest that although the public has been exposed to some degree of discussion relative to the lessening or eliminating of legal penalties related to substance abuse, it is quickly reminded of the morbidity and mortality these substances cause. At the same time, however, a relatively small number of articles (0.2 percent title and 4.1 percent content) focused on the abuse liability of heroin.

TABLE IV.—ARTICLE TITLE AND CONTENT THEMES

Theme	Title theme percentage (n=405	Content theme percentage (n=564)
Therapeutic use of heroin in the treatment of pain	3.2	3.0
Therapeutic use of heroin in the treatment of narcotic withdrawal (e.g. methadone clinic)	1.2	2.7
Decriminalization of heroin and other illicit drugs	2.0	5.1
Drug traffickers	14.8	31.7
Economics of drug trafficking	.5	5.8
Commentary/statements by professional medical organizations (eg. APHA, AMA)	0	.7
International use of heroin (illicit use)	7.9	8.9
International use of heroin (therapeutic use)	0	.7
Federal/state legislative action/drug enforcement	3.9	8.5
Substance abuse in the United States	4.2	6.0
Moral/ethical aspects of substance use	0	.3
Impact of substance abuse in children and teenagers	0	.9
Drug use on college campuses	0	.2
Drug addiction	1.7	4.8
Abuse liability of heroin	.2	4.1
Drug abuse by health professionals	0	0
Opiophobia in physician prescribing practices	0	0
Drug diversion/robberies/crime	1.2	2.7
Heroin abuse by widely known individuals [1]	5.2	1.8
Heroin's adverse effects/deaths/overdoses [1]	8.1	5.0
Heroin and organized crime [1]	.5	1.1
Substance abuse (heroin) treatment programs [1]	1.2	1.1
Drug abuse prevention programs [1]	0	.2
Impact of substance abuse in adults [1]	0	.2
Heroin possession/arrests/raids [1]	26.9	3.9
Substance abuse (heroin) effect on family/communities/neighborhoods [1]	1.2	.3
AIDS and substance abuse [1]	1.5	.3
Unclear (Title Themes Only)	14.3	NA

[1] Indicates a theme established during content analysis.

One of the categories created during content analysis, "Heroin Abuse by Widely Known Individuals," showed interesting results. Although only 1.8 percent of the articles were assigned this theme based on their content, a relatively significant number, 5.2 percent, contained this theme in their title. Given the fact that individuals often read only the headlines of newspapers and are more likely to remember an article if a famous name is mentioned, the negative stereotype toward heroin as a result of these titles bears note.

METAPHORS AND SYMBOLS FOR HEROIN IN ARTICLE TITLES

"Heroin: Preparing for a New Invasion," "Busting the Heroin Pipeline," "Europe: The Heroin Plague," "Riding a Mare" and "Washington Struggles to Stem Heroin Tide" represent only a small sample of the article titles analyzed which make use of metaphors and symbols. The results of our metaphorical analysis, summarized in *Table V*, demonstrate a definite negative connotation relative to heroin. This negative stereotype, as expressed through the metaphors, follows several distinct, undesirable approaches. The first of these, is to associate heroin with things that are bad or evil and to equate it with the devil. The second, provides a medical twist by thinking of heroin symbolically as a disease or plague which ultimately leads to death. A third approach utilizes a war analogy in that it equates fighting heroin abuse to waging a military battle with heroin as the enemy. The fourth visualizes heroin abuse as an ocean wave or tide which cannot be controlled or as a pipe-

line or other machinery funneling the drug into the country. The final, and in our view most disturbing metaphorical approach, is the use of the racial element. Blaming certain groups for substance abuse or drug trafficking in America plays on and unfortunately reinforces certain biases already existent among the public.

TABLE V.—*Metaphors and symbols for heroin in article titles*

Metaphor/symbol:	Mentions occurrences
Devil/evil	2
Plague/scourge/disease	[1]5
Enemy/invasion/war/target	25
Death/killer	18
Pipeline/trail/connection/traffic	24
Wave/tide/flow/flood/surge	9
Operation/machine	15
"Bad" (synthetic heroin, more potent, stronger; not counted under death	7
Racial element[2]	60

[1]Not counting AIDS.

[2]Asian=37; Mexican=13; African=9 (Asian, mostly Chinese, includes Thai and Pakistani; Mexican includes Colombian; and African includes Black, but only one mention; one extra mention that covered all racial groups).

DISCUSSION AND CONCLUSIONS

The results of our study indicate that, in general, heroin has been portrayed by the print media in a very negative manner. In these portraits, this substance has been associated with crime, disease, illicit use and death. There exists a paucity of articles which discuss potential medical benefits relating to the use of heroin as an analgesic. It is therefore reasonable to suggest that the negative reputation of heroin held by society has been reinforced, and quite possibly generated, by mass media.

If in fact our conclusions are valid, what impact has this representation had on the genesis of public policy and a potential therapeutic role for heroin? As mentioned earlier, this paper represents only the first phase of a more complex study examining the issue of policy, ethics and the therapeutic use of heroin. Future papers will examine how the actions of the federal government may be influenced not only by their personal perceptions of heroin, but also by public opinion. A bill to make heroin available for therapeutic use in certain circumstances has been introduced in Congress each session since 1984 (accounting for most all of the articles analyzed that had title or content themes addressing the medicinal use of heroin). Unfortunately, despite the sponsorship of an influential legislator in each House, the bill has not met with success. Has heroin's portrayal in the mass media been contributory?

Both Great Britain and Canada have approved heroin's availability for therapeutic use. We will take a close look at heroin policy and use in these countries and, through in-depth interviews and policy analysis, establish a frame of reference for heroin's history in the United States. Great Britain and Canada differ in both the restrictiveness of their policy toward heroin as well as in the attitudes of health professionals towards its use as an analgesic. They should provide us with a useful contrast.

The final portion of this multi-phase study will examine the moral and ethical obligations of medical professionals, specifically pharmacists, and their professional organizations to patients. There is strong evidence to suggest that these organizations may not have fulfilled their hippocratic responsibilities by opposing medicinal heroin. This evidence can be seen in both Congressional testimony and policy statements in which such groups undertook steps to block the availability of heroin for therapeutic use.

For its part, we hope that this phase of our larger study will assist in understanding how the negative stereotyping of heroin by the public has been influenced by its portrayal in the popular press. And, how that portrayal has prevented its evaluation as a legitimate therapeutic agent by health professionals on a clinical and scientific basis, rather than by society on moral, cultural or political grounds.

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FOOTNOTES

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[2]Mandel, J. "The Mythical Roots of U.S. Drug Policy: Soldier's Disease and Addiction in the Civil War," A.S. Trebach and K.B. Zeese (eds.), 1989–90, "A Reformer's Catalogue," Washington, DC: Drug Policy Foundation, 1990, pp. 110–133.

[3]Mandel, J. "The Mythical Roots of U.S. Drug Policy: Soldier's Disease and Addiction in the Civil War," A.S. Trebach and K.B. Zeese (eds.), 1989–90, "A Reformer's Catalogue," Washington, DC: Drug Policy Foundation, 1990, pp. 110–133.

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[5]Cohen, S. "Current Attitudes About the Benzodiazepines: Trial by Media." "Journal of Psychoactive Drugs," 1983; 15:109–113.

[6]DiChiara, A. "Changing Media Presentations of the Drug User: the Social Deconstruction of Moral Devils." A.S. Trebach and K.B. Zeese (ads.) "The Great Issues of Drug Policy." Washington, DC: Drug Policy Foundation, 1990, pp. 303–210.

[7]Maloff, D. "Controlling Drug Reputations: The Case of Heroin." "Journal of Psychoactive Drugs," 1984; 16:129–140.

[8]Maloff, D. "Controlling Drug Reputations: The Case of Heroin." "Journal of Psychoactive Drugs," 1984; 16: 129–140.

[9]Montagne, M. "The Metaphorical Nature of Drugs and Drug Taking." "Soc. Sci. Med." 1988; 26:417–424.●

By Mr. INOUYE:

S. 125. A bill to amend title 5, United States Code, to require the issuance of a prisoner-of-war medal to civilian employees of the Federal Government who are forcibly detained or interned by an enemy government or a hostile force under wartime conditions; to the Committee on Governmental Affairs.

PRISONER-OF-WAR MEDAL FOR CIVIL EMPLOYEES OF THE FEDERAL GOVERNMENT

● Mr. INOUYE. Mr. President, all too often we find that our Nation's civilians who have been captured by a hostile government do not receive the recognition they deserve. My bill would correct this inequity and provide a prisoner-of-war medal for civilian employees of the Federal Government.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 125

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

SECTION 1. PRISONER-OF-WAR MEDAL FOR CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT.

(a) AUTHORITY TO ISSUE PRISONER-OF-WAR MEDAL—Subpart A of part III of title 5, United States Code, is amended by inserting after chapter 23 the following new chapter:

"CHAPTER 25—MISCELLANEOUS AWARDS

"2501. Prisoner-of-war medal: issue.

"§ 2501. Prisoner-of-war medal: issue

"(a) The President shall issue a prisoner-of-war medal to any person who, while serving in any capacity as an officer or employee of the Federal Government was forcibly detained or interned, not as a result of such person's own willful misconduct—

"(1) by an enemy government or its agents, or a hostile force, during a period of war; or

"(2) by a foreign government or its agents, or a hostile force, during a period other than a period of war in which such person was held under circumstances which the President finds to have been comparable to the circumstances under which members of the armed forces have generally been forcibly detained or interned by enemy governments during periods of war.

"(b) The prisoner-of-war medal shall be of appropriate design, with ribbons and appurtenances.

"(c) Not more than one prisoner-of-war medal may be issued to a person under this section or section 1128 of title 10. However, for each succeeding service that would otherwise justify the issuance of such a medal, the President (in the case of service referred to in subsection (a) of this section) or the Secretary concerned (in the case of service referred to in section 1128(a) of title 10) may issue a suitable device to be worn as determined by the President or such Secretary, as the case may be.

"(d) For a person to be eligible for issuance of a prisoner-of-war medal, the person's conduct must have been honorable for the period of captivity which serves as the basis for the issuance.

"(e) If a person dies before the issuance of a prisoner-of-war medal to which he is entitled, the medal may be issued to the person's representative, as designated by the President.

"(f) Under regulations to be prescribed by the President, a prisoner-of-war medal that is lost, destroyed, or rendered unfit for use without fault or neglect on the part of the person to whom it was issued may be replaced without charge.

"(g) In this section, the term 'period of war' has the meaning given such term in section 101(11) of title 38.".

"(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part III of such title is amended by inserting after the item relating to chapter 23 the following new item:

"25. Miscellaneous Awards ..... 2501".

SEC. 2. EFFECTIVE DATE.

Section 2501 of title 5, United States Code, as added by section 1, applies with respect to any person who, after April 5, 1917, is forcibly detained or interned as described in subsection (a) of such section.●

By Mr. INOUYE:

S. 126. A bill to amend title VII of the Public Health Service Act to establish

a psychology postdoctoral fellowship program, and for other purposes; to the Committee on Labor and Human Resources.

THE PSYCHOLOGY POSTDOCTORAL FELLOWSHIP PROGRAM ACT OF 1993

• Mr. INOUYE. Mr. President, I am introducing legislation today to amend title VII of the Public Health Service Act to establish a psychology postdoctoral fellowship program.

Mr. President, psychologists have made a unique contribution in serving the Nation's medically underserved populations. Expertise in behavioral science is useful in addressing many of our most distressing concerns—violence, addiction, mental illness, children's behavior disorders, family disruption, for example. Establishment of a psychology postdoctoral fellowship program could be most effective in finding solutions to these pressing societal issues.

Similar programs supporting additional, specialized training in traditionally underserved settings or with specific underserved populations have been demonstrated to be successful providing services to those same underserved populations during the years following the training experience. That is, Mr. President, mental health professionals who have participated in these specialized federally funded programs have tended not only to meet their payback obligations, but have continued to work in the public sector or with the underserved populations with whom they have been trained to work.

Mr. President, while the doctorate in psychology provides broad-based knowledge and mastery in a wide variety of clinical skills, the specialized postdoctoral fellowship programs provide particular diagnostic and treatment skills required to effectively respond to these underserved populations. For example, what looks like severe depression in an elderly person may be a withdrawal related to hearing loss, or what looks like poor academic motivation in a child recently relocated from southeast Asia may be reflective of a cultural value of reserve rather than a disinterest in academic learning. Each of these situations requires very different interventions, of course, and specialized assessment skills.

Domestic violence is not just a problem for the criminal justice system, it is a significant public health problem. A single aspect of the issue, domestic violence against women results in almost 100,000 days of hospitalization, 30,000 emergency room visits, and 40,000 visits to physicians each year. Rates of child and spouse abuse in rural areas are particularly high as are the rates of alcohol abuse and depression in adolescents. A postdoctoral fellowship program in the psychology of rural populations could be of special benefit in addressing these pressing issues.

Mr. President, given the changing demographics of the Nation—the increasing lifespan and numbers of the elderly, the rising percentage of minority populations within the country, as well as an increased recognition of the long-term sequeliae of violence and abuse and given the demonstrated success and effectiveness of these kinds of specialized training programs, it is incumbent upon us to encourage participation in postdoctoral fellowship programs which respond to the needs of the Nation's underserved.

I request unanimous consent that the text of my bill be printed in the RECORD, as follows:

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

S. 126

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

SECTION 1. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

Part E of the Public Health Service Act is amended by inserting after section 778 the following new section:

"SECTION 779. GRANTS FOR FELLOWSHIPS IN PSYCHOLOGY.

"(a) IN GENERAL.—The Secretary shall establish a psychology post-doctoral fellowship program to make grants to and enter into contracts with eligible entities to encourage the provisions of psychological training and services in underserved treatment areas.

"(b) ELIGIBLE ENTITIES.—

"(1) INDIVIDUALS.—In order to receive a grant under this section an individual shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such individual—

"(A) has received a doctoral degree through a graduate program in psychology provided by an accredited institution at the time such grant is awarded;

"(B) will provide services in a medically underserved population during the period of such grant;

"(C) will comply with the provisions of subsection (c); and

"(D) will provide any other information or assurances as the Secretary determines appropriate.

"(2) INSTITUTIONS.—In order to receive a grant or contract under this section, an institution shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary shall require, including a certification that such institution—

"(A) is an entity, approved by the State, that provides psychological services in medically underserved areas or to medically underserved populations (including entities that care for the mentally retarded, mental health institutions, and prisons);

"(B) will use amounts provided to such institution under this section to provide financial assistance in the form of fellowship to qualified individuals who meet the requirements of subparagraphs (A) through (C) of paragraphs (2);

"(C) will not use in excess of 10 percent of amounts provided under this section to pay for the administrative costs of any fellowship programs established with such funds; and

"(D) will provide any other information or assurance as the Secretary determines appropriate.

"(c) CONTINUED PROVISION OF SERVICES.—Any individual who receives a grant or fellowship under this section shall certify to the Secretary that such individual will continue to provide the type of services for which such grant or fellowship is awarded for at least 1 year after the term of the grant or fellowship has expired.

"(d) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations necessary to carry out this section, including regulations that define the terms 'medically underserved areas' or medically underserved populations'.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for each of the fiscal years 1992 through 1994.".•

By Mr. INOUYE:

S. 127. A bill to amend title VII of the Public Health Service Act to make certain graduate programs in clinical psychology eligible to participate in various health professions loan programs, and for other purposes; to the Committee on Labor and Human Resources.

HEALTH PROFESSIONS LOAN ACT OF 1993

• Mr. INOUYE. Mr. President, I am introducing legislation today to modify title VII of the U.S. Public Health Service Act in order to provide students enrolled in graduate psychology programs with the opportunity to participate in various health professions loan programs.

Mr. President, providing students enrolled in graduate psychology programs with eligibility for financial assistance in the form of loans, loan guarantees, and scholarships will facilitate a much needed infusion of behavioral science expertise into our public health efforts. There is a growing recognition of the valuable contribution which is being made by our nation's psychologists toward solving some of our Nation's most distressing problems—domestic violence, addictions, occupational stress, child abuse, depression, for example.

The participation of students of all kinds is vital to the success of health care training, Mr. President. The title VII programs play a significant role in providing financial support for the recruitment of minorities, women, and individuals from economically disadvantaged backgrounds. Minority therapists, for example, have an advantage in the provision of critical services to minority populations because they are more likely to understand or, perhaps, share the cultural background of their clients, often able to communicate with them in their own language. Also significant is the fact that, when compared with nonminority graduates, ethnic minority graduates are less likely to work in private practice and more likely to work in community or nonprofit clinics, where ethnic minority and economically disadvantaged individuals are more likely to seek care.

It is important, Mr. President, that a continued emphasis be placed on the needy populations of our nation and that continued support be provided for the training of individuals who are most likely to provide services in underserved areas.

I request unanimous consent that the text of my bill be printed in the RECORD, as follows:

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

S. 127

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

SECTION 1. PARTICIPATION IN VARIOUS HEALTH PROFESSIONS LOAN PROGRAMS.

(a) LOAN AGREEMENTS.—Section 721 of the Public Health Service Act (as amended by the Health Professions Education Extension Amendments of 1992) amended—

(1) in subsection (a), by inserting ", or any public or nonprofit schools that offer graduate programs in clinical psychology" after "veterinary medicine";

(2) in subsection (b)(4), by striking out "or doctor of veterinary medicine or an equivalent degree" and inserting in lieu thereof "doctor of veterinary medicine or an equivalent degree, or a graduate degree in clinical psychology"; and

(3) in subsection (c)(1), by inserting , or schools that offer graduate programs in clinical psychology" after "veterinary medicine".

(b) LOAN PROVISIONS.—Section 722 of such Act (42 U.S.C. 294n) is amended—

(1) in subsection (b)(1), by striking out "or doctor of veterinary medicine or an equivalent degree" and inserting in lieu thereof "doctor of veterinary medicine or an equivalent degree, or a graduate degree in clinical psychology"; and

(2) in subsection (l)—

(A) by striking out "or podiatry" and inserting in lieu thereof "podiatry, or clinical psychology" in the matter preceding paragraph (1); and

(B) by striking out "or podiatric medicine" in paragraph (4), and inserting in lieu thereof "podiatric medicine, or clinical psychology".●

By Mr. INOUYE:

S. 128. A bill to amend title 10, United States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges; to the Committee on Armed Services.

DISABLED FORMER PRISONERS OF WAR ACT OF 1993

● Mr. INOUYE. Mr. President, today I am introducing legislation to enable those former prisoners of war have been separated honorably from their respective services and who have been rated to have a 30-percent service-connected disability to have the use of both the military commissary and post exchange privileges.While I realize that it is impossible to adequately compensate one who has endured long periods of incarceration at the hands of our Nation's enemies, I do feel that this gesture is both meaningful and important to those concerned. It also serves as a reminder that our Nation has not forgotten their sacrifices.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 53 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1051. Use of commissary stores and post and base exchanges by certain disabled former members of the armed forces

"(a) In this section—

"(1) 'former prisoner of war' has the same meaning as provided in section 101(32) of title 38; and

"(2) 'service-connected' has the same meaning as provided in section 101(16) of such title.

"(b)(1) Under regulations prescribed as provided in paragraph (2), a former prisoner of war who—

"(A) has been separated from active service in the Army, the Navy, the Air Force, or the Marine Corps under honorable conditions, and

"(B) has a service-connected disability rated by the Secretary concerned or the Administrator of Veterans' Affairs at 30 per centum or more,

shall be permitted to use commissary stores and post and base exchanges operating under the Department of Defense.

"(2)(A) The Secretary of Defense shall prescribe regulations to carry out paragraph (1) in the case of commissary stores.

"(B) The Secretary of the military department concerned shall prescribe regulations to carry out paragraph (1) in the case of post or base exchanges operating under the jurisdiction of such military department.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1051. Use of commissary stores and post and base exchanges by certain disabled former members of the armed forces.".●

By Mr. INOUYE:

S. 129. A bill to amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of members of the Armed Forces and certain civilians accompanying the Armed Forces outside the United States, and for other purposes; to the Committee on Armed Services.

JURISDICTION, APPREHENSION AND DETENTION ACT OF 1993

● Mr. INOUYE. Mr. President, the purpose of this bill is to fill certain jurisdictional voids involving offenses committed by U.S. nationals abroad. The Supreme Court has held that, at least in peacetime, civilians may not be tried by courts martial for offenses against military law that they may have committed abroad when they were members of the U.S. Armed Forces and when they were serving with, employed by, or accompanying the Armed Forces. Further, under existing statutes, acts committed by U.S. nationals abroad generally do not constitute offenses against any U.S. law even though they would constitute such offenses if they had been committed in this country. Thus, civilian nationals of the United States are generally not accountable to U.S. courts for their conduct abroad.

This bill would remedy this situation for conduct abroad by civilians who, at the time of the acts in question, were members of the Armed Forces or were serving with, employed by, or accompanying the Armed Forces. The bill would generally provide that such conduct would be subject to the same civilian criminal proscriptions that apply in areas under Federal jurisdiction.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 129

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

SECTION 1. CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Subtitle A of title 10 of the United States Code is amended by inserting after chapter 49 the following new chapter:

"CHAPTER 50—CRIMINAL OFFENSES COMMITTED OUTSIDE THE UNITED STATES

"Sec.

"991. Definitions.

"992. Criminal offenses committed by a member of the armed forces or by any person serving with, employed by, or accompanying the armed forces outside of the United States.

"993. Delivery to authorities of foreign countries.

"§ 991. Definitions

"In this chapter:

"(1) The term 'United States' includes the special maritime and territorial jurisdiction of the United States.

"(2) The term 'special maritime and territorial jurisdiction of the United States' has the same meaning as is provided in section 7 of title 18.

"(3) The term 'criminal offense' means an offense classified in section 1 of title 18 as a felony or a misdemeanor (not including a petty offense).

"§ 992. Criminal offenses committed by a member of the armed forces or by any person serving with, employed by, or accompanying the armed forces outside of the United States

"(a) Except as otherwise provided in this section, any person who, while serving as a member of the armed forces outside the United States, or while serving with, employed by, or accompanying the armed forces outside of the United States, engages in conduct which would constitute a criminal offense if the conduct were engaged in within the special maritime and territorial jurisdiction of the United States shall be guilty of a like offense against the United States and shall be subject to the same punishment as is

provided under the provisions of title 18 for such like offense.

"(b) A member of the armed forces may not be tried pursuant to an indictment or information charging an offense described under subsection (a) while such member is subject to trial by court-martial for the conduct charged in such indictment or information.

"(c) A person employed by the armed forces outside the United States is not punishable under subsection (a) of this section for conduct described in such subsection if such person is not a national of the United States and was appointed to his position of employment in the country in which such person engaged in such conduct.

"(d)(1) Except in the case of a prosecution approved as provided in paragraph (2), prosecution of a person may not be commenced under this section for an offense described in subsection (a) if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted such person for the conduct constituting such offense.

"(2) The Attorney General of the United States, the Deputy Attorney General of the United States, the Associate Attorney General of the United States, or an Assistant Attorney General of the United States may approve a prosecution which, except for this paragraph, is prohibited under paragraph (1). An approval of prosecution under this paragraph must be in writing. The authority to approve a prosecution under this paragraph may not be delegated below the level of Assistant Attorney General.

"(e)(1) The Secretary of Defense may designate and authorize any member of the armed forces serving in a law enforcement position in a criminal investigative agency of the Department of Defense to apprehend and detain, outside the United States, any person described in subsection (a) who is reasonably believed to have engaged in conduct which constitutes a criminal offense under such subsection.

"(2) A person apprehended and detained under paragraph (1) shall be released to the custody of civilian law enforcement authorities of the United States for removal to the United States for judicial proceedings in relation in conduct referred to in such paragraph unless (A) such person is delivered to authorities of a foreign country under section 993 of this title, or (B) such person is pending court-martial under chapter 47 of this title for such conduct.

"§ 993. Delivery to authorities of foreign countries

"(a) Any member of the armed forces designated and authorized under subsection (e) of section 992 of this title may deliver any person described in subsection (a) of such section to the appropriate authorities of a foreign country in which such person is alleged to have engaged in conduct described in such subsection (a) if—

"(1) the appropriate authorities of that country request the delivery of the person to such country for trial for such conduct as an offense under the laws of that country; and

"(2) the delivery of such person to that country is authorized by a treaty or other international agreement to which the United States is a party.

"(b) The Secretary of Defense may confine or otherwise restrain a person whose delivery is requested under subsection (a) until the completion of the trial of such person by the foreign country making such request.

"(c) The Secretary of Defense shall determine what officials of a foreign country constitute appropriate authorities for the purposes of this section.".'

(b) TECHNICAL AMENDMENT.—The tables of chapters at the beginning of such title and such subtitle are each amended by inserting after the item relating to chapter 49 the following:

"50. Criminal Offenses Outside the United States ..... 991".•

By Mr. INOUYE:

S. 130. A bill to direct the Secretary of the Army to determine the validity of the claims of certain Filipinos that they performed military service on behalf of the United States during World War II; to the Committee on Armed Services.

WORLD WAR II FILIPINO MILITARY SERVICE CLAIMS ACT

• Mr. INOUYE. Mr. President, I am introducing legislation today that would direct the Secretary of the Army to determine whether certain nationals of the Philippine Islands performed military service on behalf of the United States. This legislation would confirm the validity of their claims and further allow qualified individuals the opportunity to apply for military and veteran's benefits that, I believe, they are entitled to. As the population becomes older, it is important for our Nation to extend its firm commitment to the Filipino veterans and their families who participated in making us the great Nation today.

Mr. President, I ask the complete text of this bill be printed in the RECORD.

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

S. 130

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

SECTION 1. DETERMINATIONS BY THE SECRETARY OF THE ARMY.

(a) IN GENERAL.—Upon the written application of any person who is a national of the Philippine Islands, the Secretary of the Army shall determine whether such person performed any military service in the Philippine Islands in aid of the Armed Forces of the United States during World War II which qualifies such person to receive any military, veterans', or other benefits under the laws of the United States.

(b) INFORMATION TO BE CONSIDERED.—In making a determination for the purpose of subsection (a), the Secretary shall consider all information and evidence (relating to service referred to in subsection (a)) available to the Secretary, including information and evidence submitted by the applicant, if any.

SEC. 2. CERTIFICATE OF SERVICE.

(a) ISSUANCE OF CERTIFICATE OF SERVICE.—The Secretary shall issue a certificate of service to each person determined by the Secretary to have performed service described in section 1(a).

(b) EFFECT OF CERTIFICATE OF SERVICE.—A certificate of service issued to any person under subsection (a) shall, for the purpose of any law of the United States, conclusively establish the period, nature, and character of the military service described in the certificate.

SEC. 3. APPLICATIONS BY SURVIVORS.

An application submitted by a surviving spouse, child, or parent of a deceased person described in section 1(a) shall be treated as an application submitted by such person.

SEC. 4. LIMITATION PERIOD.

The Secretary may not consider for the purpose of this Act any application received by the Secretary more than two years after the date of the enactment of this Act.

SEC. 5. PROSPECTIVE APPLICATION OF DETERMINATIONS BY THE SECRETARY OF THE ARMY.

No benefits shall accrue to any person for any period prior to the date of the enactment of this Act as a result of the enactment of this Act.

SEC. 6. REGULATIONS.

The Secretary shall issue regulations to carry out sections 1, 3, and 4.

SEC. 7. RESPONSIBILITIES OF THE ADMINISTRATOR OF VETERANS' AFFAIRS.

Any entitlement of a person to receive veterans' benefits by reason of this Act shall be administered by the Veterans' Administration pursuant to regulations issued by the Administrator of Veterans Affairs.

SEC. 8. DEFINITIONS.

As used in this Act—

(1) the term "World War II" means the period beginning on December 7, 1941, and ending on December 31, 1946; and

(2) the term "Secretary" means the Secretary of the Army.•

By Mr. INOUYE:

S. 131. A bill to amend title 10, United States Code, to exclude nurse officers from the computation of authorized grade strength; to the Committee on Armed Services.

RESTRUCTURING THE MILITARY NURSES OFFICER CORPS ACT

• Mr. INOUYE. Mr. President, on behalf of our Nation's military nurse officers, I am introducing legislation that would allow for the restructuring of the nurse officer corps.

This legislation will permit the nurse officer grade structure to be shaped and governed in such a way that it would generate a variable career path with reasonable upward mobility. Lack of promotions in the nurse corps has created a severe retention problem in the past several years. Like physicians and dentists, nurses provide a unique and indispensible service to our Nation's defense. Removing current grade restrictions would help the Department of Defense compete on a more equitable basis with the civilian community and facilitate their recruitment and retention. The ongoing nationwide shortage of nurses places the Department of Defense at a disadvantage, as mid-career nurses who are denied promotion leave military service for more lucrative careers elsewhere. Their skills and experience are lost for any future national crisis. I believe it is critical to address this problem.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 131

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

SECTION 1. EXCLUSION OF NURSE OFFICERS FROM COMPUTATION OF AUTHORIZED GRADE STRENGTH.

Section 523(b) of title 10 of United States Code, is amended—

(1) by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) Officers in the Army Nurse Corps, officers in the Nurse Corps of the Navy, and officers in the Air Force designated as nurses.".●

By Mr. INOUYE:

S. 132. A bill to amend section 1086 of title 10, United States Code, to provide for payment under CHAMPUS of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes; to the Committee on Armed Services.

PAYMENT OF CERTAIN HEALTH CARE EXPENSES UNDER CHAMPUS ACT

● Mr. INOUYE. Mr. President, I feel that it is very important that our Nation continues its firm commitment to those individuals and their families who have served in the Armed Forces and made us the great Nation that we are today. As this population becomes older, they are unfortunately finding that they need a wider range of health services, some of which are simply not available under Medicare. These individuals made a commitment to their Nation trusting that when they needed help the Nation would honor that commitment. The bill that I am recommending today, would ensure the highest possible quality of care for these dedicated citizens and their families, who gave so much for us.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 132

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

SECTION 1. EXPANSION OF MEDICARE EXCEPTION TO THE PROHIBITION OF CHAMPUS COVERAGE FOR CARE COVERED BY ANOTHER HEALTH CARE PLAN.

(a) AMENDMENT AND REORGANIZATION OF EXCEPTIONS.—Subsection (d) of section 1086 of title 10, United States Code, is amended to read as follows:

"(d)(1) Section 1079(j) of this title shall apply to a plan contracted for under this section except as follows:

"(A) Subject to paragraph (2), a benefit may be paid under such plan in the case of a person referred to in subsection (c) for items and services for which payment is made under title XVIII of the Social Security Act.

"(B) No person eligible for health benefits under this section may be denied benefits under this section with respect to care or treatment for any service-connected disability which is compensable under chapter 11 of title 38 solely on the basis that such person is entitled to care or treatment for such disability in facilities of the Department of Veterans Affairs.

"(2) If a person described in paragraph (1)(A) receives medical or dental care for which payment may be made under both title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) and a plan contracted for under subsection (a), the amount payable for that care under the plan may not exceed the difference between—

"(A) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under that title; and

"(B) the sum of any deductibles, coinsurance, and balance billing charges that would be imposed on the person if payment for that care were made solely under the plan.

"(3) A plan contracted for under this section shall not be considered a group health plan for the purposes of paragraph (2) or (3) of section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b).).

"(4) A person who, by reason of the application of paragraph (1), receives a benefit for items or services under a plan contracted for under this section shall provide the Secretary of Defense with any information relating to amounts charged and paid for the items and services that, after consulting with the other administering Secretaries, the Secretary requires. A certification of such person regarding such amounts may be accepted for the purposes of determining the benefit payable under this section.".

(b) REPEAL OF SUPERSEDED PROVISION.—Such section is amended—

(1) by striking out subsection (g); and

(2) redesignating subsection (h) as subsection (g).

SEC. 2. CONFORMING AMENDMENT.

Section 1713(d) of title 38, United States Code, is amended by striking out "section 1086(d) of title 10 or".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to health care items or services provided on and after the date of enactment of this Act.●

By Mr. INOUYE:

S. 133. A bill to amend title 10, United States Code, to authorize the appointment of health care professionals to the positions of the Surgeon General of the Army, the Surgeon General of the Navy, and the Surgeon General of the Air Force; to the Committee on Armed Services.

HEALTH CARE POSITIONS FOR THE SURGEON GENERAL OF THE ARMY ACT

● Mr. INOUYE. Mr. President, I am introducing legislation today that would authorize the appointment of various health care professionals to policymaking positions in the Department of Defense. My legislation would allow the most qualified individuals from the full range of health professions, including medicine, dentistry, osteopathy, nursing, and psychology to fill the Army, Navy, and Air Force Surgeon General positions.

I request unanimous consent that the text of my bill be printed in the RECORD.

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

S. 133

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

SECTION 1. SURGEON GENERAL OF THE ARMY.

Section 3036 of title 10, United States Code, is amended—

(1) in subsection (b), by inserting before the period at the end of the third sentence the following: "and shall be appointed as prescribed in subsection (f)"; and

(2) by adding at the end the following new subsection (f):

"(f) The President shall appoint the Surgeon General from among commissioned officers in any corps of the Army Medical Department who are educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists.".

SEC. 2. SURGEON GENERAL OF THE NAVY.

Section 5137 of title 10, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking out "in the Medical Corps" and inserting in lieu thereof "who are educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists"; and

(2) in subsection (b), by striking out "in the Medical Corps" and inserting in lieu thereof "who is qualified to be the Chief of the Bureau of Medicine and Surgery".

SEC. 3. SURGEON GENERAL OF THE AIR FORCE.

The first sentence of section 8036 of title 10, United States Code, is amended by striking out "designated as medical officers under section 8067(a) of this title" and inserting in lieu thereof "educationally and professionally qualified to furnish health care to other persons, including doctors of medicine, dentistry, and osteopathy, nurses, and clinical psychologists".●

By Mr. INOUYE:

S. 134. A bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft; to the Committee on Armed Services.

TRAVEL ON MILITARY AIRCRAFT BY THOSE TOTALLY DISABLED VETERANS ACT

● Mr. INOUYE. Mr. President, today I am reintroducing a bill which is of great importance to a group of patriotic Americans. This legislation is designed to extend space-available travel privileges on military aircraft to those who have been totally disabled in the service of our country.

Currently, retired members of the Armed Forces are permitted to travel on space-available basis on nonscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command. My bill would provide the same benefits for 100 percent, service-connected disabled veterans.

Surely, we owe these heroic men and women, who have given so much to our

country, a debt of gratitude. Of course, we can never repay them for the sacrifice they have made on behalf of all of us but we can surely try to make their lives more pleasant and fulfilling. One way in which we can help is to extend military travel privileges to these distinguished American veterans. I have received numerous letters from all over the country attesting to the importance attached to this issue by veterans. Therefore, I ask that my colleagues show their concern and join me in saying "thank you" by supporting this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 of title 10, United States Code, is amended by inserting after section 1031 the following new section:

"§ 1032. Travel privileges on military aircraft for certain former members of the armed forces

"A former member of the armed forces who is entitled to compensation from the Veterans' Administration for a service-connected disability rated total in degree by the Veteran's Administration is entitled, in the same manner and to the same extent as retired members of the armed forces are entitled to travel on a space-available basis on unscheduled military flights within the continental United States and on scheduled overseas flights operated by the Military Airlift Command.".

SEC. 2. The table of sections, at the beginning of chapter 53 of title 10, United States Code, is amended by inserting after the item relating to section 1031 the following new item:

"1032. Travel privileges on military aircraft for certain former members of the armed forces.".

By Mr. INOUYE:

S. 135. A bill to increase the role of the Secretary of Transportation in administering section 901 of the Merchant Marine Act, 1936; to the Committee on Commerce, Science, and Transportation.

CENTRALIZED AUTHORITY FOR ADMINISTERING CARGO PREFERENCE LAWS ACT

• Mr. INOUYE. Mr. President, the legislation I am introducing today would centralize authority in the Secretary of Transportation for administering our cargo preference laws. The background of these laws, the need for them, and the problems which, in my view, necessitate the legislation are succinctly stated in a Journal of Commerce article dated November 18, 1988. While the first printing of this article was several years ago, the background it provides and the light it sheds on our present needs are still pertinent. I ask unanimous consent that the bill and the article be printed in the RECORD.

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

S. 135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (2) of section 901(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241(b)), is amended to read as follows:

"(2) The Secretary of Transportation shall have the sole responsibility for determining and designating those programs which are subject to the requirements of this subsection. Every department or agency having responsibility for the programs so designated by the Secretary of Transportation shall administer such programs with respect to this subsection under regulations issued by the Secretary of Transportation. The Secretary of Transportation shall review such administration and shall annually report to the Congress with respect thereto.".

CARGO PREFERENCE

What it is.—A series of statutes, going back to 1904, intended to assure U.S.-flag ships a minimum share of cargoes produced by U.S. government programs. It is the oldest U.S. maritime promotional program and while subsidies and financing aids have shrunk over the years, preference has survived.

Background.—The preference laws began by tracking this country's extension of its military and naval power, starting with the Spanish-American War. More recently, they have come to reflect the expansion of government programs extending U.S. economic power and interest abroad.

The Military Transportation Act of 1904 was the first of the preference statutes and its requirement for U.S.-flag vessel use, 100 percent, is the highest.

In 1934 Congress adopted Public Resolution 17 to require that half of the exports financed by the Reconstruction Finance Corp. were to move in U.S.-flag vessels. Later that resolution was made to financing of the Export-Import Bank established originally to facilitate trade with the Soviet Union.

In the early postwar period, Congress acted each year to apply the resolution's 50 percent U.S.-flag share to foreign aid shipments. It permanently inserted the requirement into the 1954 Agricultural Trade Development and Assistance Act, better known as "Food for Peace" and PL-480.

Public Law 664 in 1961 made clear that preference should benefit and protect all U.S.-flag vessels, not just liners, and that all U.S. programs, including those where nonmilitary agencies procured equipment, materials or commodities for themselves or foreign governments, had to use U.S. flags to the extent of 50 percent.

Importance to carriers.—In the last year for which statistics are available, calendar 1986, U.S.-flag carriers hauled more than 33 million metric tons of preference cargo, somewhat more than the 28.5 million tons of commercial shipments carried that year. As an industry, the revenue amounted to about $502 million.

Necessity for preference.—Preference statutes are formally predicated on the need for assured cargoes to encourage the existence of a U.S.-flag merchant fleet to act as a military auxiliary in times of national emergencies.

Past efforts to apply preference to commercial cargoes have failed, reflecting U.S. governmental sensitivity to objections by this country's trading partners as well as stern opposition from U.S. exporters, importers and agricultural interests. The availability of preference cargoes has unquestionably kept some U.S. carriers in business but critics argue that preference has encouraged keeping obsolete vessels in operation long after they should have been scrapped.

Extent of program.—The Defense Department, the Agriculture Department and the Agency for International Development are the agencies most heavily involved in utilizing shipping and observing cargo preference. But there are at least 10 others with the same cargo preference responsibilities although smaller volumes. The Export-Import Bank in 1987 reported an unusually high, 98 percent rate of U.S.-flag vessel use. It brought participating carriers some $14.5 million in revenue.

Problems.—The Maritime Administration is responsible for monitoring other government agencies to try to make sure they live up to preference requirements. In fiscal year 1987, those agencies met the cargo share minimums for the most part. Among the exceptions were cases in which the cargo origins and destinations were such that U.S.-flag vessels were simply not available.

Despite administration pledges to honor cargo preference requirements, the Navy and the Agriculture Department have had a number of preference fights with the maritime industry.

One produced an agreement by which the carriers agreed to forgo preference claims on new Agriculture Department-supported export programs with commercial-like terms in return for increasing to 75 percent their share of "giveaway" relief food shipments.

In another such dispute, the Navy and the U.S. State Department were forced to negotiate a cargosharing agreement with Iceland for military shipments there. Iceland threatened the future of U.S. bases in that country if the United States didn't agree to a departure from 100 percent U.S.-flag carriage of defense shipments.

There have been other, largely budget-driven attempts to bypass preference, but carriers and their supporters in Congress generally have managed to forestall them.

Comment.—Budgetary austerity and the Defense Department's strict insistence of competitive procurement have combined to make for increasing carrier dissatisfaction, especially with the Navy's Military Sealift Command.

Efforts already are underway to change the competitive procurement system the command uses. Carriers hope generally, to end the pressures they believe force rates downward to depressed levels.

The presidentially appointed Commission on Merchant Marine and Defense has recommended that all U.S.-flag preference requirements programs be raised to 100 percent but the tight budget and such interests as farmers and traders will work against such a step. Agricultural interests have tried unsuccessfully to have existing preference removed from Government programs in the belief that they inhibit U.S. farm exports.•

By Mr. INOUYE:

S. 136. A bill to amend the Internal Revenue Code of 1986 to provide a credit for the purchase of child restraint systems used in motor vehicles; to the Committee on Finance.

TAX CREDIT FOR CHILD RESTRAINT SYSTEMS IN MOTOR VEHICLES ACT

• Mr. INOUYE. Mr. President, today I am introducing legislation to provide

for a Federal income tax credit for those families who purchase a child restraint system for their automobiles.

Accidents and injuries continue to cause almost half of the deaths by children between the ages of 1 and 4, more than half the deaths of children between 5 and 15, and continue to be the leading cause of death among children and young adults.

It is my understanding that although the Department of Transportation had made injury prevention among children a top priority, a significant number of parents who do have child restraint systems do not have them installed properly.

Mr. President, it is imperative that we create this opportunity to provide America's parents with a financially accessible alternative to the insufficient level of child safety measures currently used in automobiles.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 136

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

SECTION 1. CREDIT FOR PURCHASE OF CHILD RESTRAINT SYSTEMS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by adding at the end thereof the following new section:

"SEC. 25A. PURCHASE OF CHILD RESTRAINT SYSTEM.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter 1 for the taxable year an amount equal to the costs incurred by the taxpayer during such taxable year in purchasing a qualified child restraint system for any child of the taxpayer.

"(b) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CHILD RESTRAINT SYSTEM.—The term 'qualified child restraint system' means any child restraint system which meets the requirements of section 571.213 of title 49 of the Code of Federal Regulations.

"(2) CHILD.—The term 'child' has the meaning given to such term by section 151(c)(3).".

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25 the following new item:

"Sec. 25A. Purchase of child restraint system.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.●

By Mr. INOUYE:

S. 137. A bill to require the Administrator of the Environmental Protection Agency to conduct a study of algal blooms off the coast of Maui, Hawaii, and for other purposes; to the Committee on Environment and Public Works.

GRANT PROGRAM TO STUDY ALGAL BLOOMS IN MAUI, HAWAII

● Mr. INOUYE. Mr. President, I am introducing legislation today which will enable the Environmental Protection Agency to establish a grant program to investigate the unexplained occurrence of algal blooms off the northwestern coast of Maui, Hawaii.

Twice since 1989, portions of Hawaii's most treasured coastal areas have been plagued with massive algal blooms. Although the specific causes of the algal blooms are uncertain, algal growth is proportionally stimulated by the injection of treated waste water and concentrations of chemicals such as fertilizers and insecticides which enter the ocean through fresh water runoff.

Mr. President, I feel it is my duty to act in an efficient and timely manner to ensure that the affected coastal areas do not suffer further environmental damage. Already, coral reefs which have been exposed to the algal blooms have died; this is an occurrence that holds far-reaching effects for fish and other wildlife who depend on the reefs for survival.

In addition to solving the specific problem of the algal blooms, it is my sincere hope that this legislation will encourage the State of Hawaii to research alternative methods of managing the presence of chemicals in waste water effluent and fresh water runoff.

I am confident that this pledge of support for an inquiry into the causes of the algal blooms will complement the efforts of the State of Hawaii to eradicate this environmental hazard. My endeavor to obtain funding for this important legislation has been buttressed by my understanding that the State of Hawaii has already pledged substantial funding to coincide with the Federal effort on its behalf. Our immediate action and additional assistance are crucial if we are to halt the further deterioration of the affected coastal areas.

I request unanimous consent that the text of this bill be printed in the RECORD.

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

S. 137

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

SECTION 1. FINDINGS.

Congress finds the following:

(1) Twice since 1989, the northwestern coast of Maui, Hawaii, has been plagued with massive blooms of the green alga, Cladorphora sericea. Blooms of the red alga, Hypnea musciformis, have also occurred in the area and in the Kihei area.

(2) The algal blooms have destroyed corals and other reef-building organisms, and have washed up on beaches and severely impeded the recreational use of affected coastal areas.

(3) The algal blooms are particularly detrimental to the natural ecological balance of the near-shore reef environment.

(4) Although the specific causes of the algal blooms are uncertain, algal growth is stimulated in a proportional manner by concentrations of chemicals such as fertilizers and insecticides, which enter the ocean through freshwater runoff.

(5) The Department of Health of the State of Hawaii has indicated that the department does not have the resources at this time to determine the cause of the algal blooms.

(6) Extensive research will be required to determine the factors that contribute to algal growth.

(7) Potential sources of nutrients that may contribute to algal growth include the near-shore disposal of sewage in injection wells from the Lahaina Wastewater Treatment Plant, surface runoff from agricultural lands and urban resort areas, and subsurface point sources in the areas.

(8) The long-term environmental impacts of the algal blooms are unknown, but in the short term, reefs exposed to the algae are being destroyed and the deterioration of the coral has detrimental effects on fish and other wildlife that depend on the reefs for survival.

(9) The algal blooms are generating negative economic impacts as well as negative biological impacts, as additional reports indicate that the algae are decreasing the intake of fish caught by local fishermen in the affected marine waters.

(10) The Maui Algae Task Force is comprised of community environmental activists and has been assembled to address the problem of algal blooms.

(11) The Maui Algae Task Force hopes to work in cooperation with the Department of Health of the State of Hawaii and the Environmental Protection Agency to identify and eradicate the causes of the algal blooms.

SEC. 2. STUDY.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereafter in this Act referred to as the "Administrator") shall conduct a study to—

(1) determine the causes of recent algal blooms off the northwestern coast of Maui, Hawaii; and

(2) research alternatives for the improved management of chemicals present in wastewater treatment and fresh water runoff.

(b) STUDY REQUIREMENTS.—In carrying out the study under this section, the Administrator shall—

(1) survey and monitor—

(A) seaweed populations and animals for which the seaweed is a food source;

(B) surface water runoff sediments in the study area; and

(C) inputs into the study area from subsurface point sources, including any such inputs from the Lahaina wastewater treatment plant; and

(2) study the responses of—

(A) the seaweed populations referred to in paragraph (1)(A) to different concentrations of nutrients; and

(B) the animals referred to in paragraph (1)(A) to pesticides and other biological toxins.

(c) EQUIPMENT; GRANTS.—

(1) ACQUISITION OF EQUIPMENT.—In carrying out the study under this section, the Administrator is authorized to acquire such monitoring and testing equipment as the Administrator determines necessary.

(2) GRANTS.—In carrying out the study under this section, the Administrator is authorized to establish a grant program to provide grants to eligible entities that submit approved applications to the Administrator.

The following entities may submit an application to conduct study activities under this section:

(A) The Department of Health of the State of Hawaii.

(B) The Maui Algae Task Force.

(C) Appropriate Federal, State, or county departments or agencies.

(D) Any other entity that the Administrator determines to be appropriate.

(d) DEMONSTRATION PROJECTS.—In carrying out the study under this section, the Administrator is authorized to establish demonstration projects to identify and implement best management practices for the control of nonpoint source pollution from erosion and agricultural runoff.

(e) REPORTS.—

(1) INTERIM REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report that includes interim results of the study conducted under this section, and such recommendations as the Administrator determines to be appropriate.

(2) FINAL REPORT.—Not later than January 31, 1996, the Administrator shall submit to Congress a final report that summarizes the results of the study conducted under this section and includes such recommendations as the Administrator determines to be appropriate.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section $500,000 for each of fiscal years 1994 and 1995.●

By Mr. INOUYE:

S. 143. A bill to recognize the organization known as the National Academies of Practice, and for other purposes; to the Committee on the Judiciary.

RECOGNITION OF THE NATIONAL ACADEMIES OF PRACTICE

● Mr. INOUYE. Mr. President, today I am introducing legislation which would provide a Federal charter for the National Academies of Practice. This organization represents outstanding practitioners who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, and veterinary medicine. When fully established, each of the 9 academies will possess 100 distinguished practitioners selected by their peers. This umbrella organization will be able to provide the Congress of the United States and the executive branch with considerable health policy expertise, especially from the perspective of those individuals who are in the forefront of actually providing health care.

Mr. President, as we continue to grapple with the many complex issues, surrounding the delivery of health care services, it is clearly in our best interest to ensure that the Congress have systematic access to the recommendations of an interdisciplinary body of health care practitioners.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 143

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

SECTION 1. CHARTER.

The National Academies of Practice organized and incorporated under the laws of the District of Columbia, is hereby recognized as such and is granted a Federal charter.

SEC. 2. CORPORATE POWERS.

The National Academies of Practice (hereafter referred to in this Act as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. PURPOSES OF CORPORATION.

The purposes of the corporation shall be to honor persons who have made significant contributions to the practice of applied psychology, dentistry, medicine, nursing, optometry, osteopathy, podiatry, social work, veterinary medicine, and other health care professions, and to improve the practices in such professions by disseminating information about new techniques and procedures.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

SEC. 6. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES.

The composition and the responsibilities of the board of directors of the corporation shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF THE CORPORATION.

The officers of the corporation and the election of such officers shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 8. RESTRICTIONS.

(a) USE OF INCOME AND ASSETS.—No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person 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 necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) POLITICAL ACTIVITY.—The corporation, any officer, or any 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) ISSUANCE OF STOCK AND PAYMENT OF DIVIDENDS.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) CLAIMS OF FEDERAL APPROVAL.—The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 9. LIABILITY.

The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

SEC. 10. MAINTENANCE AND INSPECTION OF BOOKS AND RECORDS.

(a) BOOKS AND RECORDS OF ACCOUNT.—The corporation shall keep correct and complete books and records of account and shall keep 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.

(b) NAMES AND ADDRESSES OF MEMBERS.—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.

(c) RIGHT TO INSPECT BOOKS AND RECORDS.—All books and records of the corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time.

(d) APPLICATION OF STATE LAW.—Nothing in this section shall be construed to contravene any applicable State law.

SEC. 11. 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—

(1) by redesignating paragraph (72) as paragraph (71);

(2) by designating the paragraph relating to the Non Commissioned Officers Association of the United States of America, Incorporated, as paragraph (72);

(3) by redesignating paragraph (60), relating to the National Mining Hall of Fame and Museum, as paragraph (73); and

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

"(75) National Academies of Practice.".

SEC. 12. 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 is the report of the audit for such fiscal year required by section 3 of the Act referred to in section 11 of this Act. The report shall not be printed as a public document.

SEC. 13. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 14. DEFINITION.

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 15. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986 or any corresponding similar provision.

SEC. 16. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this Act the charter granted by this Act shall terminate.●

By Mr. INOUYE:

S. 144. A bill to waive certain requirements under the Small Business Act for disaster relief assistance; to the Committee on Small Business.

WAIVER OF SIZE STANDARDS FOR SBA INJURY DISASTER LOAN PROGRAM

● Mr. INOUYE. Mr. President, a little over 4 months have passed since Hurricane Iniki struck the State of Hawaii. The Island of Kauai suffered the brunt

of Iniki's fury, leaving thousands homeless and hundreds of businesses destroyed.

Damage to private property is estimated at $1.5 billion, $1.45 billion on Kauai alone. Damage to public property is estimated at $142 million, $139 million of which is on Kauai.

The anguish I witnessed of victims who lose their homes and businesses continues. The road to recovery has been slow and difficult. Living on an island, in an island State, the victims of Hurricane Iniki are not readily mobile. Kauai's economic well-being is in very critical condition.

During the debate on the fiscal year 1992 supplemental appropriations bill, I indicated on the Senate floor that the full extent of the damage caused by Hurricane Iniki was not known, and advised my colleagues that I may request further disaster relief assistance as circumstances warranted.

The full extent of the damage is only now becoming evident. Continued Federal support for hurricane recovery efforts is critical. Accordingly, I will be seeking additional funds to help the victims of Hurricane Iniki in the first available supplemental appropriations measure.

In addition to my plans to seek more funds, I am introducing a number of measures today to ensure better access to disaster relief funds.

To assist medium-sized businesses affected by the hurricane, I am introducing legislation to waive the size standards of the Small Business Administration's [SBA] Injury Disaster Loan Program to make more businesses eligible for these loans. This measure will also allow media interests to qualify for SBA loans to rebuild its facilities after natural disasters. Current law prohibits SBA loans to media interests in order to avoid governmental interference, or the appearance of government interference with the constitutionally protected freedoms of speech and press.

To assist in the recovery of our tourism industry, I am introducing a measure to lift the monetary cap on annual grants to States from the U.S. Travel and Tourism Administration [USTTA]. Tourism grants from the USTTA are currently limited to a maximum of $1.2 million each fiscal year.

To assist in rebuilding our agriculture industry, I am introducing legislation to waive certain restrictions on disaster assistance for agricultural losses. My measure proposes to waive limitations on Commodity Credit Corporation and Tree Assistance Programs and the very low income limitation for loans and grants to repair rural dwellings. In addition, my measure authorizes the Secretary of Agriculture to waive limitations as appropriate to serve and assist those devastated by Hurricane Iniki. My measure also extends to the State of Hawaii expanded Federal contribution limits for hazard mitigation applicable to the insular areas, and redefines crop year to accommodate multiyear crops.

Hurricane Iniki created substantially increased demands on the State Health Insurance Program administered by the State of Hawaii. To help meet the increased cost burdens, I am introducing legislation which provides that the State Health Insurance Program is eligible for reimbursement from funds appropriated to the Public Health and Social Services Emergency Fund.

To assist homebuyers, I am introducing a measure to extend to 4 years the period for the rollover of a gain from the sale of a principal residence to a principal residence located, or to be located in a qualified disaster area designated subsequent to the sale of the taxpayer's old residence.

Finally, I am introducing a measure to restore the application of the Davis-Bacon Act to Federal contracts in Hawaii. On October 14, 1992 President Bush issued a proclamation suspending provisions of the Davis-Bacon Act to "help speed up and lower the cost of rebuilding the communities ravaged by Hurricanes Andrew and Iniki." While the suspension applies only to designated areas that were directly affected by Hurricane Iniki, the U.S. Department of Labor has interpreted the proclamation to apply to all Federal contracts that are subject to the Davis-Bacon Act, regardless of whether the contract relates to hurricane recovery. As you can imagine, the impact of this proclamation has been devastating.

Mr. President, I am committed to taking the necessary steps to ensure that the victims of Hurricane Iniki fully recover from its devastation. I hope I can count on the continued support of my Senate colleagues for the people of Hawaii.

I ask unanimous consent that the text of my measures be printed in the CONGRESSIONAL RECORD.

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

S. 144

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

SECTION 1. WAIVER OF REQUIREMENTS.

Notwithstanding any provision of the Small Business Act, a qualifying business that has suffered economic injury as a result of Hurricane Andrew, Hurricane Iniki, or Typhoon Omar, shall be eligible to apply for and to receive loan assistance in accordance with section 7(b)(2) of the Small Business Act, without regard to—

(1) the size of the qualifying business;

(2) the availability to that business of non-Federal sources of credit; or

(3) the maximum amount of assistance established under that section or regulations issued thereunder.

SEC. 2. QUALIFYING BUSINESSES.

For purposes of this Act, a qualifying business is—

(1) a regulated public utility company, if—

(A) the disaster area is more than 1,000 miles from the major sources of materials and supplies necessary to restore the public utility to full operating service;

(B) the public utility is not physically connected to any other public utility service that can provide the same type of services to customers of the affected public utility company;

(C) the cost to repair, reconstruct, and restore the facilities of the public utility company is equal to not less than 20 percent of the dollar value of its facilities prior to the occurrence of the disaster; and

(D) the regulated public utility had not more than 500,000 customers at the time of the disaster;

(2) an interstate transportation service provider operating in the disaster area, if—

(A) such provider is the only transportation link to the areas affected by the disaster, other than by carriage over water; and

(B) assistance provided in accordance with this Act and section 7(b)(2) of the Small Business Act will be used to finance repair, reconstruction, and restoration of the provider's facilities as they existed prior to the occurrence of the disaster; and

(3) any communications media business, the facilities of which were damaged or destroyed by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar (including all such facilities related to the gathering, printing, or dissemination of information).

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "regulated public utility" means a corporation engaged in the furnishing of telephone service or in the sale of electrical energy, gas, or water, if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof or by an agency or instrumentality of the United States or by a public utility or public service commission or other similar body of the District of Columbia, Guam, or of any State or political subdivision thereof; and

(2) the term "disaster area" means any area affected by a major disaster, as declared by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as a result of the occurrences of Hurricane Andrew, Hurricane Iniki, or Typhoon Omar.●

By Mr. INOUYE:

S. 145. A bill to amend chapter 74 of title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration, and for other purposes; to the Committee on Veterans' Affairs.

HYBRID TITLE 38 ACT

● Mr. INOUYE. Mr. President, I am introducing legislation today to amend chapter 74 of title 38, United States Code, to revise certain provisions relating to the appointment of clinical and counseling psychologists in the Veterans Health Administration.

Mr. President, the Veterans Health Administration has a long history of maintaining a staff of the very best health care professionals to provide care to those men and women who have served their country in the Armed Forces. It is certainly fitting that this should be done.

Recently a quite distressing situation regarding the care of our veterans has come to my attention, that the recruitment and retention of psychologists in the Veterans Health Administration of the Department of Veterans Affairs has become a significant problem.

Mr. President, the Congress has recognized the important contribution of the behavioral sciences in the treatment of several conditions from which a significant proportion of our veterans suffer. For example, programs related to homelessness, substance abuse, and post traumatic stress disorder were funded in fiscal year 1990.

Certainly, psychologists as behavioral science experts are essential to the successful implementation of these programs. However the high vacancy and turnover rates for psychologists in the Veterans Health Administration [VHA]—over 11 percent and 18 percent, respectively, as reported in one recent survey—may seriously jeopardize these programs and will negatively impact overall patient care in the VHA.

Recruitment of psychologists by the VHA is hindered by a number of factors including a pay scale not commensurate with private sector rates of pay as well as by the low numbers of clinical and counseling psychologists appearing on the register of the Office of Personnel Management [OPM]. Most new hires have no postdoctoral experience and are hired immediately after a VA internship. Recruitment, when successful, averages 6 months or more.

Retention of psychologists in the VA system poses an even more significant problem, Mr. President. In 1990, almost 40 percent of VHA psychologists had 5 years or less of postdoctoral experience. Without doubt, our veterans would benefit from a higher percentage of senior staff who are more experienced in working with veterans and their particular concerns.

Several factors are associated with the difficulties in retention of VHA psychologists including low salaries and lack of career advancement opportunities. It seems that psychologists are apt to leave the VA system after 5 years because they have almost reached the peak levels for salary and professional development in the VHA. Furthermore, under the present system, psychologists cannot be recognized or appropriately compensated for excellence or for taking on additional responsibilities such as running treatment programs.

In effect, Mr. President, the current system for hiring psychologists in the Veterans Health Administration supports mediocrity, not excellence and mastery. Mr. President, our veterans with behavioral disorders and mental health problems are deserving of better psychological care from more experienced professionals than they are currently receiving.

Mr. President, a hybrid title 38 appointment authority for psychologists would help ameliorate the recruitment and retention problems in several ways. The length of time it takes to recruit psychologists could be abbreviated by eliminating the requirement for applicants to be rated by the Office of Personnel Management. This would also facilitate the recruitment of applicants who are not recent VA interns by reducing the amount of time between identifying a desirable applicant and being able to offer that applicant a position.

It is expected that problems in retention of behavioral science experts will be greatly alleviated with the implementation of hybrid title 38 system for VA psychologists, primarily through offering financial incentives for psychologists to pursue professional development within the VA. Achievements which would merit salary increases under title 38 should include such activities as assuming supervisory responsibilities for clinical programs, implementing innovative clinical treatments which improve the effectiveness and/or efficiency of patient care, making significant contributions to the science of psychology, earning the ABPP diplomate status, becoming a fellow of the American Psychological Association.

Mr. President, currently psychologists are the only doctoral level health care providers in the Veterans Health Administration who are not included in title 38. This is, without question, a significant factor in the recruitment and retention difficulties which I have addressed. Ultimately, an across-the-board salary increase may be necessary. However, the conversion of psychologists to a hybrid title 38, as proposed by this amendment, would provide relief for these difficulties and enhance the quality of care for our Nation's veterans and their families.

I request unanimous consent that the text of my bill be printed in the RECORD.

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

S. 145

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

SECTION 1. REVISION OF CERTAIN AUTHORITY RELATING TO THE APPOINTMENT OF CLINICAL AND COUNSELING PSYCHOLOGISTS IN THE VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—Section 7401(3) of title 38, United States Code, is amended by striking out "who hold diplomas as diplomates in psychology from an accrediting authority approved by the Secretary".

(b) CERTAIN OTHER APPOINTMENTS.—Section 7405(a) of such title is amended—

(1) in paragraph (1)(B), by striking out "Certified or" and inserting in lieu thereof "Clinical or counseling psychologists, certified or"; and

(2) in paragraph (2)(B), by striking out "Certified or" and inserting in lieu thereof "Clinical or counseling psychologists, certified or".

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

(d) APPOINTMENT REQUIREMENT.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs shall begin to make appointments of clinical and counseling psychologists in the Veterans Health Administration under section 7401(3) of title 38, United States Code (as amended by subsection (a)), not later than 1 year after the date of the enactment of this Act.●

By Mr. INOUYE:

S. 146. A bill to require that all Government records that contain information bearing on the last flight and disappearance of Amelia Earhart be transmitted to the Library of Congress and made available to the public; to the Committee on Governmental Affairs.

TRANSFER OF AMELIA EARHART RECORDS TO THE LIBRARY OF CONGRESS

● Mr. INOUYE. Mr. President, I am introducing legislation calling for the declassification of any material relating to the disappearance of Amelia Earhart that is still classified as Government secrets.

Amelia Earhart was a true heroine to millions of Americans in the 1930's. One of the world's most famous aviatrices, she disappeared along with her navigator, Fred Noonan, while on a well-known attempt to circumnavigate the globe in 1937. While it is thought by many that she was lost at sea, there is still much to be learned about her disappearance and as a story in the New York Times from last year shows, interest in this unsolved mystery still exists.

Therefore, I am introducing the following legislation and ask that it be printed in the CONGRESSIONAL RECORD.

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

S. 146

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

SECTION 1. DEFINITIONS.

In this Act, "Executive agency" has the meaning stated in section 105 of title 5, United States Code.

SEC. 2. IDENTIFICATION AND TRANSMITTAL OF RECORDS.

By not later than the date that is 90 days after the date of enactment of this Act, the head of each Executive agency shall—

(1) conduct a search of all records in the control of the agency to identify each record that contains information that is relevant to—

(A) the last flight of Amelia Earhart;

(B) the mechanical, navigational, meteorological, or other problems that caused the end of that flight; and

(C) the whereabouts of Amelia Earhart and her navigator, Fred Noonan and their airplane, following their disappearance;

(2) declassify any such relevant records that have been classified as Government secrets; and

(3) transmit all such relevant records to the Librarian of Congress.

SEC. 3. PUBLIC AVAILABILITY OF RECORDS.

By not later than the date that is 180 days after the date of enactment of this Act, the Librarian of Congress shall create an index of records transmitted to the Librarian under section 2 and make the index and records available to the public.•

By Mr. ROCKEFELLER (for himself, Mr. HATCH, and Mr. WOFFORD):

S. 148. A bill to amend section 337 of the Tariff Act of 1930 and title 28 of the United States Code to provide effective procedures to deal with unfair practices in import trade and to conform section 337 and title 28 to the General Agreement on Tariffs and Trade, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Ms. MIKULSKI, Mr. HATCH, and Mr. WOFFORD):

S. 149. A bill to amend section 182 of the Trade Act of 1974 to permit the United States to respond to the actions of countries that do not provide adequate and effective patent protection to U.S. nationals.

INTELLECTUAL PROPERTY PROTECTION ACT OF 1993 AND INTERNATIONAL PROTECTION OF PATENTS RIGHTS ACT OF 1993

• Mr. ROCKEFELLER. Mr. President, many times over the past several years—here on the Senate floor, in the Trade Subcommittee, in the Science, Technology, and Space Subcommittee, in the Foreign Commerce and Tourism Subcommittee, as well as in other public speeches and in private meetings—I have stated my conviction that the protection of intellectual property rights is one of the most important trade issues facing U.S. businesses around the world at the present time. Intellectual property is the technology that determines our national income, our social well-being, and our international competitiveness. When the intellectual property of Americans is not protected anywhere in the world, our country loses not only jobs, production, and profits today, but we also lose our ability to undertake the research and the investments that lead to further technological progress and additional jobs for Americans tomorrow.

The improper use of a company's creativity, its name, and its reputation is theft that can cost the company the many millions of dollars it spent developing a patentable invention or an innovative computer software program. If a company cannot sell its product and recoup its research and development costs, the next product will not be researched and developed. The degree to which we protect intellectual property rights in the United States and the degree to which we ensure commensurate protection in other countries go to the heart of our ability to maintain a successful industrial society.

Mr. President, I am pleased to be joined today by my colleagues Senator MIKULSKI, Senator HATCH, and Senator WOFFORD in sponsoring one or both of the two bills that I am introducing today to address, from different perspectives, this critical trade issue. I hope that these bills will receive very serious consideration and early approval. When they are approved, these proposals will help ensure that foreign companies cannot steal U.S. technology and then use that stolen property to compete against the rightful owners. With this protection against intellectual property rights infringement, U.S. competitiveness can be enhanced and U.S. jobs can be preserved and increased.

One of these bills—the Intellectual Property Protection Act of 1993—addresses this critical trade issue through a reform of section 337 of the Tariff Act of 1930. That law gives the U.S. International Trade Commission authority to exclude imports that violate U.S. copyright, patent, trademark, and computer chip mask work registrations or that injure U.S. industry by unfair methods of competition. It is one of the most important laws available to U.S. businesses to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices. My preference would have been to maintain this law in its current form, but the status quo is a choice we may no longer have.

On November 23, 1988, a GATT panel found section 337 to be in violation of U.S. obligations under the GATT because some procedures established by section 337 do not provide national treatment for imported goods, and because some aspects of these procedures were not necessary for effective enforcement of a GATT-consistent law. In that decision, national treatment was the first GATT test; "necessary for enforcement of an otherwise GATT-consistent provision" was the permitted exception to that test.

On November 7, 1989, the U.S. Government allowed adoption of the GATT panel report and thus undertook a commitment to reform section 337 to comply with our GATT obligations. The U.S. Trade Representative has not yet proposed a reform of section 337 in order to meet this commitment. USTR had hoped to introduce such a proposal as part of the Uruguay round implementing legislation.

Well, Mr. President, the Uruguay round negotiations have dragged on for 7 years now, and despite periodic flurries of activity there is still no end in sight. However, other nations will not let us wait forever to comply with our international obligations. As long as this issue is unresolved, other proposals will be made that would do great damage to our ability to protect our industry against infringing imports. Therefore, I believe we may have no choice but to act now to remove any uncertainty about the continued effectiveness of this important law. As a result of this uncertainty, the use of section 337 by U.S. companies has declined since 1989.

In summary, the problem faced by the United States as we try to meet our GATT obligations, while at the same time maintaining an effective enforcement process against illegal imports, is that our Federal district courts cannot provide efficient adjudication of import issues because each district court normally exercises jurisdiction only over persons found within the district. Because of the need in import cases to exercise far-flung jurisdiction—often in several foreign countries and in several States—that is not customary in district court proceedings, section 337 was written 70 years ago to give the ITC the necessary authority: in rem jurisdiction for the entire country and border enforcement of its exclusion orders by the U.S. Customs Service.

In rem jurisdiction is authority over a thing, the imported product itself, rather than over a person. Because of the difficulty of enforcing intellectual property rights against products which are manufactured outside the normal jurisdiction of U.S. courts, these special enforcement procedures are necessary to enforce intellectual property rights against infringing imports at the U.S. border. The GATT allows such special enforcement procedures when they are no less favorable than those used against domestic products or, if less favorable, they are necessary to secure compliance with GATT-consistent regulations or procedures. Some parts of section 337 did not meet this test.

The GATT panel did recognize as necessary the ITC's in rem jurisdiction and the automatic enforcement of its orders against illegal imports by the U.S. Customs Service. However, the GATT panel judged the following special enforcement procedures of section 337—those that are different from the analogous processes in district courts—to be not necessary, and therefore to be not permitted.

First, the statutory time limits in the ITC process. There are no time limits imposed by statutes on the courts nor, given the constitutionally established independence of our judiciary, do I believe we can in the Congress impose any such time limits.

Second, the lack of a provision for counterclaims in the ITC process. Counterclaims are allowed by the courts in intellectual property causes.

Third, the broad availability in the ITC process of general exclusion orders against imported articles. There is no counterpart in courts' actions against domestic infringers.

Fourth, the availability to U.S. firms of two fora—the ITC and the courts—to challenge imports with only a single forum available to challenge alleged domestic infringement. Under current

law, only a U.S. industry can bring a section 337 complaint to the ITC, and

Fifth, possible duplicative proceedings in the ITC and a district court. A respondent in a section 337 case may have to defend in two fora, often at the same time, whereas a domestic respondent has only a court case to answer.

The bill which Senator HATCH, Senator WOFFORD, and I are introducing today addresses each of these issues, making those changes necessary to comply with our GATT obligations, while fully maintaining the ITC's ability to act quickly and effectively against violations of U.S. intellectual property rights and other unfair trade practices. This is the approach I believe we should adopt. It has very broad support in the U.S. business and legal communities. In preparing this bill, I have consulted extensively with representatives of U.S. industry and with the lawyers who specialize in intellectual property protection issues. As a result of that work, a broad consensus has developed that the approach taken by this bill is the proper way to go.

Mr. President, I would like to share with the Senate two of the reactions on this approach to the reform of section 337 that I received from U.S. business and legal communities. In response to these reactions, the 1993 version of the bill which I am introducing today contains some minor modifications to S. 3172, the bill I introduced last year. The first letter is from Thomas V. Heyman, the president of the ITC Trial Lawyers Association. Mr. Heyman, on behalf of the group he heads, wrote,

For the following reasons, we believe your approach will well serve the interests of the United States while meeting this country's GATT's obligations to our trading partners * * *. While the United States must react to the GATT decision, it should not overreact. It should not change its patent enforcement system. It should not change the focus of Section 337 from an import relief statute to an alternative form of preliminary injunctive relief in connection with imported goods. It should not sacrifice the ability to obtain expeditious relief in the vast majority of cases. It should not trade the flexibility of administrative proceedings for the rigidity of district court rules. What it should do is what your bill proposes—the minimum necessary to preserve the advantages of Section 337 while meeting U.S. international obligations.

Mr. Heyman goes on to examine the specific provisions of the bill in some detail and then writes,

In conclusion, our Association believes that your proposed legislation will serve to solve the long-standing GATT issue regarding Section 337 in a manner that will not only be supported by U.S. industry, but will bring this country into compliance with its international obligations.

Mr. President, the second document I would like to share with my colleagues is an endorsement of this reform effort that I received from the U.S. Chamber of Commerce. Mr. William T. Archey, the chamber's senior vice president for policy and congressional affairs, wrote on behalf of the chamber,

The U.S. Chamber of Commerce Federation of local and state chambers of commerce, businesses, and associations strongly supports Section 337 as a proven and effective remedy against the import of goods by those who seek to benefit unfairly from American inventiveness. On March 23, 1990, the Task Force wrote to the Office of the U.S. Trade Representative in response to a Federal Register Notice request and offered suggestions for amending Section 337 * * *. The Task Force reviewed S. 3172 since its introduction and has concluded that the bill substantially accords with the position the Task Force communicated to the Trade Representative.

Mr. President, I will ask unanimous consent that the full text of the ITC Trial Lawyers Association letter and the U.S. Chamber of Commerce letter be printed at the conclusion of my remarks about this legislation. I also expect to receive similar assessments from other representative industry and legal groups in the near future, which I will also share with Senators. I also want to comment on a very important issue that Bill Archey raised in his letter. He wrote,

A major concern by industry is that actions under Section 337 continue to be expeditiously handled, and we are pleased to note that S. 3172 speaks of this issue and calls for the International Trade Commission to establish target dates for completion of its investigations under Section 337. We strongly recommend that the legislative history for S. 3172 emphasize this aspect of the bill and give specific indications of the times that Congress would give specific indications of the times that Congress would consider reasonable for the Commission's target dates, which in our view should continue to be the 12-month and 18-month times that are currently required under the statute.

As part of the legislative history to which Bill Archey refers, in this case the legislative history of the bill I am introducing now as the successor to S. 3172, my statement today will clearly indicate that I believe that the removal of the statutory time limits from section 337—something the United States is required to do to comply with our GATT obligations—should not, and indeed will not, result in the determinations of the U.S. International Trade Commission taking any longer than they have in the past. There are three specific reasons for this belief.

First, my amendment to section 337 does not in any way change the strict 90-day or 150-day time limits on the Commission's determinations with respect to petitions for temporary exclusion orders. Furthermore, my proposal that a temporary exclusion order be enforced by the posting of a bond in an amount determined by the Commission to be sufficient to protect the complainant from any injury will make these temporary exclusion orders even more effective than they were previously. These temporary orders, which can remain in place until a final determination is made, were found by the GATT panel to be consistent with our obligations.

Second, the language I have proposed for the timing of the Commission's final determinations says:

The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation.

The Commission has repeatedly and consistently demonstrated that it is practicable for it to conclude investigations and make determinations within 12 months, or within 18 months in especially complicated cases. This historical record clearly sets the standard for the earliest practicable time that I expect the Commission to maintain.

It is also my understanding, from the consultations which have gone into drafting this bill, that it is the intention of current commissioners to maintain this standard. I am also confident that when new commissioners are nominated, the Senate Finance Committee will ask them during their confirmation hearings to commit themselves to maintaining the current standard.

Third, to ensure the Commission can maintain this standard, my amendment states: "To promote expeditious adjudication, the Commission shall, within 30 days of the initiation of an investigation, establish a target date for its final determination." The use of a specific timeframe for the setting of a target date is a standard practice in district courts under rule 16 of the Federal Rules of Civil Procedure. It is the judgment of current and former U.S. International Trade Commission officials that the Commission can easily meet the 30 days the legislation gives it to establish a target date.

For these reasons, I do not expect these target dates to be any later than the 12- to 18-month deadlines now in the statute. In fact, because the U.S. International Trade Commission has repeatedly and consistently demonstrated that it can finish its work before those deadlines, I anticipate that the target dates established by the Commission can be well within those deadlines.

Mr. President, I hope this statement, which I am making explicitly to establish clearly in the legislative record what the Intelligence Property Act of 1993 means, will help move this proposal very rapidly in the 103d Congress.

The reform of section 337 is not merely an academic exercise. The use of the ITC's section 337 process has fallen significantly since the USTR acquiesced in the adoption of the GATT panel report. I have been told by U.S. businesses that the drop in such cases is not due to greater respect by foreign companies for U.S. intellectual property rights. Rather, it is because some potential U.S. complainants fear that

any determination they obtained in the ITC could be invalid because the U.S. Government has accepted the GATT ruling against the current procedures, or that an investigation could be stopped part way through, after a great deal of time and money had been spent, when the rules change.

Mr. President, this is an untenable situation. The protection of the intellectual property rights of U.S. businesses—their copyright, patient, trademark, and computer chip mask work registrations—is too important. Section 337 is an important law, one of the most effective available to U.S. businesses to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices. With the enactment of the bill I am introducing today, we can maintain and reinforce the authority section 337 of the Tariff Act of 1930 gives the U.S. International Trade Commission to enforce intellectual property rights against infringing imports and to deal with other unfair trade practices.

Mr. President, I ask unanimous consent that the full text of the ITC Trial Lawyers Association letter and the U.S. Chamber of Commerce letter, as well as the full text of the proposed Intellectual Property Protection Act of 1993 be printed at this point in the CONGRESSIONAL RECORD.

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

S. 148

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intellectual Property Protection Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is one of the most important laws available to United States businesses to deal with unfair practices in import trade and to enforce intellectual property rights against infringing imports.

(2) On November 23, 1988, a panel of the General Agreement on Tariffs and Trade (hereafter in this Act referred to as "GATT") found section 337 to be in violation of United States obligations under the GATT, because certain procedures under section 337 did not provide national treatment for imported goods and because some aspects of the procedures were unnecessary for effective compliance with United States patent law.

(3) On November 7, 1989, the United States allowed adoption of the GATT panel report on section 337, thereby assuming an obligation to reform section 337 to comply with its obligations under the GATT.

(4) Because of the special difficulties in enforcing intellectual property rights against unfairly traded imports, special enforcement procedures that apply only to imports are necessary to effectively enforce intellectual property rights against infringing imports.

(5) The GATT allows special enforcement procedures when such procedures are not less favorable than the procedures used against domestic products or such procedures are necessary to secure compliance with copyright, patent, trademark, and mask work registration protection laws or regulations.

(6) To be effective, such enforcement procedures must establish administrative proceedings which can reach multiple parties in one forum, allow efficient foreign discovery, provide expeditious dispute resolution, and provide border enforcement by the United States Customs Service.

(b) PURPOSE.—The purpose of this Act is to conform section 337 of the Tariff Act of 1930 and title 28 of the United States Code to the provisions of the GATT to ensure that section 337 procedures can reach multiple parties in one forum, allow efficient foreign discovery, provide expeditious dispute resolution even in the absence of a deadline for final determinations, and provide border enforcement of determinations.

SEC. 3. AMENDMENT OF SECTION 337 OF THE TARIFF ACT OF 1930.

(a) INVESTIGATION.—Section 337(b) of the Tariff Act of 1930 (19 U.S.C. 1337(b)) is amended—

(1) by striking "; TIME LIMITS" in the heading;

(2) in paragraph (1), by striking "The Commission shall conclude any such investigation" and all that follows through the end period and inserting the following: "The Commission shall conclude any such investigation and make its determination under this section at the earliest practicable time after the date of publication of notice of such investigation. To promote expeditious adjudication, the Commission shall, within 30 days of the initiation of an investigation, establish a target date for its final determination."; and

(3) by striking the fifth sentence in paragraph (3).

(b) DETERMINATION; REVIEW.—Section 337(c) of such Act is amended—

(1) by striking "a settlement agreement" in the first sentence and inserting "an agreement between the parties";

(2) by striking "subsection (d) or (e)" in the second sentence and inserting "subsection (d), (e), or (f) (and each declaration under subsection (o))"; and

(3) by striking "(f), or (g)" in the fourth sentence and inserting "(f), (g), or (o)".

(c) EXCLUSION OF ARTICLES FROM ENTRY.—Section 337(d) of such Act is amended by inserting after the first sentence the following new sentence: "No article shall be excluded from entry where the Commission determines that the owner, importer, or consignee of the article has established a sufficient counterclaim directly related to the unfair methods or acts determined by the Commission to exist.".

(d) ENTRY UNDER BOND.—Section 337(e) of such Act is amended—

(1) in the last sentence of paragraph (1), by striking "determined by the Commission" and all that follows through the end period and inserting: "prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from any injury. If the Commission later determines that the respondent has violated the provisions of this section, the bond may be forfeited to the complainant.";

(2) by adding at the end of paragraph (2), the following new sentence: "If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent."; and

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

"(4) The Commission may prescribe the terms and conditions under which bonds may be forfeited under paragraphs (1) and (2).".

(e) CEASE AND DESIST ORDERS.—Section 337(f)(1) of such Act is amended—

(1) by inserting after the first sentence the following new sentence: "A permanent cease and desist order shall not be issued if the Commission determines that the owner, importer, or consignee of the article has established a sufficient counterclaim directly related to the unfair methods or acts determined by the Commission to exist."; and

(2) by adding at the end thereof the following: "If a temporary cease and desist order is issued in addition to, or, in lieu of, an exclusion order under subsection (e), the Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection. If the Commission later determines that the respondent has not violated the provisions of this section, the bond may be forfeited to the respondent. The Commission may prescribe the terms and conditions under which bonds may be forfeited under this paragraph.".

(f) CONDITIONS APPLICABLE FOR GENERAL EXCLUSION ORDERS.—Section 337(g) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) The authority of the Commission to issue an exclusion from entry of articles shall be limited to persons determined by the Commission to be violating this section unless the Commission determines that—

"(A) a general exclusion from entry of articles is necessary to prevent circumvention of an exclusion from entry limited to such persons; or

"(B) there is a pattern of violation of this section and it is difficult to identify the persons responsible."

(g) ENTRY UNDER BOND AFTER REFERRAL TO PRESIDENT.—Section 337(j)(3) of such Act is amended by striking "shall be entitled to entry under bond" and all that follows through the end period and inserting "shall, until such determination becomes final, be entitled to entry under bond prescribed by the Secretary in an amount determined by the Commission to be sufficient to protect the complainant from injury. If the determination becomes final, the bond may be forfeited to the complainant. The Commission may prescribe the terms and conditions under which bonds may be forfeited under this paragraph.".

(h) DECLARATORY RELIEF.—Section 337 of such Act is amended by adding at the end thereof the following new subsection:

"(o) COMPLAINT FOR DECLARATORY RELIEF BY OWNER, IMPORTER, OR CONSIGNEE.—In a case of actual controversy as to the existence of unfair methods of competition and unfair acts described in subsection (a), upon the filing of a complaint for declaratory relief under oath by the owner, importer, or consignee of an imported article (or part thereof), the Commission may declare the rights and other legal relations of the parties, whether or not further relief is or could be sought. A declaration made under this subsection shall have the force and effect of a final determination of the Commission and shall be reviewable as such. In the case of unfair acts involving the validity of patents as described in subsection (a)(1)(B), such a declaration shall be only for the purpose of determining whether there is a violation of this section and shall not have the effect of claim or issue preclusion.".

SEC. 4. AMENDMENT OF TITLE 28, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission

"(a) STAY.—In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), at the request of a party that is a respondent in the proceeding before the Commission (other than a respondent to a counterclaim in a proceeding for declaratory relief), a district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission.

"(b) USE OF COMMISSION RECORD.—After dissolution of a stay under subsection (a), portions of the record of the proceeding before the United States International Trade Commission that bear on issues in a civil action shall be admissible in the civil action, subject to such protective order as the district court determines necessary and to the extent permitted under the Federal Rules of Evidence and the Federal Rules of Civil Procedure.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

"1659. Stay of certain actions pending disposition of related proceedings before the United States International Trade Commission.".

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act apply to complaints filed and investigations initiated under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) after the date of the enactment of this Act.●

ITC TRIAL LAWYERS ASSOCIATION,
Washington, DC, July 29, 1992.

Senator JOHN D. (JAY) ROCKEFELLER, IV, SH-109 HART SENATE OFFICE BUILDING, WASHINGTON, DC.

Re Section 337

DEAR SENATOR ROCKEFELLER: Thank you for sharing with our organization your draft legislation for amending Section 337 (19 U.S.C. §1337). For the following reasons, we believe your approach will well serve the interests of the United States while meeting this country's GATT obligations to our trading partners.

Since the 1974 amendments, in over 330 investigations, Section 337 has proven to be an effective tool for enforcing U.S. intellectual property rights—many times against multiple offenders—in connection with unfair imports into the United States. Over that period, the four most advantageous aspects of these administrative proceedings have been the ability to reach multiple parties in one forum, efficient foreign discovery, expeditious resolution and border enforcement by the U.S. Customs Service. While the GATT ruling in the *Aramid Fibers* case found fault with Section 337 in four respects, the only one of the foregoing advantages of the statute that might be affected by your proposed legislation is expedition, and it is by no means certain that even this element has to be sacrificed.

While the United States must react to the GATT decision, it should not overreact. It should not change its patent enforcement system. It should not change the focus of Section 337 from an import relief statute to an alternative form of preliminary injunctive relief in connection with imported goods. It should not sacrifice the ability to obtain expeditious relief in the vast majority of cases. It should not trade the flexibility of administrative proceedings for the rigidity of district court rules. What it should do is what your bill proposes—the minimum necessary to preserve the advantages of Section 337 while meeting U.S. international obligations.

Your bill would retain the principal advantages of Section 337 administrative actions while preserving the possibility of preliminary injunctive relief for those cases where such an extraordinary remedy is warranted. Most Section 337 cases, in the future as in the past, will not be driven by the need to obtain temporary exclusion orders. They will remain cases which are brought to the ITC because they involve one or more of the following elements: multiple offenders, a need to obtain effective discovery here and abroad, the desire to obtain relief faster than that which is available from most district courts and the benefit of U.S. Customs Service enforcement of limited or general exclusion orders. Temporary or preliminary relief, along with these advantages, will, nonetheless, continue to be available to those complainants who can pass the same test in the ITC that they would have to meet to obtain a district court preliminary injunction. Alternatively, failing to obtain temporary relief at the ITC, some parties may simply choose to terminate their Section 337 action and pursue their remedies in district court.

Since expedition is the key to Section 337, that is the one element that cannot be sacrificed, as it would be if, for instance, the statute were relegated to the district courts. Under the separation of powers doctrine, neither Congress nor the President would be in a position to dictate to the district courts that import-related patent cases be handled expeditiously, nor should they, when one considers the many competing interest that vie for scheduling advantage in the federal court system. The only hope for maintaining prompt relief in import-related patent cases is to keep Section 337 enforcement exclusively at the ITC where, because of continued Congressional oversight, pressure can be applied if that agency fails to do its job properly. Moreover, unlike the district courts, the ITC, because of its responsibilities in the fields of antidumping and countervailing duties, is very sensitive to the need to protect domestic parties against unfair foreign competition. It does not take too great an act of faith to believe that an agency that is in the vanguard of protecting this country's natural advantages would recognize the need to provide expeditious relief for the protection of intellectual property rights against foreign infringers.

Turning to your bill's proposal to create a new declaratory judgment action before the ITC, the very limited opportunity for and nature of this right is apparent. First of all, the right to bring such an action would not arise unless two conditions are met—there must be a specific threat made of an action to bar importation, and the rights holder must meet the test of a "domestic industry" for the ITC to have jurisdiction to adjudicate the parties' rights. In other words, not every threatened infringement action would give rise to an ITC adjudication, nor could a U.S. patent holder who is engaged in no domestic activity have his patent challenged before the ITC. Finally, because res judicata does not apply, the adjudication of the patent by the ITC will only be for purposes of Section 337, thus giving the threatened party little incentive to choose the ITC over the district court as the forum in which to initiate its action if it is seeking a dispositive determination of patent rights.

As we read your proposal, it would allow respondents to raise directly related counterclaims, not to obtain affirmative relief, but rather to bar the imposition of relief under Section 337. It would appear that, since Section 337 is a trade, not patent statute, a respondent need only be given the opportunity to prevent the imposition of border relief. In fact, the *Aramid Fibers* case involved a refusal by the ITC to allow respondent to raise as a counterclaim its own process patent in the same field in which it was accused. Had both parties' claims been successful, under your proposed revision to the statute, the ITC would simply have been empowered to deny trade relief to complainant, thus properly relegating the dispute to the district court as a mutual patent infringement action. The narrow ability to raise directly related counterclaims is likely to be of limited value to respondents seeking to thwart, since the facts of the *Aramid Fibers* situation were the exception, not the rule.

The most troubling aspect of the GATT ruling is the dual forum issue. That question can never be fully solved as long as both a trade remedy and an infringement action lie against imported goods. However, your legislation deals with the underlying inequities raised by the dual forum issue, namely, the expense and inconvenience of two proceedings, whether simultaneous or seriatim. While your proposal eliminates simultaneous proceedings against respondents, it also deals with the cost of multiple actions by preserving as much of the ITC record as possible for use by the parties in district court.

In conclusion, our Association believes that your proposed legislation will serve to solve the long-standing GATT issue regarding Section 337 in a manner that will not only be supported by U.S. industry, but will bring this country into compliance with its international obligations. We would be pleased to provide additional information if that would be of assistance.

Sincerely,

THOMAS V. HEYMAN,
President.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, DC., September 24, 1992.

Hon. JOHN D. ROCKEFELLER, IV,
U.S. Senate, Washington, DC.

DEAR SENATOR ROCKEFELLER. This letter is to advise you of the views of a representative cross-section of U.S. business on S. 3172, the bill which you introduced on August 11, 1992, to amend Section 337 of the Tariff Act of 1930. These views were developed by the U.S. Chamber of Commerce Intellectual Property Task Force, a diverse group of 45 member companies which has been considering possible amendments to Section 337 since the U.S. Government unblocked the GATT Panel Report that calls for changes in Section 337.

The U.S. Chamber of Commerce Federation of local and state chambers of commerce, businesses, and associations strongly supports Section 337 as a proven and effective remedy against the import of goods by those who seek to benefit unfairly from American inventiveness. On March 23, 1990, the Task Force wrote to the Office of the U.S. Trade Representative in response to a Federal Register Notice request and offered suggestions for amending Section 337. A copy of that letter is attached. The Task Force has reviewed S. 3172 since its introduction and has concluded that the bill substantially accords

with the position the Task Force communicated to the Trade Representative.

A major concern by industry is that actions under Section 337 continue to be expeditiously handled, and we are pleased to note that S. 3172 speaks to this issue and calls for the International Trade Commission to establish target dates for completion of its investigations under Section 337. We strongly recommend that the legislative history for S. 3172 emphasize this aspect of the bill and give specific indications of the times that Congress would consider reasonable for the Commission's target dates, which in our view should continue to be the 12-month and 18-month times that are currently required under statute.

In addition, we recommend that any legislation to amend Section 337 include enabling provisions to make the bill effective only upon successful completion of negotiations on Trade Related Aspects of Intellectual Property Rights (TRIPS) taking place in the Uruguay Round of GATT trade talks. In our view, U.S. interests would be best served by awaiting evidence of responsiveness by our GATT partners as reflected in a successful conclusion to the intellectual property negotiations in the Uruguay Round trade talks.

If you would like additional information or assistance, please contact Wolf Brueckmann at (202) 463-5478.

Sincerely,

WILLIAM T. ARCHEY.

Mr. ROCKEFELLER. Mr. President, I would like now to turn to the second intellectual property rights protection bill I will introduce today: the International Protection of Patent Rights Act of 1993. It deals with a very different—but certainly no less important—aspect of the problems faced by U.S. companies. This problem is the treatment American companies, especially those in the high-technology area, receive when they apply for patents in foreign countries and, often, even after they obtain patents in these countries.

Along with many Senators, I have been concerned for some time about this issue. My personal attention has focused especially on Japan, but inadequate patent protection is chronic in many countries. To illustrate this problem, I will describe my experience with Japan.

Five years ago, I chaired a hearing in the Foreign Commerce and Tourism Subcommittee in which we looked at the effects of Japan's patent system on American business. Nine months later, I chaired a second hearing on this issue, and I was disappointed to learn that, in the interim, there had been little progress in resolving the problems examined at our first hearing. American and other foreign companies, especially high-technology industries, still faced daunting problems with the Japanese patent system. This was particularly discouraging because there was significant cooperation between the United States and Japan on intellectual property issues in international forums such as the Uruguay round, the World Intellectual Property Organization, and trilateral discussions with the European Patent Office.

At both hearings, specific difficulties were outlined in detail by witnesses representing the U.S. Government, a cross-section of American industry, and academia. The list of problems was long. Let me give several examples.

It took an average of more than 72 months to obtain a patent in Japan, versus 19 months in the United States. The delay in Japan's patent system was an open invitation to copying and abuse. There were many measures Japan could have taken to reduce this delay in its issuance of patents, including greatly increasing the number of patent examiners, altering the system that allows an applicant to deter examination of his patent for up to 7 years, and working with Japanese industry to eliminate the filing of unnecessary applications and applications of limited value which were clogging the patent system.

Patent claims in Japan were interpreted very narrowly, thereby allowing others to make minor changes in the patented invention and avoid liability for infringing the original patent. As a result, patent flooding by Japanese companies continued. This is a practice whereby Japanese companies file large numbers of applications for improvements on an original invention, making it necessary for the owners of the original to cross-license their technology if they want to be able to offer their product in the improved manner.

The Japanese Patent Office permitted the use of foreign language terms in patent applications only in extreme situations. In contrast, the U.S. Patent Office, as well as the European Patent Office, accepts foreign language applications and allows applicants 2 months to submit translations.

This is just a sample of the problems that concerned me 5 years ago. There was a plethora of other areas where improvements were needed to assure that foreign firms were not disadvantaged by the practices permitted by the Japanese patent system. Many of these were listed in an amendment I introduced in July 1988, which was agreed to unanimously by this body. That amendment called on the administration to give this issue higher visibility and to use all possible avenues to persuade the Japanese to correct their patent system.

The United States-Japan Working Group on Intellectual Property was part of our government-to-government trade dialog, part of the administration's effort called for by the Senate amendment. Given the significant trade implications of the issues at hand, I had hoped that the Japanese representatives would be prepared to negotiate seriously. However, little progress on patent issues was made in 1988 and 1989, and I was very disappointed by this lack of results. Japanese Government officials failed to recognize the critically important trade ramifications of these patent problems.

Well, Mr. President, since 1989 the patent process in Japan really hasn't changed much. The Japan Patent Office hires a few more patent examiners each year—they now have some 900 examiners—but with hundreds of thousands of applications per year, the backlog is actually growing. For example, in 1988, the Japan Patent Office received 339,399 applications—308,908 Japanese applicants—but registered only 55,300 patents; in 1989 it received 351,207 applications—317,566 from Japanese applicants—but registered only 63,301 patents, and in 1990, the last full year for which I have data, the Japan Patent Office received 367,590 applications—333,230 from Japanese applicants—but issued only 59,401 patents.

The Japan Patent Office's delay in granting patents, or even examining the applications after they are filed, is almost as bad as it was in 1989. It still takes about 3 years before an application even gets picked up for examination. Then, once an examiner picks up an application, the average time to the granting of a patent, according to statistics from the Japanese Government, is another 32 months; that is, if there is no opposition. However, as the Japan Patent Office continues to make applications subject to pre-grant opposition, the process is in many cases even slower. Overall, this is only a 4-month reduction from the 72-month average pendancy that existed 4 years ago. Some U.S. firms have experienced delays for up to 10 years, or even longer, from the filing date to the grant of the patent.

Furthermore, the term of a patent granted in Japan still runs from the filing date, a practice which, because of the long delays in examination and processing, limits the value of a patent. For example, without an issued patent, a company will have a difficult or impossible time negotiating licensing fees, something important for manufacturers of pharmaceuticals and microelectronics. For the electronics industry, the situation is especially bad: The delay in examination and processing is often longer than the average life of the products. The majority of sales by many U.S. high-technology companies is based on products that didn't exist 6 years, or even 3 years earlier. By the time the Japan Patent Office begins its examination, or by the time a patent is granted in Japan, the product may no longer have a commercial value.

Great uncertainty for these companies also exists when a competitor has filed a patent application for a similar product or process. The U.S. company may get hit with an infringement lawsuit years later, after it no longer sells the product. Or, vice versa, the U.S. company may not be able to file an infringement suit until the product involved is no longer being sold, and the damage has already been done. Neither

company will know for certain whether it is in the right or the wrong. With this type of uncertainty, further technological development is stymied.

One of the major causes of the Japan Patent Office's huge backlog is the unnecessarily narrow interpretations of patent claims it allows. Because of this, Japanese companies still have hundreds of patent engineers cranking out patents that clog the system. Under this system, if United States companies don't have patent engineers and lawyers in Japan—a luxury small United States companies cannot afford—they find it extremely difficult to compete.

Mr. President, I believe it is time to renew legislative efforts in this area. The problems we examined in 1988 and 1989 continue to afflict U.S. companies. Another example of this situation was brought to my attention just last year. It concerns a small, American company that has developed a truly innovative technology which promises to provide many American jobs, American exports, and American profits. This case also concerns the threat that this technology will be stolen by a large Japanese conglomerate because of the lack of effective intellectual property rights protection by the Japanese patent system.

The American company is Noise Cancellation Technologies, Inc. [NCT] of Linthicum, MD. NCT controls the basic technology that cancels unwanted noise through the application of active counternoise through its trade secrets, proprietary computer software codes, and, most important, its patents. It owns dozens of patents, except in Japan, and has other patent applications pending worldwide.

In Japan, the Patent Office has refused to recognize a key patent that has been granted to NCT in the United States and every other foreign country where NCT has filed a patent application. I repeat: NCT's innovative technology has been patented in every foreign country where NCT has filed a patent application except Japan. As a result, at least one very large Japanese automobile company has announced plans to market cars with an active noise cancellation system in the passenger compartment. Although a recent patent validity and infringement legal opinion found that this system infringes three of the patents owned by NCT, the Japanese company has made no arrangements to pay for its use of NCT patents. Current U.S. law gives NCT no protection from sales of these products outside the United States and would provide NCT recourse in the United States only after the infringing imports have come into the U.S. market. This is a predicament that United States inventors have repeatedly faced because of the vagaries of the Japanese and other foreign patent systems.

Why is this an important issue? Just a brief description of what this one new, U.S.-developed technology does—and what it could mean in terms of U.S. jobs, production, exports, and profits—will show how important it can be to American workers, manufacturers, and consumers. Applications of NCT's patented noise cancellation technology include: Selective headsets for the military and workplaces that eliminate noise but let you hear what you want; similar, but much larger systems for vehicle and aircraft passenger compartments; quiet mufflers for all types of internal combustion engines, for automobiles, trucks, industrial machinery, construction equipment, et cetera; quieting enclosures for pumps and compressors; elimination of in-wire noise signals in communications equipment; many military applications where noise stealth is important, and many others.

One needs only to think of situations where noise is a problem to imagine what other applications and their benefits could be. Each one of these applications will spawn spinoff products and industries that could employ hundreds of thousands of workers in the United States if the technology is not stolen by other countries.

Some of the benefits are less obvious. For example, it has been found that substituting NCT's new muffler for the existing types can increase the vehicle's gas mileage by 3 to 7 percent. This means a potential national savings of billions of dollars annually to individual Americans, a similar reduction in our dependence on foreign oil supplies, and an improvement in our environment.

It is because of this case and many other similar ones that Senator MIKULSKI, Senator HATCH, Senator WOFFORD, and I are introducing today the International Protection of Patent Rights Act of 1993. With standards for adequate and effective foreign patent protection for U.S. companies the legislation we are proposing will use the Special 301 provisions of the trade law to require USTR first to determine which countries do not provide adequate patent protection and then to negotiate a satisfactory solution. With the Special 301 specific mandates and strict timetables, this legislation can, I believe, help eliminate the type of problem I've just described. I hope all of my colleagues will support this effort.

This bill we introduce today is not another "shot across the bow" of Japan and other countries. The time for warnings and patience has passed. With the support of this body and of the House of Representatives, which passed a similar measure last year, we can take action now. I urge the Senate to take expeditious action on this proposal as well.

Mr. President, I ask unanimous consent that the full text of the proposed International Protection of Patent Rights Act of 1993 be printed in the RECORD.

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

S. 149

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Protection of Patent Rights Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) Several countries (including Brazil, India, Indonesia, Japan, Korea, Pakistan, Taiwan, and Thailand) maintain patent systems that effectively deny adequate and effective patent protection to United States nationals because of—

(A) unreasonable delays in granting or enforcing patents,

(B) pre-grant opposition to patent applications,

(C) unnecessarily narrow interpretations of patent claims by the authorities which determine patent validity and infringement, and

(D) other policies and practices.

(2) The lack of adequate and effective patent protection in these countries denies fair and equitable market access to United States nationals that rely upon intellectual property rights protection.

(b) PURPOSE.—The purpose of this Act is to amend the Trade Act of 1974 to respond to the actions of countries that do not provide adequate and effective patent protection to United States nationals.

SEC. 3. IDENTIFICATION OF FOREIGN COUNTRIES.

Section 182 of the Trade Act of 1974 (19 U.S.C. 2242) is amended—

(1) in subsection (a)(1)—

(A) by striking "or" at the end of subparagraph (A),

(B) by striking "and" at the end of subparagraph (B) and inserting "or", and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) deny adequate substantive standards, and";

(2) in subsection (b)(1)(A)—

(A) by striking "or" at the end of clause (i),

(B) by inserting "or" at the end of clause (ii), and

(C) by inserting after clause (ii) the following new clause:

(iii) deny adequate substantive standards,";

(3) by adding at the end of subsection (d), the following new paragraph:

"(4) A foreign country denies adequate substantive standards if the country enforces or permits procedures under its patent approval system that result in, among other practices—

"(A) patent applications being subject to pre-grant opposition,

"(B) extended deferral (beyond 3 years) of patent examination,

"(C) an inordinately long period of time for patent application approval,

"(D) an inordinately short patent term measured either from the date of grant or from the date of filing,

"(E) an inordinate delay in obtaining judicial review or unavailability of judicial review for patent applications that are denied, or

"(F) unnecessarily narrow interpretations of patent claims by the authorities which determine patent validity and infringement."; and

(4) by adding at the end of subsection (e) the following new sentence: "Such publication shall include information with respect to any act, policy, or practice identified under subsection (a) and information with respect to any action taken (or the reasons for not taking action) to eliminate such act, policy, or practice.".●

● Ms. MIKULSKI. Mr. President, it is important for the United States to stand up and support the rights of our inventors and businesses. A big part of this responsibility is protecting our intellectual property. America protects the rights of innovators because we know that encouraging these entrepreneurs is the best way to create the jobs and the technology that keep our country competitive.

We do a pretty good job of protecting intellectual property rights in our own country, but we haven't done enough to stand up to other nations that allow patented inventions, copyrights, and other products to be stolen. This theft costs our companies billions of dollars and thousands of jobs every year, and it hits our high technology industries the hardest.

That's why I am joining Senator ROCKEFELLER, Senator HATCH, and Senator WOFFORD in introducing the Intellectual Protection of Patent Rights Act. This bill is designed to protect American companies who invest their resources and their employees' skills to develop a new product, and to make sure that such a great investment isn't lost to foreigners that cherry pick American inventions.

Unfortunately, this has been a very serious problem for Maryland companies trying to do business in Japan. Three years ago, when I first joined with Senator ROCKEFELLER to work on this issue, Fusion Systems of Rockville, MD, was coming under siege in Japan as they tried to protect their patents and their products. It became clearer to many Senators that the Japanese patent law system is problematic and threatens American businesses.

And now, just recently, another Maryland company is having very similar problems with patents in Japan. This company is facing possible theft of its inventions by a big Japanese corporation. Unfortunately, it seems the Japanese patent system is still stacked against this and other innovative American businesses.

This Maryland company can't get Japan to issue a patent they need, even though that same patent has been granted by every other country where they applied. Even though the company has made it clear that a Japanese company is already infringing on their patents, by the time they get any recourse under Japanese law, the United States market could be flooded with infringing products.

Unfortunately, the problems this Maryland company is facing aren't unusual in Japan. This is part of the way the Japanese patent system works. That's why our Government has to work on behalf of American businesses to get Japan to change that system. Senator ROCKEFELLER and I introduce our bill to get Japan and other nations to treat American companies fairly when it comes to patents, and we will keep up our fight.

Our bill requires the U.S. Trade Representative to use Special 301 provisions in American trade law to target countries that are the worst violators of international patent protection laws. Then, USTR will have to negotiate a solution to these countries' lack of patent protections in a specified time frame, or those countries will face retaliation.

We hope that this bill will get the rest of the world to understand the value that America places on rewarding innovation, and let them know we are serious about standing up for the rights of our businesses and our workers.●

By Mr. KOHL:

S. 150. A bill to provide for assistance in the preservation of Taliesin in the State of Wisconsin, and for other purposes; to the Committee on Energy and Natural Resources.

TALIESIN PRESERVATION ACT OF 1993

● Mr. KOHL. Mr. President, last year we celebrated the 125th anniversary of Frank Lloyd Wright's birth. At that time, I was pleased to observe this occasion by introducing legislation to ensure for future generations the continued existence of the embodiment of this great American artist's legacy, Taliesin in Spring Green, WI. I rise today to reintroduce the Taliesin Preservation Act of 1993. I am pleased that Congressman SCOTT KLUG will once again be introducing the companion legislation in the House of Representatives.

Two years ago I had the pleasure of making my first visit to Taliesin, which is Welsh for "shining brow," the national historic landmark complex which includes Mr. Wright's home, architectural school, and studio. Everything, from the pattern of the driveways and rolling lines of the fields to the lighting, furnishings, and collected objects inside, is an outstanding product of Mr. Wright's genius, incorporating his sensitive and innovative response to environment and changing technologies.

Frank Lloyd Wright's influence on architecture in this century will surely go on into future centuries, not only because the forms themselves are so timeless, but because his ideas remain so vibrant. However, it was clearly demonstrated during my visit that after 81 years, Taliesin is definitely showing signs of physical deterioration. In response to the need for restoration and preservation, the Taliesin Preservation Commission has been created to develop and implement programs to preserve Taliesin and provide an environment where an international audience can learn more about the work, ideas, and accomplishments of Frank Lloyd Wright. Substantial financial commitments have been made by the State of Wisconsin and through the commission's ongoing private fundraising efforts to undertake and complete this comprehensive plan.

The legislation I am reintroducing today will provide, on a matching basis, the additional technical and financial assistance required for Taliesin's restoration, preservation, and protection. It will assure that this legacy of Frank Lloyd Wright will be preserved for the continuing public benefit of visitors and scholars from around the world, while ensuring the continuation of the private ownership and management of this preeminent site. I believe these dual goals can be best achieved through designation and recognition of Taliesin as an affiliated area of the National Park Service.

On December 18, 1992, the Wisconsin Housing and Economic Development Authority adopted a resolution expressing the intent to develop a financing arrangement to raise $8 million to assist in the preservation of Taliesin, through the issuance of business development revenue bonds. I believe this to be a significant development, because the bill that I am introducing today would require matching funds from State and private sources in order to secure the Federal funding assistance authorized in the legislation.

Mr. President, Frank Lloyd Wright was truly an American artist. Examples of his legacy can be seen throughout the Nation. Citizens of Wisconsin, Illinois, Michigan, New York, New Hampshire, Virginia, Iowa, California, Pennsylvania, Florida, Arizona, Oklahoma, and Alabama can boast of publicly accessible buildings within their States which were designed by Frank Lloyd Wright. I urge my colleagues to join me in cosponsorship of this legislation to aid in the preservation of Taliesin, the Nation's preeminent example of the work of this exceptional American artist.

I request 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. 150

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taliesin Preservation Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that the nationally significant land, improvements, and landscapes in the State of Wisconsin that comprise the complex known as "Taliesin"—

(1) was the home and studio of America's most important artist of this century, archi-

tect Frank Lloyd Wright, from 1911 until 1959;

(2) was designated as a National Historic Landmark on January 7, 1976;

(3) includes other projects designed by Wright, including—

(A) the Romeo and Juliet Windmill, designed in 1897;

(B) the Hillside Home School, designed in 1901;

(C) the Tan-y-deri residence, designed in 1907;

(D) the Midway Farm, designed in 1937; and

(E) 600 acres of landscape;

(4) includes the adjoining—

(A) Unity Chapel, which Wright worked on in 1887 for architect Joseph Silsbee; and

(B) Michels Farm property, which was the farm of Wright's uncle Thomas (Jones);

(5) is the preeminent single site in the world for interpreting the life, work, and ideas of Wright; and

(6) can best achieve the goals of the National Park Service by becoming an affiliated area of the National Park System, while remaining under private ownership and management.

(b) PURPOSE.—The purpose of this Act is to provide for the preservation and interpretation by the Secretary of the Interior, acting through the Director of the National Park Service, of the complex in Wisconsin known as the "Taliesin", for the benefit of present and future generations.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) OWNER OR OPERATOR.—The term "owner or operator" means the owner or operator of the Taliesin site.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) TALIESIN SITE.—The term "Taliesin site" means the properties described in section 2.

SEC. 4. COOPERATIVE AGREEMENT AND PLAN.

(a) COOPERATIVE AGREEMENT.—

(1) IN GENERAL.—In furtherance of the purpose of this Act, and after approving a comprehensive plan in accordance with subsection (b), the Secretary may enter into one or more cooperative agreements containing the provisions described in paragraph (3) with the owner or operator to provide assistance in accordance with paragraph (2).

(2) ASSISTANCE.—Pursuant to a cooperative agreement described in paragraph (1), in accordance with the comprehensive plan described in subsection (b), and for the benefit of the public, the Secretary may provide technical and financial assistance for the protection, restoration, and interpretation of the Taliesin site.

(3) PROVISIONS.—Each agreement shall provide that the owner or operator—

(A) shall permit public access to the Taliesin site at reasonable times through conducted tours that interpret the culturally significant portions of the Taliesin site; and

(B) may make no change or alteration of the Taliesin site that is not consistent with the comprehensive plan.

(b) COMPREHENSIVE PLAN.—

(1) PREPARATION AND ADOPTION.—As a condition of entering into a cooperative agreement under subsection (a), the owner or operator shall prepare and adopt a comprehensive plan for the continued preservation and public use of the Taliesin site and submit the plan to the Secretary for approval.

(2) APPROVAL.—The Secretary shall approve the comprehensive plan if the plan is consistent with, and in furtherance of, the purpose of this Act.

(3) AMENDMENT.—The plan may be amended or revised from time to time, but no assistance, financial or otherwise, may be made available pursuant to any cooperative agreement unless the amendment or revision is approved by the Secretary in accordance with this subsection.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated $8,000,000 to carry out this Act.

(b) MATCHING FUNDS.—As a condition of the availability of funds pursuant to this Act, the funds must be supplemented with matching non-federal funds on a one-to-one basis. The non-federal matching funds shall come from both State and private funding sources.●

By Mr. DANFORTH:

S. 151. A bill to amend title XIX of the Social Security Act to permit payments under a State plan to certain vaccine manufacturers; to the Committee on Finance.

SOCIAL SECURITY ACT VACCINE AMENDMENTS OF 1993

● Mr. DANFORTH. Mr. President, I am pleased to introduce legislation that will make vaccines more available to low-income preschool children. I am appalled by the low immunization rates in this country. According to a recent Children's Defense Fund report, fewer than 60 percent of 2-year-olds are fully immunized. In my State, in 1992, only 44 percent of 2-year-olds were immunized.

Access to health care is one of the reasons children are not being immunized. This legislation will increase access to immunizations by encouraging private physicians to immunize Medicaid children in their offices rather than referring them to overcrowded public clinics. According to the Children's Defense Fund, 84 percent of pediatricians and 66 percent of family practitioners reported referring at least some of their patients to public clinics for immunizations. The primary reason for the high number of referrals is that many physicians find that it is not financially feasible for them to immunize Medicaid patients. Physicians must use the vaccine purchased from a pharmaceutical company, only to have the State slowly reimburse them at a fraction of the cost.

The legislation will remove the disincentive by making it easier for States and drug companies to establish a vaccine replacement program. Under this replacement program, physicians that immunize Medicaid children will be given replacement vaccines rather than inadequate reimbursements. The State Medicaid offices will pay the pharmaceutical company directly for the vaccines at substantially reduced rates. This is a cost saving program for States to the extent that the cost paid to the pharmaceutical companies for the vaccines is much less than the reimbursements.

The Commonwealth of Virginia was successful in getting a waiver of the Social Security Act to implement a replacement program. This was an onerous process. This legislation will make it easier for vaccine manufacturers to enter into voluntary replacement programs with State Medicaid agencies. It will increase access to vaccines while also alleviating some of the costs to Medicaid. The director of Virginia's Department of Medical Assistance Services believes that in addition to encouraging more physicians to participate in the replacement program it will also save the State about $800,000 annually.

Preventive care is of paramount importance to all children in our Nation. It is inexcusable to allow children to suffer and sometimes die from diseases that can be prevented by a vaccine. Of course, this legislation does not provide universal vaccines to all children, only to the neediest. Perhaps we need legislation of this sort in the near future. It is essential that we use every opportunity to immunize our children.●

Mr. PRESSLER:

S. 152. A bill to amend the Mount Rushmore Commemorative Coin Act to conform to the intent of Congress; to the Committee on Banking, Housing, and Urban Affairs.

MOUNT RUSHMORE COMMEMORATIVE COIN ACT AMENDMENTS OF 1993

Mr. PRESSLER. Mr. President, today I am introducing corrective legislation to amend the Mount Rushmore Commemorative Coin Act, which Congress enacted in 1990. The purpose of my legislation is to fulfill the congressional intent of the 1990 act. Specifically, this measure will provide needed funding to continue the vital renovation currently underway at the Mount Rushmore National Memorial. I urge my colleagues to join me in supporting this effort.

Mount Rushmore attracts more than 2 million visitors each year. It truly is America's Shrine of Democracy. The memorial improvements project is important not only to South Dakotans, but all Americans, young and old. We must ensure Mount Rushmore's preservation today for tomorrow's children to enjoy.

Mr. President, a brief legislative history will assist my colleagues in understanding my intent for introducing this technical amendment. The Mount Rushmore Commemorative Coin Act provided for the minting of 1991 commemorative coins in recognition of the Mount Rushmore Memorial's golden anniversary. Of the total surcharges received, 50 percent was to be promptly paid to the Mount Rushmore Society for the improvement and preservation project at the memorial. The remaining funds would go to the Treasury for reducing our national debt.

Because the preservation project was already underway, prompt payment of the surcharges to the society was imperative. To accomplish this goal, the

Senate passed a measure I introduced during the last Congress making a technical change to the timing of the surcharge distribution.

I introduced technical corrective legislation in January 1991, long before the sale of the coins ended in December 1991. At that time, it was anticipated the surcharges would total up to $37.5 million, and the society would receive up to $18.75 million for the preservation project. Disappointingly, the total surcharges realized was only approximately $12 million.

The Mount Rushmore Society sought to finance the Mount Rushmore renovations project mostly through private contributions. However, proceeds from the coin sales were an essential funding source. Far short from the society's coin funding goal, the preservation project faces a funding crisis.

Mr. President, the measure I am introducing today is identical to the bill passed by the Senate during the 102d Congress. Through the House of Representatives failed to act on my legislation, it accepted a similar provision as part of the urban aid bill. Yet, as my colleagues know, the urban aid bill was not signed into law.

The actions taken during the 102d Congress is compelling evidence of strong congressional support for the preservation effort underway at Mount Rushmore. Therefore, I am hopeful that the 103d Congress will act expeditiously to approve my legislation. If enacted, the Treasury will be directed to provide up to the first $18.75 million in surcharges to the Mount Rushmore Society.

Mr. President, April 13, 1993 will mark the 250th anniversary of the birth of Thomas Jefferson, one of four Presidents who were immortalized on Mount Rushmore as timeless monuments to our Nation's freedom and democracy. With timely passage of this legislation, we can ensure the preservation of America's Shrine of Democracy as we pay tribute to Democracy's most eloquent advocate.

I ask unanimous consent that the bill be printed in the RECORD immediately following my remarks.

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

S. 152

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

SECTION 1. DISTRIBUTION OF SURCHARGES.

Section 8 of the Mount Rushmore Commemorative Coin Act (31 U.S.C. 5112 note) is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) the first $18,750,000 shall be promptly paid by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial; and

"(2) the remainder shall be returned to the United States Treasury for purposes of reducing the national debt.".

SEC. 2. RETROACTIVE EFFECT.

The amendments made by section 1 shall be deemed to have the same effective date as the Mount Rushmore Commemorative Coin Act. Any surcharges paid into the United States Treasury prior to the date of enactment of this Act in connection with the issuance of coins under the Mount Rushmore Commemorative Coin Act (which amounts have not been otherwise obligated) shall be redistributed by the Secretary of the Treasury in accordance with the amendments made by section 1.

By Mr. THURMOND:

S. 153. A bill to amend the Internal Revenue Code of 1986 to provide that service performed for an elementary or secondary school operated primarily for religious purposes is exempt from the Federal unemployment tax; to the Committee on Finance.

INTERNAL REVENUE CODE OF 1986 SCHOOL AMENDMENT ACT OF 1993

• Mr. THURMOND. Mr. President, I rise today to introduce legislation which would remove an inequity in the current Federal Unemployment Tax Act [FUTA] and in the State unemployment acts which are directly patterned after this act.

In enacting FUTA, Congress exempted from coverage employees of churches, and religious organizations operated by churches. The Supreme Court in St. Martin Evangelical Lutheran Church versus South Dakota held that this exemption extends to schools which are operated by churches.

However, no exemption exists in current law for those elementary or secondary schools which are operated primarily for religious purposes, but which are not operated by or otherwise controlled by a church or association of churches. These nonchurch schools are as pervasively religious as the church-operated schools and would not exist except for their religious mission. They are, in every way except church affiliation, religiously indistinguishable from the exempt schools. Technically, the nonchurch religious schools are not exempt under the terms of the statute.

These non-church-affiliated religious schools are not numerous in the United States. However, they do constitute about 20% of the membership of the Protestant evangelical schools in the country. There are some Catholic and Jewish schools, as well as other Protestant schools, which are not operated by churches but are governed by religious lay boards.

The tax plight of these schools is very threatening to them. In 1979, a group of religious schools attempted to litigate the issue of nonexemption of these schools on constitutional grounds, and won a favorable decision from the U.S. District Court in Los Angeles. The Supreme Court refused to review the case on jurisdictional grounds and did not reach the merits. This left the schools to pursue litigation in State courts. These schools simply do not have the major financial resources necessary to pursue new litigation in hopes of eventually bringing the case before the Supreme Court. Such litigation could take years, with no certainty that the Supreme Court would hear the case. Therefore, it is imperative that we pass exemptive legislation.

This measure is similar to S. 67 which I introduced in the 102d Congress and is identical to an amendment which was unanimously adopted by the Senate during consideration of the tax technical corrections bill in 1988. Unfortunately, this provision was dropped in conference. I reintroduced this measure in the 102d and 101st Congress; however, no action was taken.

This legislation will enable nonchurch-operated religious schools, now threatened by unemployment compensation tax debt, to continue their fine service to the country in producing good young citizens. Passage of this bill will be welcomed by friends of religious liberty.

In closing, I ask my colleagues to give careful consideration to this important measure. I ask unanimous consent that the text of the legislation appear in the CONGRESSIONAL RECORD immediately following my remarks.

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

S. 153

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

SECTION 1. EXEMPTION FROM UNEMPLOYMENT TAX.

(a) IN GENERAL.—Section 3309(b)(1) of the Internal Revenue Code of 1986 (relating to exemption from unemployment tax) is amended by inserting before the semicolon at the end thereof the following: ", or (C) an elementary or secondary school which is operated primarily for religious purposes, which is described in section 501(c)(3), and which is exempt from tax under section 501(a)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services performed after December 31, 1992.•

By Mr. DASCHLE (for himself, Mr. CONRAD, Mr. GRASSLEY, Mr. PACKWOOD, Mr. HARKIN, and Mr. BAUCUS):

S. 155. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain amounts received by a cooperative telephone company; to the Committee on Finance.

TELEPHONE COOPERATIVES ACT OF 1993

• Mr. DASCHLE. Mr. President, I rise to introduce legislation that reaffirms the intent of the U.S. Congress, originally expressed in 1916, to grant tax exempt status to telephone cooperatives. This exemption is now set forth in section 501(c)(12) of the Internal Revenue Code.

I introduced a similar measure in the 102d Congress. That bill was included with minor changes in H.R. 11, the Revenue Act of 1992, which was passed by

Congress but vetoed by President Bush. The version I introduce today is identical to the provision that was contained in H.R. 11 last year.

Congress has always understood that tax exemption is necessary to ensure that reliable, universal telephone service is available in rural America at a cost that is affordable to the rural consumer. Telephone cooperatives are nonprofit entities that provide this service where it might otherwise not exit due to the high cost of reaching remote, sparsely populated areas.

The facilities of a telephone cooperative are used to provide both local and long distance communications services. Perhaps the most important of these for rural users is long distance. Without these services, both local and long distance, people in rural areas could not communicate with the world, much less with their own neighbors. While telephone cooperatives comprise only a small fraction of the U.S. telephone industry—about 1 percent—their services are vitally important to those who must rely upon them.

Under Internal Revenue Code section 501(c)(12), a telephone cooperative qualifies for tax exemption only if at least 85 percent of its gross income consists of "amounts collected from members for the sole purpose of meeting losses and expenses." Thus, the bulk of the revenues must be related to providing services needed by members of the cooperative, that is, rural consumers. No more than 15 percent of the cooperative's gross income may come from nonmember sources, such as property rentals or interest earned on funds on deposit in a bank. For purposes of the 85 percent test, certain categories of income are deemed neither member nor non-member income and are excluded from the calculation. The reason for the 85 percent test is to ensure that cooperatives do not abuse their tax exempt status.

A technical advice memorandum or TAM released by the Internal Revenue Service has threatened to change the way telephone cooperatives characterize certain expenses for purposes of the 85 percent test. If the rationale set forth in the TAM is applied to all telephone cooperatives, the majority will lose their tax exempt status.

Specifically, the IRS now appears to take the position that all fees received by telephone cooperatives from long distance companies for use of the local lines must be excluded from the 85 percent test and that fees received for billing and collection services performed by cooperatives on behalf of long distance companies constitute nonmember income to the cooperative.

The legislation I am introducing today would clarify that access revenues paid by long distance companies to telephone cooperatives are to be counted as member revenues, so long as they are related to long distance calls paid for by members of the cooperative. In addition, the legislation would indicate that billing and collection fees are to be excluded entirely from the 85 percent test calculation.

Mr. President, it is no secret that mere distance is the single most important obstacle to rural development. In the telecommunications industry today, we have the ability to bridge distances better than ever before. Technology in this area has advanced at an incredible pace. But, maintaining and upgrading the rural telecommunications infrastructure is an exceedingly expensive proposition, and we must do all we can to encourage this development.

Ensuring that telephone cooperatives may retain their legitimate tax exempt status is one vital step we can take. I believe that providing access to customers for long distance calls and billing and collecting for those calls on behalf of the cooperative's members and the long distance companies are indisputably part of the exempt function of providing telephone service, especially to rural communities. The nature and function of telephone cooperatives have not materially changed since 1916 and neither should the formula upon which they rely to obtain tax exempt status.

At this time, Mr. President, I ask that the text of the bill be printed in the RECORD in its entirety at the close of my remarks.

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

S. 155

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

SECTION 1. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) of such Code is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end thereof the following new clause:

"(v) from billing and collection services performed for a nonmember telephone company.".

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) of such Code is amended by inserting before the comma at the end thereof ", other than income described in subparagraph (E)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1992.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) of such Code (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income. For the purposes of the preceding sentence, income referred to in subparagraph (B) shall not be taken into account."

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 of such Code is amended by adding at the end thereof the following new subsection:

"(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

"(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

"(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

"(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

For purposes of the preceding sentence, income referred to in section 501(c)(12)(B) shall not be taken into account.

"(2) RESERVE INCOME.—For purposes of paragraph (1), the term 'reserve income' means income—

"(A) which would (but for this subsection) be excluded under subsection (b), and

"(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts received or accrued after December 31, 1992.●

By Mr. DASCHLE:

S. 156. A bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax; to the Committee on Finance.

ENERGY CREDITS ACT OF 1993

● Mr. DASCHLE. Mr. President, a successful national energy policy requires

that we shift our reliance away from finite fossil fuels toward the infinite supply of renewable alternative technologies.

To that end, in the 102d Congress I introduced legislation that would have extended for 5 years the business energy tax credits set forth in section 46 of the Internal Revenue Code for investments in solar and geothermal energy facilities. At the time, those credits were scheduled to expire at the end of 1992. In addition, I introduced a bill that would have allowed the credits to be taken against the alternative minimum tax or AMT for those businesses subject to its provisions.

After much hard work, a provision making the solar and geothermal energy tax credits permanent was incorporated into the Energy Policy Act enacted into law last year. The proposal to allow the credits against the AMT, however, was not included in that legislation. Therefore, today I am reintroducing the bill that would permit the businesses subject to the AMT to take advantage of the credits for investment in solar and geothermal energy facilities. These energy credits represent a small but important contribution to developing a broader, more sensible, and more reliable national energy strategy. We must ensure that the policy behind promoting development of these renewable energy sources is not thwarted by other provisions in the tax code.

The promotion of renewable energy sources is more important now than ever before. If recent events in the Persian Gulf have demonstrated anything, it is that we cannot continue to ignore our increasing dependence on imported oil. The world's oil supply is going to run out. Nothing can change that. However, to the extent that we foster and encourage the development of solar and geothermal technologies, we can reduce our reliance on imported oil.

Moreover, the need to slow the detrimental effects on our environment of traditional sources of energy is as important as energy supply and security. Renewable energy sources are the answer to this need. I have often spoken on the merits of alcohol fuels in this regard. Solar and geothermal energy have similar potential for the environment. For example, in the solar mode of operation, solar technology has no combustion-related emissions at all. Even when using backup fossil fuel to assure reliability, present generation solar technology produces far less carbon dioxide than natural gas, the cleanest fossil fuel alternative. Geothermal plants also emit substantially less carbon dioxide than gas, oil, or coal-fired plants for the same electrical output.

Recent investment in solar and geothermal technologies is just beginning to yield potential return in the form of energy security and an improved environment. These technologies are not yet at the point, however, where they are commercially viable. The tax credits provide the margin needed to keep renewable projects in operation. It would be counterproductive not to extend the credits to those businesses falling under the AMT, in view of our national investment to date and our desire to lessen our dependence on imported oil.

Mr. President, I ask unanimous consent that the text of this bill be printed in its entirety in the RECORD following my statement.

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

S. 156

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

SECTION 1. CHANGES RELATING TO ENERGY CREDIT.

(a) ENERGY CREDIT ALLOWABLE AGAINST ENTIRE REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULES FOR ENERGY CREDIT.—

"(A) IN GENERAL.—In the case of a C corporation, this section and section 39 shall be applied separately—

"(i) first with respect to so much of the credit allowed by subsection (a) as is not attributable to the energy credit, and

"(ii) then with respect to the energy credit.

"(B) RULES FOR APPLICATION OF ENERGY CREDIT.—

"(i) IN GENERAL.—In the case of the energy credit, in lieu of applying the preceding paragraphs of this subsection, the amount of such credit allowed under subsection (a) for any taxable year shall not exceed the net chapter 1 tax for such year.

"(ii) NET CHAPTER 1 TAX.—For purposes of clause (i), the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34 and other than the energy credit).

"(C) ENERGY CREDIT.—For purposes of this paragraph, the term 'energy credit' means the credit allowable under subsection (a) by reason of section 48(a)."

(2) Paragraph (2) of section 55(c) of such Code is amended to read as follows:

"(2) CROSS REFERENCES.—

"(A) For provisions providing that certain credits are not allowable against the tax imposed by this section, see sections 26(a), 28(d)(2), 29(b)(5), and 38(c).

"(B) For provision allowing energy credit against the tax imposed by this section, see section 38(c)(3)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1992.•

By. Mr. DASCHLE:

S. 157. A bill to amend the Internal Revenue Code of 1986 to increase the standard mileage rate deduction for charitable use of passenger automobiles; to the Committee on Finance.

INTERNAL REVENUE CODE OF 1986 AMENDMENT ACT OF 1993

• Mr. DASCHLE. Mr. President, I rise to introduce legislation that addresses a small, but important, concern regarding the deduction of mileage expenses by individuals who volunteer their services to help carry out the activities of charitable organizations.

Many individuals who volunteer for charitable organizations incur out-of-pocket expenses that are not reimbursed by the charity. One such expense occurs where an individual uses his or her own car to carry out charitable purpose activities. Examples of this are when an individual provides transportation to a hospital for veterans, delivers meals to the homeless or elderly on behalf of a charity, or transports children to Scouting and other youth activities.

In 1984, Congress set a standard mileage expense deduction rate of 12 cents per mile for individuals who use their vehicles to carry out the tax-exempt goals of charitable organizations. The express purpose of the deduction was to support the efforts of volunteers, who do not receive any charitable deduction for the value of their contributed services, and to take into account the additional out-of-pocket costs of operation of a vehicle in doing so.

At the time that Congress codified the standard charitable mileage deduction at 12 cents per mile, the standard deduction for mileage expenses incurred in connection with one's trade or business was 20.5 cents for the first 15,000 miles and 11 cents per mile thereafter. Since that time, the U.S. Department of the Treasury, through the Internal Revenue Service, has increased the standard mileage rate for business travel expenses to 28 cents per mile for unlimited mileage.

Unfortunately, due to an anomaly in the Tax Code, the Secretary of the Treasury does not have the authority to make corresponding increases in the standard mileage rate for charitable use of one's vehicle. Thus, the standard charitable mileage rate remains at 12 cents per mile today.

The legislation I am introducing addresses this inconsistency in two ways. First, it would increase the standard charitable mileage expense deduction rate to 16 cents per mile. This would restore the ratio that existed in 1984 between the charitable mileage rate and the business mileage rate.

Second, the legislation would give the Secretary of the Treasury the authority to make subsequent increases in the charitable mileage rate without further permission from Congress, just as it currently does with the mileage rate for business use of a vehicle. The intent of this provision of the legislation is to insure that, as increases are made in the future to the standard business mileage rate, the charitable mileage deduction will be increased, as

well, so as to maintain the ratio that existed between these two mileage rates in 1984.

Mr. President, many charitable organizations today are being forced to take on a greater burden than ever before, due to cutbacks over the past 12 years in Federal programs for veterans, the elderly, and other groups in need. As a result, these organizations must increasingly rely on volunteer assistance to provide the services that are central to their tax exempt purposes. If we can do no more, at the very least we in Congress should ensure that helpful measures remaining in the law are not allowed to erode.

On behalf of volunteers of every stripe, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks.

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

S. 157

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

SECTION 1. INCREASE IN STANDARD MILEAGE RATE EXPENSE DEDUCTION FOR CHARITABLE USE OF PASSENGER AUTOMOBILE.

(a) IN GENERAL.—Subection (i) of section 170 of the Internal Revenue Code of 1986 (relating to standard mileage rate for use of passenger automobile) is amended to read as follows:

"(i) STANDARD MILEAGE RATE FOR USE OF PASSENGER AUTOMOBILE.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), for purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be 16 cents per mile.

"(2) TAXABLE YEARS BEGINNING AFTER 1993.—Not later than December 15 of 1993, and each subsequent calendar year, the Secretary may prescribe an increase in the standard mileage rate allowed under this section with respect to taxable years beginning in the succeeding calendar year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.●

By Mr. DASCHLE:

S. 158. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for travel expenses of certain loggers; to the Committee on Finance.

TRAVEL EXPENSE DEDUCTION ACT OF 1993

● Mr. DASCHLE. Mr. President, I am introducing legislation today in my continuing effort to address what I feel is an unfair ruling by the Internal Revenue Service that severely affects a certain segment of American workers. It is a situation where pure tax policy simply is not practical in its application to everyday life.

In my State of South Dakota, there is a national forest called the Black Hills Forest. It is a very large forest of some 6,000 square miles. Many of my colleagues may be familiar with it.

In this forest, there is a thriving logging industry that employs many South Dakotans. The logging companies that have operations there would not be able to do their business without the assistance of those who cut the logs in the first instance and haul or skid them to the trucks that carry the logs to the mill. These cutters and skidders, and the contractors who employ them, are usually referred to simply as loggers.

For a logger, traveling to work every day is very different from the experience of the average commuter. Loggers often travel as much as a couple of hours one way to the site where cutting is taking place. This may involve driving along miles of unpaved forest roads. It isn't possible for them to live closer to their worksite, not only because of its location, but also because that site may change from month to month. In addition, loggers must have vehicles that are capable of traversing rough forest terrain.

Despite the number of miles the loggers must travel to work each day and the rough terrain, the IRS has said that their expenses of traveling from home to the worksite and back again are nondeductible commuting expenses. This is true regardless of the location of the worksite within the forest and its distance from the individual logger's home. For, according to the IRS, the entire 6,000-square-mile forest is the loggers' tax home or regular place of business for purposes of deducting mileage expenses.

Despite the IRS's reasons for taking this position, the effect of the rule on loggers in the Black Hills is unfair. It imposes a hardship on them and fails to recognize the special circumstances of their jobs. True, other taxpayers are not permitted to deduct commuting mileage expenses. But other taxpayers generally are not forced to travel such long distances to and from work each day or to drive along dirt forest roads.

To rectify this situation, I introduced legislation in the 102d Congress that would have allowed loggers, in the Black Hills or elsewhere, to deduct their mileage expenses incurred while traveling between their homes and the cutting site, so long as the mileage is legitimately related to their business. Although the measure was not included in tax legislation last year primarily due to revenue concerns, a provision requiring the U.S. Department of the Treasury to study the issue was passed in H.R. 11, the Revenue Act of 1992. Unfortunately, that legislation was subsequently vetoed by President Bush.

Today I am reintroducing the bill that I introduced in the 102d allowing loggers to deduct their mileage expenses incurred while traveling between their homes and the cutting site. I urge my colleagues, particularly those who have loggers in their State, to take a close look at it. This may seem a small matter in the scheme of what we do here in the Senate, but it would restore a measure of fairness to loggers who currently are subject to the IRS's whims.

Mr. President, I ask that the full text of the bill be printed in the RECORD following my remarks.

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

S. 158

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

SECTION 1. DEDUCTION FOR TRAVEL EXPENSES OF CERTAIN LOGGERS.

(a) IN GENERAL.—Section 162 of the Internal Revenue Code of 1986 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) SPECIAL TRAVEL EXPENSE RULES FOR LOGGERS.—

"(1) IN GENERAL.—Notwithstanding subsection (a)(2) and section 262, in the case of an individual, there shall be allowed as a deduction under this section an amount equal to the travel expenses of such individual in connection with the trade or business of logging (including the miles to and from such individual's home).

"(2) TRADE OR BUSINESS OF LOGGING.—For purposes of this section, the term 'trade or business of logging' means the trade or business of the cutting and skidding of timber."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1992.●

By Mr. DOLE (for himself, Mr. BURNS, Mr. DURENBERGER, Mr. HATCH, Mr. MACK, Mr. MCCAIN, Mr. MURKOWSKI, Mr. NICKLES, Mr. SHELBY, Mr. SIMPSON, Mr. STEVENS, Mr. SMITH, and Mrs. KASSEBAUM):

S. 159. A bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax; to the Committee on Finance.

LUXURY EXCISE TAX REPEAL ACT OF 1993

Mr. DOLE. Mr. President, I rise today to introduce legislation repealing the luxury excise tax.

I originally introduced this legislation in 1991—we've been plagued by the tax since 1990. This is not a luxury tax on the rich, it is a tax on middle America. It is a tax on the many Americans who have lost their jobs—working people like mechanics, boat builders, parts managers. It is a tax on the many businesses that have been shut down.

Kansas is America's headquarters for aircraft manufacturers. According to the General Aviation Manufacturers Association, the total number of aircraft sold in 1989, 1,535, has dropped to 899 in 1992.

But, it's not just the aircraft manufacturers. The luxury tax continues to hurt the sales of cars priced over $30,000. In the boating industry, the National Marine Manufacturers Association reports one-third of America's boat building companies have closed

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their doors; over 20,000 jobs have been lost. While we may have seen a boost in retail sales over the recent Christmas holidays the damaging impact of the luxury tax is obvious to jewelers and furriers. A recent economic study shows that at least 25,000 jobs were lost in the jewelry industry since 1990. There continues to be high unemployment in the industry and companies continue to go bankrupt.

In the last go-around, the Ways and Means Committee Democrats proposed repealing luxury taxes on all products except automobiles. The tax is unfair, but it is fundamentally unfair to subject one industry to the tax.

Let's not waste any more time on this issue. Many Americans remain out of work. I urge my colleagues to join me in repealing this worker penalty.

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

S. 159

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

SECTION 1. REPEAL OF LUXURY EXCISE TAX.

(a) IN GENERAL.—Chapter 31 of the Internal Revenue Code of 1986 (relating to retail excise taxes) is amended by striking subchapter A and by redesignating subchapters B and C as subchapters A and B, respectively.

(b) CONFIRMING AMENDMENTS.—

(1) The material preceding paragraph (1) of section 4221(a) of the Internal Revenue Code of 1986 is amended by striking "subchapter A or C of chapter 31" and inserting "section 4051".

(2) Subsection (a) of section 4221 of such Code is amended by striking the last sentence.

(3) Subsection (c) of section 4221 of such Code is amended by striking "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)" and inserting "section 4053(a)(6)".

(4) Paragraph (1) of section 4221(d) of such Code is amended by striking "taxes imposed by subchapter A or C of chapter 31" and inserting "the tax imposed by section 4051".

(5) Subsection (d) of section 4222 of such Code is amended by striking "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)" and inserting "sections 4053(a)(6)".

(6) Section 4293 of such Code is amended by striking "subchapter A of chapter 31,".

(7) The table of subchapters for chapter 31 of such Code is amended to read as follows:

"SUBCHAPTER A. Special fuels.
"SUBCHAPTER B. Heavy trucks and trailers."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

By Mr. DOLE (for himself, Mr. PACKWOOD, Mr. PRESSLER, Mr. DOMENICI, Mr. DANFORTH, Mr. NICKLES, Mr. HATCH, Mr. SIMPSON, Mr. WALLOP, Mr. MACK, Mr. COCHRAN, and Mr. DURENBERGER):

S. 160. A bill to amend the Internal Revenue Code of 1986 to promote investment in small businesses by providing Federal tax relief and simplification for such businesses and their investors; to the Committee on Finance.

SMALL BUSINESS INVESTMENT ACT OF 1993

Mr. DOLE. Mr. President, I am joined today by the distinguished ranking members of the Finance Committee and the Small Business Committee, Senators PACKWOOD and PRESSLER, and other Republicans to introduce the Small Business Investment Act of 1993.

Small businesses are the foundation of our country's economy. We must protect, strengthen, and promote the innovation and growth of our small businesses. It is their contribution to the economy which will help direct our country's prosperity.

This proposal, the Small Business Investment Act of 1993 is a start. It is aimed at reducing capital costs and administrative complexity.

INCREASE CURRENT DEDUCTION FOR CERTAIN INVESTMENTS FROM $10,000 TO $25,000

Small businesses often have trouble raising the capital to make their business a success. Under current law, business owners are allowed to deduct the first $10,000 they invest in equipment for their businesses. By increasing the expensing of equipment from $10,000 to $25,000, we reduce the cost of capital and increases cash flow, thereby providing an incentive to increase investment. Expensing also allows small businesses to avoid the headaches and the costs associated with maintaining depreciation schedules.

ALLOW IMMEDIATE EXPENSING OF NEW BUSINESS STARTUP COSTS

There are many disincentives in starting up new businesses. This bill would encourage startup activities by lowering the after tax cost of starting up a small business. The immediate writeoff of up to $2,500 would be permitted for frontend costs of organizing a new small business. This will lower the cost of capital associated with a startup business and encourage job creation.

EXEMPT SMALL BUSINESSES FROM ALTERNATIVE MINIMUM TAX

The complexity of the alternative minimum tax [AMT] is staggering to many small businesses. Small businesses are less likely to have the sophisticated accounting systems and expertise that are important in complying with the AMT. This proposal exempts qualified small business taxpayers from the AMT.

INCREASES THE PERMITTED NUMBER OF S CORPORATION SHAREHOLDERS FROM 35 TO 50

S Corporations were designed to help small business owners obtain corporate benefits without having to deal with the Federal tax complexity of traditional corporations. Increasing the maximum number of shareholders will facilitate the use of S Corps by more small businesses.

ACCOUNTING CHANGES: INFLATION ADJUSTED INVENTORY FIFO ACCOUNTING; RELIEF FROM CAPITALIZATION RULES; RELIEF FROM COMPLEX LONG-TERM CONTRACT ACCOUNTING RULES

Many of our current tax accounting rules may provide a more accurate measure of profits, but they wreck havoc on small businesses. The proposed changes would lessen the accounting burden on small businesses letting the owners concentrate on their business as opposed to keeping books.

As I said earlier, this is a start. Any economic stimulus package or future tax bill must include measures aimed at our small business community. Combined with other proposals which are being developed, we will see greater economic growth, higher employment and prosperity for all Americans.

I urge my colleagues to join us in this effort. I ask unanimous consent that the bill be printed in the RECORD.

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

S. 160

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Investment Act of 1993".

(b) AMENDMENTS OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. PURPOSE.

It is the purpose of this Act to simplify Federal tax laws applicable to small businesses. The resulting decrease in operating costs and increase in economic return will stimulate small business investment and create new jobs.

SEC. 3. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this Act shall apply to taxable years beginning after December 31, 1992.

TITLE I—INVESTMENT INCENTIVES

SEC. 101. INCREASE IN SMALL BUSINESS EXPENSING ALLOWANCE.

Section 179(b)(1) (relating to dollar limitation) is amended by striking "$10,000" and inserting "$25,000".

SEC. 102. ELECTION TO EXPENSE SMALL BUSINESS START-UP EXPENDITURES.

(a) GENERAL RULE.—Section 195 (relating to treatment of start-up expenditures) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) ELECTION TO EXPENSE.—

"(1) GENERAL RULE.—Notwithstanding subsection (a), start-up expenditures may, at the election of a qualified taxpayer, be allowed as a deduction for the taxable year in which the active trade or business begins. The amount of start-up expenditures allowed as a deduction under the preceding sentence to any taxpayer shall not exceed $2,500.

"(2) QUALIFIED TAXPAYER.—A taxpayer is a qualified taxpayer if the taxpayer reasonably

expects or knows (as of the due date, determined with regard to extensions, for filing its return for the taxable year in which the active trade or business begins) that the taxpayer's gross receipts for the 12-month period beginning with the month in which the active trade or business begins will not exceed (or has not exceeded) $500,000.

"(3) IN ADDITION TO ELECTION TO AMORTIZE.—If the taxpayer makes an election under paragraph (1), start-up expenses that exceed $2,500 may, at the election of the taxpayer, be treated as deferred expenses as provided in subsection (b).

"(4) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as one person for purposes of this subsection.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 195(e) (as redesignated by subsection (a)) is amended by striking "subsection (b)" and inserting "subsection (b) or (c)".

SEC. 103. SMALL BUSINESS AMT EXCEPTIONS.

(a) GENERAL RULE.—Part VI of subchapter A of chapter 1 is amended by inserting after section 58 the following new section:

"SEC. 58A. SPECIAL EXCEPTIONS FOR SMALL BUSINESSES.

"(a) GENERAL RULE.—For purposes of this part—

"(1) the adjustments listed in subsection (b), and

"(2) the preferences listed in subsection (c), shall not be taken into account for any purpose in computing alternative minimum taxable income from any qualified small business activity of the taxpayer.

"(b) ADJUSTMENTS NOT TAKEN INTO ACCOUNT BY QUALIFIED SMALL BUSINESS TAXPAYERS.—The adjustments listed in this subsection are the adjustments provided by the following provisions:

"(1) Section 56(a)(1) (relating to depreciation).

"(2) Section 56(a)(2) (relating to mining exploration and development costs).

"(3) Section 56(a)(3) (relating to long-term contracts).

"(4) Section 56(a)(5) (relating to pollution control facilities).

"(5) Section 56(a)(6) (relating to installment sales).

"(6) Section 56(b)(2) (relating to circulation and research expenditures).

"(7) Section 56(c) (relating to special adjustments for corporations).

"(c) PREFERENCES NOT TAKEN INTO ACCOUNT BY QUALIFIED SMALL BUSINESSES.—The preferences listed in this subsection are the preferences provided by the following provisions:

"(1) Section 57(a)(1) (relating to depletion).

"(2) Section 57(a)(2) (relating to intangible drilling costs).

"(3) Section 57(a)(4) (relating to bad debts reserve).

"(4) Section 57(a)(7) (relating to accelerated depreciation or amortization).

"(d) DEFINITIONS.—

"(1) QUALIFIED SMALL BUSINESS ACTIVITY.—For purposes of this section, the term 'qualified small business activity' means any trade or business activity conducted by an individual or by a corporation or partnership if such individual or entity (as the case may be) meets the $1,000,000 gross receipts test of paragraph (3) for all prior taxable years beginning after December 31, 1991.

"(2) $1,000,000 GROSS RECEIPTS TEST.—For purposes of paragraph (1)—

"(A) IN GENERAL.—An individual or entity meets the $1,000,000 gross receipts test of this subsection for any prior taxable year if the average annual gross receipts of such person or entity for the 3-taxable year period ending with such prior taxable year does not exceed $1,000,000.

"(B) AGGREGATION AND SPECIAL RULES.—For purposes of subparagraph (A), aggregation and special rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply in determining whether an individual or entity satisfies the $1,000,000 gross receipts test.

"(e) FRESH START TRANSITIONAL RULES FOR AN ACTIVITY THAT CEASES TO BE A QUALIFIED SMALL BUSINESS ACTIVITY.—

"(1) IN GENERAL.—If an activity ceases to be a qualified small business activity, the adjustments and preferences with respect to the activity listed in subsections (b) and (c) shall be applied in computing alternative minimum taxable income for the taxable year of the cessation and subsequent taxable years by substituting the last day of the last taxable year in which the activity was as a qualified small business activity for December 31, 1986, and December 31, 1989. Any references to January 1, 1987, or January 1, 1990, in sections 56 and 57 shall be treated as if such references were to the first day of the taxable year in which the activity ceased to be a qualified small business activity.

"(2) EFFECT OF ADJUSTMENTS PRIOR TO THE ENACTMENT OF THIS SECTION.—

"(A) IN GENERAL.—In determining the amount of any adjustments or preferences with respect to an activity in a taxable year in which (or after) the activity ceases to be a qualified small business activity, any of the adjustments listed in subsection (b) and previously taken into account with respect to the activity in a taxable year beginning on or before December 31, 1992, shall be disregarded.

"(B) FRESH START BASIS.—As of the first day of the taxable year in which an activity ceases to be a qualified small business activity, the basis of the activity's assets for purposes of determining the regular tax shall be used in computing the adjustments and preferences required under sections 56 and 57.

"(f) ELECTION TO BE TREATED AS OTHER THAN A QUALIFIED SMALL BUSINESS ACTIVITY.—An activity may elect to be treated for all taxable years as other than a qualified small business activity. Such election shall be made on or before the due date of the activity's return (determined without regard to extensions) for the later of—

"(1) the first taxable year that the activity is a qualified small business activity, or

"(2) the first taxable year beginning after December 31, 1992.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter 1 is amended by inserting after the item relating to section 58 the following new item:

"Sec. 58A. Special exceptions for small businesses."

SEC. 104. INCREASE IN PERMITTED NUMBER OF SUBCHAPTER S SHAREHOLDERS.

Subparagraph (A) of section 1361(b)(1) (defining small business corporation) is amended by striking "35" and inserting "50".

TITLE II—ACCOUNTING PROVISIONS

SEC. 201. INFLATION-ADJUSTED FIFO INVENTORY METHOD FOR CERTAIN SMALL BUSINESSES.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. INFLATION-ADJUSTED FIFO INVENTORY METHOD FOR CERTAIN SMALL BUSINESSES.

"(a) GENERAL RULE.—An eligible small business may elect to use the inflation-adjusted FIFO inventory method for purposes of valuing all of its inventories.

"(b) INFLATION-ADJUSTED FIFO INVENTORY METHOD OF VALUING INVENTORIES.—For purposes of this section—

"(1) IN GENERAL.—The inflation-adjusted FIFO inventory method of valuing inventories is a method of valuing inventories under which—

"(A) the taxpayer maintains its inventory under the first-in, first-out method authorized by section 471, and

"(B) cost of goods sold is increased each taxable year by an amount computed by multiplying the applicable Consumer Price Index increase by so much of the total beginning of the year FIFO inventory (computed in subparagraph (A)) as does not exceed the total ending of the year FIFO inventory.

"(2) APPLICABLE CONSUMER PRICE INDEX INCREASE.—The term 'applicable Consumer Price Index increase' means the percentage increase (if any) in the Consumer Price Index for all-urban consumers published by the Department of Labor during the calendar year ending with or within the taxable year of the taxpayer.

"(c) ELIGIBLE SMALL BUSINESS.—For purposes of this section, a taxpayer is an eligible small business for any taxable year if the average annual gross receipts of the taxpayer for the 3 preceding taxable years do not exceed $10,000,000. For purposes of the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(d) 6-YEAR AVERAGING FOR INCREASES IN INVENTORY VALUE.—The beginning inventory for the first taxable year for which the method described in subsection (b) is used (and for all subsequent years that the method is used) shall be valued at cost. Any change in the inventory amount resulting from the application of the preceding sentence shall be taken into account ratably in each of the 6 taxable years beginning with the first taxable year for which the method described in subsection (b) is first used.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) ELECTION.—

"(A) IN GENERAL.—The election under this section may be made without the consent of the Secretary.

"(B) PERIOD TO WHICH ELECTION APPLIES.—The election under this section shall apply—

"(i) to the taxable year for which it is made, and

"(ii) to all subsequent taxable years for which the taxpayer is an eligible small business, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(2) CHANGES IN METHOD OF ACCOUNTING.—

"(A) TAXPAYERS CHANGING FROM LIFO TO THE METHOD UNDER THIS SECTION.—In the case of a change from a LIFO method under section 472 or 474 to an election under this section—

"(i) beginning inventory shall be restated to FIFO as described in subsection (b), and

"(ii) the difference between restated inventory computed in clause (i) and the basis of the taxpayer's inventory computed under LIFO will be treated as an increase to basis of inventory with no corresponding increase to income.

"(B) TAXPAYERS CHANGING FROM THE METHOD UNDER THIS SECTION TO LIFO.—A taxpayer changing its method of accounting to LIFO from the method prescribed in this section—

"(i) may change its method of accounting without the consent of the Commissioner, provided the taxpayer has not used the LIFO method within the past six taxable years, and

"(ii) must comply with section 472 and the regulations thereunder regarding the adoption of LIFO.

"(C) TAXPAYERS CHANGING FROM THE METHOD UNDER THIS SECTION TO FIFO.—A taxpayer changing its method of accounting to FIFO from the method prescribed in this section may change its method of accounting without the consent of the Commissioner.

"(f) REGULATIONS.—The Secretary shall be authorized to prescribe regulations necessary to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Inflation-adjusted FIFO method for certain small businesses."

SEC. 202. EXEMPT SMALL BUSINESS FROM THE UNIFORM CAPITALIZATION RULES.

(a) AMENDMENTS TO SECTION 263A.—

(1) IN GENERAL.—Subsection (c) of section 263A is amended by adding at the end thereof the following new paragraph:

"(7) TAXPAYERS WITH GROSS RECEIPTS OF $10,000,000 OR LESS.—

"(A) IN GENERAL.—This section shall not apply to any taxpayer if the average annual gross receipts of the taxpayer (or any predecessor) for the 3-taxable year period ending with the taxable year preceding such taxable year do not exceed $10,000,000. For purposes of the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

"(B) CHANGES IN METHOD OF ACCOUNTING.—Except as otherwise provided by the Secretary through regulations (or other administrative guidance), a taxpayer changing its method of accounting by reason of satisfying or failing to satisfy the $10,000,000 average annual gross receipts test in subparagraph (A) must obtain the consent of the Secretary to change its method of accounting.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph 2 of section 263A(b) is amended to read as follows:

"(2) PROPERTY ACQUIRED FOR RESALE.—Real or personal property described in section 1221(1) which is acquired by the taxpayer for resale."

(B) Subsection (i)(2) of section 263A is amended by striking "in the case of property described in subsection (b)(2)".

(b) AMENDMENT TO SECTION 471.—Section 471 (relating to general rules for inventories) is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

"(b) COST CAPITALIZATION FOR TAXPAYERS WITH GROSS RECEIPTS THAT DO NOT EXCEED $1,000,000.—

"(1) IN GENERAL.—If a taxpayer's average annual gross receipts for its immediately preceding three taxable years do not exceed $1,000,000 the taxpayer shall not be required to include in its inventory costs any indirect costs incurred. For purposes of the preceding sentence, indirect costs include all costs other than direct costs of acquiring or producing the inventory. For purposes of this subsection, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply in determining whether a taxpayer has average annual gross receipts that do not exceed $1,000,000.

"(2) CHANGES IN METHOD OF ACCOUNTING.—Except as otherwise provided by the Secretary through regulations (or other administrative guidance), a taxpayer changing its method of accounting by reason of satisfying or failing the $1,000,000 average annual gross receipts test in paragraph (1) must obtain the consent of the Secretary to change its method of accounting for indirect costs under paragraph (1).".

(c) AMENDMENT TO SECTION 263.—Section 263 (relating to capital expenditures) is amended by adding at the end thereof the following new subsection:

"(j) COST CAPITALIZATION FOR TAXPAYERS WITH GROSS RECEIPTS THAT DO NOT EXCEED $1,000,000.—If a taxpayer's average annual gross receipts for its immediately preceding 3 taxable years do not exceed $1,000,000, the taxpayer shall not be required to capitalize any indirect costs incurred in the taxpayer's current taxable year to its capital expenditures. For purposes of the preceding sentence, indirect costs include all costs other than direct costs. For purposes of this subsection, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply in determining whether a taxpayer has average annual gross receipts that do not exceed $1,000,000.".

(d) EFFECTIVE DATES.—

(1) SPECIAL RULE APPLICABLE TO INVENTORY PROPERTY.—

(A) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1992.

(B) CHANGE IN METHOD OF ACCOUNTING.—If the taxpayer is permitted by the amendments made by this section to change its method of accounting with respect to inventory for its 1st taxable year beginning after December 31, 1992—

(i) such change shall be treated as initiated by the taxpayer,

(ii) such change shall be treated as made with the consent of the Secretary,

(iii) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 3 years.

In applying clause (iii), however, the Secretary may prescribe any other administrative procedures (for example, a cut-off method) for effecting the permitted method change which would prevent duplications or omissions of income or deductions, and thus make adjustments under section 481 unnecessary.

(2) NONINVENTORY EFFECTIVE DATE.—The amendments made by subsection (c) shall apply with respect to costs incurred in taxable years beginning after December 31, 1992.

SEC. 203. EXEMPTION OF SMALL BUSINESSES FROM LONG-TERM CONTRACT RULES.

(a) GENERAL RULE.—

(1) Paragraph (1) of section 460(e) is amended to read as follows:

"(1) IN GENERAL.—

"(A) Subsections (a), (b), and (c) (1) and (2) shall not apply to any home construction contract.

"(B) This section shall not apply to any other contract entered into by a taxpayer whose average annual gross receipts for the 3 taxable years immediately preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

In the case of a home construction contract with respect to which the requirements of subparagraph (B) are not met, section 263A shall apply notwithstanding subsection (c)(4) thereof.".

(2) The subsection heading for subsection (e) of section 460 is amended by striking "CONSTRUCTION".

(b) AMT EXCEPTION FOR SMALL CONTRACTORS.—Paragraph (3) of section 56(a) is amended to read as follows:

"(3) TREATMENT OF CERTAIN LONG-TERM CONTRACTS.—In the case of any long-term contract entered into by the taxpayer on or after March 1, 1986, the taxable income from such contract shall be determined under the percentage of completion method of accounting (as modified by section 460(b)). The preceding sentence shall not apply to any contract described in section 460(e)(1).".

(c) AMENDMENTS TO SECTION 451.—Section 451 is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULE FOR DETERMINING INCOME FROM A LONG-TERM CONTRACT FOR ELIGIBLE TAXPAYERS.—

"(1) IN GENERAL.—A taxpayer shall not be required to allocate indirect costs to any long-term contract entered into during a taxable year for which the taxpayer is an eligible taxpayer.

"(2) ELIGIBLE TAXPAYER.—For purposes of this subsection, an 'eligible taxpayer' is a taxpayer whose average annual gross receipts for the 3 taxable years immediately preceding the current taxable year do not exceed $1,000,000. For purposes of the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply in determining whether a taxpayer has average annual gross receipts that do not exceed $1,000,000.

"(3) INDIRECT COSTS.—For purposes of this subsection, indirect costs are all costs other than direct costs."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into in taxable years beginning after December 31, 1992.

Mr. PRESSLER. Mr. President, I am pleased to join today with the Republican leader, the ranking Republican on the Finance Committee, Senator PACKWOOD, and several other of our colleagues, in introducing the Small Business Investment Act of 1993. As ranking Republican on the Senate Small Business Committee, I consider the provisions of this comprehensive small business tax reform plan to be vital components of any economic stimulus program this Congress may enact.

The legislation we introduce today is designed to simplify the Tax Code for small businesses. It would ease the Federal tax compliance burden on small businesses. At the same time, it would create new incentives and improve existing incentives contained in the Federal Tax Code. These incentives would provide additional capital to new and existing small businesses.

Mr. President, entrepreneurs in my home State of South Dakota often tell me that one of the major hurdles they face in getting a small business off the ground is the availability of capital. Three provisions in this bill—increasing the deduction for certain investments from $10,000 to $25,000; allowing immediate expensing of new business startup costs; and exempting small businesses from alternative minimum tax provisions—are designed to reduce the cost of capital, increase cash flow

and lower the after tax cost of starting a small business.

Small businesses also often find their attentions diverted and their resources limited by complex Federal mandates. Two sections of our bill—the alternative minimum tax exemption; and a small business exemption from the rules governing long-term contracts—would reduce some of the accounting burdens currently faced by our small businesses.

Mr. President, these and other provisions in our bill are designed to help America's small businesses do what they do best—create jobs and stimulate the economy. In my home State of South Dakota, 95 percent of all businesses are small business. Small businesses employed 74.7 percent of South Dakota's private nonfarm workers in 1990. The Small Business Administration reports that from June 1991 to June 1992, small business nationally created 173,000 jobs, while firms with more than 500 employees lost 235,000 jobs. Small businesses accounted for two out of every three new jobs created from 1982 to 1990.

Clearly, small business is the engine that drives America's economy. If enacted, this bill will help ensure that the train of economic recovery in this country not only stays on the tracks, but picks up steam.

Mr. DOMENICI. Mr. President, I rise to tell the Senate a little bit about a bill that was introduced by Senator DOLE, the Republican leader, that I joined, and many of my colleague joined as original cosponsors. It is called the Small Business Investment Act of 1993.

Obviously, back in September 1992, with the Presidential campaign in full swing, President Bush outlined a package of small business tax initiatives that would simplify significantly tax compliance for all small business. It is history now that he lost the election. But this package was so important that he directed Treasury Secretary Brady to go ahead and work out the details of the new initiatives. That legislative package is what we are introducing today.

Small business, as I see it, is the little engine that could. Each one independently puffs away, saying, "I think I can; I think I can." Some fail, but a great majority succeed. Add the millions of small businesses together in the American economy and they make up three-fourths of the jobs that the American people hold today.

You have new innovations; you have the most productive people on Earth. And there is no doubt that we need to promote the small-business sector to ensure future growth and more jobs.

The National Federation of Independent Business, their foundation, has surveys. They talk to small business regularly.

Let me suggest the survey is designed to identify problems and priorities. Last year's survey said, of the 75 potential business problems, the cost of health insurance was by far the most serious problem for small business.

We have all been working on that.

Federal taxes on business income rank second. This is a serious worry that small business owners have. Yet, it proved to be only part of a much deeper concern over taxes. Tax issues dominate the first 10 problems on their list: Taxes on income, to cash flow, to workman's compensation, to FICA taxes, to tax regulations.

This package that we introduce today focuses on radically simplifying compliance under the tax laws. The Treasury Department estimates that taken together, the initiatives eliminate 160 million hours of annual recordkeeping and return preparation time by small businesses across this country.

These initiatives will meaningfully reduce capital costs and increase return to small businesses.

This legislation will mean a lot to small businesses everywhere, in Virginia, the State where the occupant of the Chair resides, to New Mexico. Ninety-nine percent of the businesses in my State are small businesses, using the criteria of this bill and elsewhere in the law, under $5 million in sales and less than 500 employees. This legislation will mean more new business formations, expansion of existing ones, higher productivity and new innovations. In essence, it means more jobs.

By Mr. SARBANES:

S. 161. A bill to provide for an endowment grant program to support college access programs nationwide, and for other purposes; to the Committee on Labor and Human Resources.

COLLEGE ACCESS ACT

• Mr. SARBANES. Mr. President, I rise today to introduce the College Access Act, a bill to establish an endowment grant program to support college access programs nationwide. This important legislation will encourage and enable public high school students to attend institutions of higher education throughout the country. It would authorize a one-time Federal investment of $25 million, an investment which would generate a significant level of support from the private sector for young people who wish to pursue postsecondary education.

College access programs provide a variety of services to disadvantaged young people. Specifically, they provide advisors who serve students in public high schools, offering assistance in addressing student's identified needs for financial aid to attend college, and for information about the college financial aid process and academic qualifications and preparation. Advisors also work to provide incentives for students and to generate interest and motivation in pursuing postsecondary education.

A very important, but often overlooked, service offered through college access programs is the underwriting of costs of preparing for college, including entrance exams, application fees, and SAT and ACT preparation courses. Additional services may include full and partial financial grants—especially "last dollar" gap financing, assistance in selecting and applying to appropriate colleges, and assistance in applying for financial aid. Further services may include underwriting the costs of entering college, including dormitory reservations and college acceptance fees. College access programs also provide continuing mentors for students who attend college, including reimbursing students who act as tutors and peer counselors while in school.

An important aspect of college access programs is the widespread community support they receive—from individuals to the business and foundation sectors, as well as from cities and, in some cases, the State. The success of this approach is very well illustrated by the program operated in Baltimore, MD, by the CollegeBound Foundation. Established by the Greater Baltimore Committee, Mayor Kurt Schmoke, and Baltimoreans United In Leadership Development [BUILD], assistance provided through the CollegeBound Foundation's college access program since its inception has led to a 24-percent increase in the number of Baltimore City public high school students taking the SATs, a 14-percent increase in the percentage of students completing Financial Aid forms, and a 77-percent increase in the number of students who completed college applications.

A 20 year retrospective study of students assisted by the oldest college access program in the Nation, the Cleveland Scholarship Programs [CSP], shows similar results. Nine out of ten of the study's participants had attended a 4-year college, graduated, or gone on to professional or graduate school, 77 percent had finished college, and more than 1 out of 4 had done some postgraduate work. These results are especially significant when you consider that the largest percentage of students served come from families whose annual incomes are between $5,000 and $14,999. Thirty-one percent reported family income between $15,000 and $24,999, and approximately 10 percent come from families with incomes of less than $5,000. Clearly, college access programs are reaching a population of young people who might otherwise never have an opportunity to pursue a higher education.

Mr. President, every society of any consequence attaches enormous importance to educating its next generation. If a society is to develop to its full strength and potential, it is essential to develop the talents and skills of the young. College access programs, which provide services to ensure access to

higher education for capable but economically disadvantaged young people, perform an important role in this critical effort. I am very pleased to introduce the College Access Act today and strongly urge my colleagues to join in an effort to ensure its swift passage.●

By Mr. DASCHLE:

S. 162. A bill to amend the Internal Revenue Code of 1986 to allow Indian tribes to receive charitable contributions of inventory; to the Committee on Finance.

INDIAN TRIBES CHARITABLE CONTRIBUTIONS ACT OF 1993

● Mr. DASCHLE. Mr. President, I am introducing legislation that would expand the current inventory charitable donation rule to include Indian tribes. This proposal is short and simple.

Under current law, companies may obtain a special charitable donation tax deduction under Internal Revenue Code section 170(e)(3) for contributing their excess inventory to the ill, the needy, or infants. While not limited to any particular type of company or inventory, this deduction commonly is used by food processing companies whose excess food inventories otherwise would spoil. Indian tribes have had difficulty obtaining these donations, however, because of an ambiguity in the law as to whether or not donating companies may deduct donations to people on Indian reservations.

The current language in section 170(e)(3) requires charitable donations of excess inventory to be made to organizations that are described in section 501(c)(3) of the Code and exempt from taxation under section 501(a). While Indian tribes are exempt from taxation, they are not among the organizations described in section 501(c)(3). Accordingly, it is not clear that a direct donation of excess inventory to an Indian tribe would qualify for the charitable donation deduction under section 170(e)(3).

Ironically, the Indian Tribal Government Tax Status Act found in section 7871 provides that an Indian tribal government shall be treated as a State for purposes of determining tax deductibility of charitable contributions made pursuant to section 170. Unfortunately, the act does not expressly extend to donations made under section 170(e)(3) because that provision technically does not include States as eligible donees, either.

Mr. President, it is well documented that a disproportionate number of the ill and the needy, many of whom are infants, can be found on Indian reservations. No one would argue that it is not within the intent of section 170(e)(3) to allow contributions to these people to qualify for the special charitable donation deduction in that section of the Code. That is what the bill I am introducing today would do. By allowing companies to make qualified contributions to Indian tribes under section 170(e)(3), the bill would clearly further the intended purpose of both Internal Revenue Code section 170(e)(3) and the Indian Tribal Government Tax Status Act.

The appropriateness of this measure is exhibited by the fact that it was included in H.R. 11, the Revenue Act of 1992, which was vetoed by President Bush. Moreover, at the time it was passed, the measure was supported on policy grounds by the Joint Committee on Taxation and Finance Committee staff.

I strongly encourage my colleagues to take another close look at this bill and consider supporting this worthy and reasonable measure.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks.

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

S. 162

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

SECTION 1. CHARITABLE CONTRIBUTIONS OF INVENTORY TO INDIAN TRIBES.

(a) IN GENERAL.—Section 170(e)(3) of the Internal Revenue Code of 1986 (relating to special rule for certain contributions of inventory or other property) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR INDIAN TRIBES.—

"(i) IN GENERAL.—An Indian tribe (as defined in section 7871(c)(3)(E)(ii)) shall be treated as an organization eligible to be a donee under subparagraph (A).

"(ii) USE OF PROPERTY.—For purposes of subparagraph (A)(i), if the use of the property donated is related to the exercise of an essential governmental function of the Indian tribal government, such use shall be treated as related to the purpose or function constituting the basis for the organization's exemption."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.●

By Mr. DASCHLE:

S. 163. A bill to require the Secretary of the Treasury to perform a study of the structure, operation, practice, and regulation of Japan's capital and securities markets, and their implications for the United States; to the Committee on Banking, Housing, and Urban Affairs.

FOREIGN CAPITAL AND SECURITIES MARKETS STUDY ACT

● Mr. DASCHLE. Mr. President, I urge my colleagues to join me in supporting legislation to address a topic with significant consequences for the United States—the structure, operation, and practices of Japan's capital and securities markets.

The Foreign Capital and Securities Markets Study Act, which I introduce today, calls on the Secretary of the Treasury to conduct a year-long study of Japan's capital and securities markets and their implications for the United States. The provisions of the bill are identical to legislation I introduced in the 102d Congress and were included in H.R. 11, the Revenue Act of 1992, which was vetoed by President Bush.

The study called for in the legislation will focus on how the structure and operation of Japan's capital and securities markets provide Japanese manufacturers with competitive advantages against their American counterparts. The study also will examine how these markets, in the way they are structured and operated, pose a risk to American investments, international liquidity, and the stability of international financial markets. The study will touch on several topics that have been the subject of negotiation between the United States and Japan in the Structural Impediments Initiative, such as corporate governance and cross-shareholding, but which have never been studied in the breadth or depth proposed in this legislation.

The time is right for such a study. We have watched with interest the reports of insider dealings, loss-guarantee payments, market manipulation and other irregularities emanating last summer from Japan. We have seen allegations that Nomura Securities, the world's preeminent securities house, consorted with and manipulated stock prices for Japanese gangsters. We have seen disclosures that Japanese securities houses paid more than $1 billion to cover the market losses of favored insiders, which include the world's most powerful industrial corporations.

The Japanese stock market scandals of 1991 are reason enough for this legislation. In today's global financial markets, a scandal of this proportion has international dimensions. We must know how the scandals will affect the United States economy as a whole, as well as American investors, including United States pension funds that have invested billions in the Japanese markets.

What may be more important for the long-term well-being of the United States economy, however, is what the scandals reveal about the structure and operation of the Japanese capital and securities markets. These scandals give us a glimpse into the heart of Japan, Inc. They call our attention to the much broader and fundamental contributions of Japan's financial sector to that country's remarkable postwar economic success. In so doing, the Japanese financial scandal has profound consequences for the United States, reaching from Wall Street in Manhattan to Main Street in Aberdeen, SD.

The consequences are as subtle as they are profound; here are some examples of what I mean:

COST OF CAPITAL

The structure and operation of Japan's securities and capital markets have provided Japanese corporations

with access to cheap capital, especially during the "go-go" 1980's. This advantage over their American competitors has allowed Japanese companies to pursue aggressive market and pricing strategies, modernize plant and equipment, conduct extensive research and development programs, acquire American companies, and make other investments to position themselves for global competition in the 1990's. Sony, for example, reportedly raised more than $6 billion in stock and equity-based bond issues between 1987 and 1990. Sony's reported cost of capital for these funds was estimated to be under 1 percent. In the same time frame, Sony acquired CBS Records and Columbia Pictures for a combined total of $5.7 billion. Access to such low-cost funds, when American companies are paying 10 percent or more, can spell the difference between competitive success and failure.

BARRIERS TO TRADE

The structure and operation of Japan's securities markets also have facilitated barriers to United States exports to Japan. In the well-known keiretsu corporate structure, Japanese suppliers and their customers develop longstanding business relationships through reciprocal stable shareholding arrangements, interlocking directorates, and other mutually beneficial stock arrangements. One obligation of the arrangement is continued procurement from the supplier company, which in turn depends heavily upon and works intimately with the keiretsu customer. Such relationships, forged in Japanese securities markets, act to exclude American vendors seeking to penetrate the Japanese market.

ANOTHER FINANCIAL SCANDAL

Japanese banks, including some of the largest banks in the world, are confronting problems similar to those faced by American banks and savings and loans. Japan's real estate and securities markets, which have been marvels of long-term growth, are depressed significantly. This downturn poses a two-pronged threat to Japanese banks.

First, loan losses could soar along with surging loan defaults and bankruptcies, especially in the real estate sector. The Economist magazine projects that Japanese bankruptcies could reach into hundreds of billions of dollars over the next few years, with Japanese banks woefully unprepared. Loan loss reserves in Japanese banks are reported to amount to only three trillion yen on 448 trillion yen in outstanding loans.

Second, Japanese banks rely heavily upon securities in their portfolios to meet international capital standards. With the sharp downturn in the Japanese stock market, Japanese banks reportedly have encountered difficulty in meeting those capital standards, and have been forced to take remedial actions like curtailing international lending activity.

This scenario seems disturbingly similar to our own banking and savings and loan debacle. But the implications of Japan's financial problems extend even further. Japanese banks and financial institutions play a critical role in providing international liquidity, including, most importantly for us, the financing of United States Government budget deficits. Serious dislocations in the Japanese financial sector could have global consequences.

In light of the magnitude of these and other questions concerning the implications for the United States of the structure and operation of Japan's securities and capital markets, this proposal is a fair, measured, even cautious response. If United States policy in this vitally important area is to rest on a solid foundation, we must have a comprehensive understanding of the Japanese financial markets and how they affect all Americans.

Mr. President, I ask that the text of the bill be printed in the RECORD in its entirety at the close of my remarks.

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

S. 163

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Capital and Securities Markets Study Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) Japan's capital and securities markets have assumed a global significance;

(2) growing interaction between the capital and securities markets of the United States and Japan can affect national policies on exchange rates, investment, fiscal policy, and public debt;

(3) Japan's capital and securities markets have different structures, operations, practices, and regulatory regimes than United States markets;

(4) the different structures, operations, practices, and regulatory regimes of Japan's capital and securities markets could cause significant economic effects in the United States; and

(5) a study by the Secretary of the Treasury therefore is required to gain a fuller understanding of the structure, operation, practice, and regulation of Japan's capital and securities markets and their implications for the United States.

SEC. 3. STUDY OF CAPITAL AND SECURITIES MARKETS.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall conduct a study of the capital and securities markets of Japan in accordance with subsection (b). Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the structure, operation, practice, and regulation of Japan's capital and securities markets, and their implications for the United States.

(b) STUDY TOPICS.—In conducting the study required by subsection (a), the Secretary shall consider—

(1) with regard to Japan's capital and securities markets—

(A) methods used by Japanese companies to raise capital, and the cost of such capital, at present and historically;

(B) Japanese methods of corporate governance, particularly with regard to the effectiveness of shareholder meetings, proxy solicitations, and other methods of shareholder participation, the strength of the consumer movement in Japan and its implications for shareholder rights, techniques used by corporate management regarding shareholder participation in corporate governance, and the general effectiveness of shareholder rights in the supervision of corporate managers;

(C) practices and techniques used by Japanese securities brokers and dealers;

(D) the prevalence of loss guarantees and similar practices in securities dealing;

(E) the prevalence of companies having common directors, especially directors common to financial institutions and client industrial companies;

(F) the practice known as "stable shareholding" and other reciprocal shareholding relationships, especially between vendors and customers;

(G) the role played by banks and other financial institutions in capital and securities markets, particularly with regard to equity participation, participation in corporate governance, investment practices, and adequacy of collateral;

(H) the financial strength of Japanese banks, including the adequacy of capital and loan loss reserves, the impact of current trends in securities values on bank capital, and the impact of current trends in real estate values on bank profitability, loan defaults, and the adequacy of collateral;

(I) trends in Japanese real estate and securities values, particularly in relation to savings rates, the adequacy of collateral, loan defalcations, bankruptcies, investment in the United States, and capital repatriation from the United States;

(J) the adequacy of disclosure requirements imposed on industrial corporations, banks, securities houses, and other financial institutions and the extent of compliance by such organizations, including disclosure of primary bank and reciprocal or similar shareholding relationships;

(K) the use of securities and real estate holdings as collateral, and the implications of any decline in value of such collateral; and

(L) the adequacy of judicial relief available to foreign investors claiming injury under Japanese law, including the availability of administrative remedies, the sufficiency and effectiveness of discovery procedures and the timeliness of relief; and

(2) with regard to the economic effects of such markets on the United States—

(A) the magnitude of United States investment in Japanese securities, particularly by United States pension funds, and the implications for United States investors of the structures, operations, practices, and regulations of Japan's capital and securities markets, including the safety of securities investments, the validity of price and volume signals on Japanese exchanges, the ability to participate in corporate governance, and other protections of shareholders' rights;

(B) the implications for United States securities markets, particularly the risk that developments in Japan could have consequences for the United States;

(C) the implications for United States capital markets, including international liquidity, United States interest rates, Japanese investment in the United States, capital re-

patriation to Japan, and domestic capital supply;

(D) the effect on United States macroeconomic policies, including interest rate policy, exchange rate policy, fiscal policy, monetary policy, and public debt policy;

(E) the implications for the competitiveness of United States enterprises, including the comparative cost of capital, duties to shareholders, research and development expenditures, and investments in plant and equipment; and

(F) the effectiveness of remedies available to United States investors in Japanese securities, and the amount of dealing in Japanese securities in the United States, whether directly or indirectly.

(c) CONSULTATIONS.—The Secretary shall consult with the Chairman of the Securities and Exchange Commission, the United States Trade Representative, and such other agencies or persons as the Secretary may deem necessary to complete the study and report required under this Act. The Secretary may consult with agencies of the Government of Japan, Japanese exchanges, and such other Japanese persons or organizations as the Secretary may deem appropriate.

SEC. 4. DEFINITIONS.

For purposes of this Act the term "security" has the same meaning as in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(10)).●

By Mr. DASCHLE:

S. 164. A bill to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest, and for other purposes; to the Committee on Energy and Natural Resources.

SIOUX RANGER DISTRICT ACT OF 1993

● Mr. DASCHLE. Mr. President, today I am reintroducing legislation to authorize the adjustment of the boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest. This legislation was approved last year by the Energy Committee. Although there was no opposition to the bill, S. 1879, it was held up in the final hours of the 102d Congress due to an unrelated dispute regarding other Energy Committee legislation. I am confident it will receive timely consideration in the Senate this year.

Most land exchanges between private landowners and the Forest Service are authorized in accordance with three existing laws. The one relevant to this legislation is the General Exchange Act of 1922, which allows for exchanges of lands only within the exterior boundaries of national forest lands. The national forest boundary usually lies directly adjacent to federally owned lands, and, as a result, lands that are outside the boundary cannot be exchanged even if they are immediately adjacent to the boundary and forest land. The legislation I am introducing today would enable the Secretary of Agriculture to accept title to any lands located within 5 miles of the exterior boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest.

Over a period of 50 years, a number of boundary extension laws have been passed to allow land exchange to include lands adjacent to, but outside, national forest boundaries. My legislation would enable the South Dakota portion of the Sioux Ranger District to conduct the kind of land exchanges that the rest of Custer National Forest, and a significant number of other national forests, are already entitled to conduct.

Land exchanges have been used as a tool by the Forest Service and private land owners to increase the management efficiency of their respective holdings, allow consolidation of property ownership and resolve Forest Service management issues such as public access and trespass situations. The Sioux Ranger District has two firm and several tentative land exchange proposals from private landowners that involve lands just outside the forest boundary. This general boundary extension is necessary to facilitate these land exchanges.

Mr. President, I urge my colleagues to join me in support of this bill, and ask unanimous consent to have the full text of the bill printed in the RECORD.

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

S. 164

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

SECTION 1. SIOUX RANGER DISTRICT BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—In accordance with the Act entitled "An Act to consolidate national forest lands", approved March 20, 1922 (16 U.S.C. 485 et seq.), and in exchange for national forest lands in Custer National Forest, the Secretary of Agriculture may accept title to any lands located within 5 miles of the exterior boundaries of the South Dakota portion of the Sioux Ranger District of Custer National Forest that are not owned by the United States and that are found by the Secretary of Agriculture to be chiefly valuable for national forest purposes.

(b) INCORPORATION INTO CUSTER NATIONAL FOREST.—Upon acceptance of title by the Secretary of Agriculture, lands conveyed to the United States in accordance with subsection (a) shall become part of Custer National Forest.●

By Mr. WALLOP:

S. 165. A bill to amend chapter 6 of title 5, United States Code, relating to regulatory flexibility analysis; to the Committee on the Judiciary.

REGULATORY FLEXIBILITY ANALYSIS ACT OF 1993

● Mr. WALLOP. Mr. President, jobs, jobs, jobs. That was the promise Americans heard echoed all across this country last year from those running for the highest office in the land to the smallest local election. Those promises were well focused. Long-term economic growth hinges on growth in our labor force and increases in the productivity of that labor force. If we cannot sustain economic growth, if we do not have a healthy job market, then America can no longer afford to be the steadying presence in foreign affairs, or to be the leader in the area of civil rights, or in environmental awareness, or to stun the world with scientific achievements.

As the 103d Congress convenes and the new administration settles into the White House, I would like to draw attention to one of the biggest obstacles to jobs, growth in the labor force, and productivity of American businesses today. That is the Federal Government itself.

The concept of federalism upon which this country was founded has sadly gone awry. Instead of recognizing the limits of the National Government and that some things are best achieved at the State and local level, or God forbid, by the people themselves, we seem to have accepted the notion that the Federal Government must be all things to all people, and solve all of America's problems from the top down. As a result, we have a Congress that measures success by the number of laws it passes to regulate all aspects of human existence and agency officials whose importance is determined by the number of people working for them, how many rules and regulations they produce each year, and how many enforcement actions are brought against the regulated public.

There is no doubt that all of this started with somebody's good intention or that some may even be necessary, but where do we stop? The Federal Government is the biggest growth industry in this country today and it continues to pass laws, and write rules and regulations to implement those laws, and to cover the country with a network of low-level bureaucrats to enforce all these laws, rules, and regulations until the cumulative effect is to smother the American spirit. There are today more government employees in America than there are jobs in manufacturing.

Alexis DeToqueville, the great French philosopher who wrote the classic study of political institutions, "Democracy in America," foresaw what would happen in his chapter entitled "What Sort of Despotism Democratic Nations Have to Fear." DeToqueville describes a government such as ours as a power that,

* * * covers the surface of society with a network of small complicated rules, minute and uniform, through which even the most original minds and the most energetic characters cannot penetrate to rise above the crowd. The will of man is not shattered, but softened, bent, and guided; men are seldom forced by it to act, but they are constantly restrained from acting. Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes, and stupefies a people, till each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd.

DeToqueville's vision is especially chilling because the government he de-

scribes is the all too familiar Government from Washington.

Mr. President, one of our former colleagues left the protective fold of Federal Government to join the forces of struggling businessmen and he had the intestinal fortitude to share with us his experience. I have offered this before, but I believe its powerful message is once again worthy of note as we embark on this new era.

I would like to include for the RECORD an article written by former Senator and Presidential contender, George McGovern, entitled "A Politician's Dream is a Businessman's Nightmare" dated June 1, 1992. George McGovern's Connecticut hotel went bankrupt not just because of a slow economy, but because the Government "set the bar so that it is too high to clear."

McGovern describes how he and other businessmen had to live with rules that were "all passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc." McGovern never doubted the worthiness of any of these goals, but he said that:

> The concept that most often eludes legislators is: Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape. It is a simple concern that is nonetheless often ignored by legislators.

We ignore his message at America's peril. George McGovern is right; the problem is not the worthiness of these goals. The problem is that too much government diminishes their worth and restricts the very opportunities and protection they were designed to promote.

How do we prevent a bloated government from steamrolling over the very people it was designed to serve? This is my concern. My staff and I have traveled the State of Wyoming to hear from those who feel the effect firsthand. They wonder, first of all, if Congress or the Federal agencies know what is happening. Second, they would like to see some sort of accountability for the actions of Federal employees who, by invading their lives, threaten their names, and intimidate their families, and coerce their response. Americans today are desperately trying to serve and appease their Government. When we were in school we thought that that was the Government's role, not the citizen's.

Mr. President, I am reintroducing three bills which are based on the simple but valuable advice of my constituents and I ask that they be included in the RECORD following my comments. These bills are designed to help free the American spirit so that innovation, ingenuity, and resourcefulness are rewarded, not thwarted by the Federal Government.

First of all, to ensure that Congress does, in fact, know what it is doing, I am introducing a sense of the Congress resolution which provides that each committee which reports a bill that requires employers to provide new employee benefits, obtains an objective analysis of the impact of the bill on employment and international competitiveness and includes that analysis in the committee report. Congress will then have the opportunity to consider the consequences of its actions before a bill becomes law.

Second, I am introducing amendments to strengthen the law which ensures that Federal agencies know what they are about. This will help provide regulatory relief to small businesses in particular. The 1980 Regulatory Flexibility Act was based on the premise that Federal agencies frequently do not recognize the impact their rules will have or that small businesses are disproportionately and adversely affected by Federal regulation compared to their larger counterparts. My amendments would improve the Regulatory Flexibility Act in three ways; by providing for coverage of interpretative rules, by providing for judicial review and by modifying the definitions to ensure that indirect effects of regulations are considered when an analysis of rules is undertaken.

Under current law no regulatory impact analysis is required for rules classified as interpretative. Unfortunately, some agencies improperly classify rules as interpretative and thus avoid having to perform any analysis of its impact. My amendment would close this loophole by including interpretative rules within coverage of the act.

Also, there is no meaningful judicial review of an agency's decision to certify that a rule does not have a substantial impact on a significant number of entities, even though it may impose tremendous burdens. My amendment would correct this deficiency.

Finally, the original Regulatory Flexibility Act does not take into account the fact that regulations which are imposed on small entities have an indirect impact on the customers and/or clients of those entities. My amendment would ensure that these are properly considered.

The last measure I am introducing today is designed to help ensure that agencies or agency employees who abuse the power of their positions are held accountable for those actions. Low-level bureaucrats have enormous control over many aspects of American life. They literally hold a person's future in the palm of their hands because of the broad authority which they have to issue, withhold or condition permits and to levy fines. Ordinary citizens—businessmen, ranchers, developers, even State and county officials—are afraid to complain or fight against unfair agency action out of fear of reprisal by Federal bureaucrats. Businessmen are so dependent upon permits and the discretion to issue them is so immense that bureaucratic delay, yet alone inaction, is often enough to put someone out of business. My bill is an important first step toward protecting those in the private sector who have blown the whistle against unfair agency action from reprisals by those agencies.

There is more to be done to turn the Government from the direction in which it is headed. Overregulation and governmental redtape are strangling business and economic growth, costing American taxpayers up to $1.6 trillion per year. That is why I plan to continue the Red Tape Award, something I instituted last year with several of my colleagues in order to expose and present an official certificate to the most foolish of foolish governmental regulations. The symbol for this award is the Statue of Liberty bound and gagged in redtape. Perhaps humor can succeed where common sense has failed by serving to highlight just how ridiculous and burdensome our Government can be.

You may recall, Mr. President, that the first recipient of the Red Tape Award was the Occupational Safety and Health Administration [OSHA], for its ridiculous enforcement of the hazardous communication standard. Issued in 1983, this standard requires employers to identify chemical hazards in the workplace and prepare a material safety data sheet [MSDS] on such "hazardous" materials as sawdust, sand, gravel, fire extinguishers, dishwashing liquid, liquid paper, water, and oxygen. Fining small businesses for not having a MSDS on dishwashing detergent is absurd, but that is exactly what happened.

Clearly, we've got to restore some common sense into Government regulation. Presenting the less-than-coveted Red Tape Award on a regular basis, as we plan to do, and thus exposing costly and counterproductive regulations may help that along.

Ours was to be a government of the people, by the people; not a government on the people. The three bills, along with the Red Tape Award, are important steps toward ensuring that the enterprising spirit that made this country great is not slowly and gently crushed until the American people are transformed into a flock of timid workers envisioned by DeTocqueville.

I ask unanimous consent a bill and an article appear in the RECORD following my remarks.

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

S. 165

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

DEFINITIONS

SECTION 1. Section 601 of title 5, United States Code is amended—

(1) in paragraph (2) by inserting "any rule of the Internal Revenue Service" before "or any other law, including";

(2) in paragraph (5) by striking out "and" at the end thereof;

(3) in paragraph (6) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

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

"(7) the term 'impact' means effects of a proposed or final rule which an agency can anticipate at the time of publication, and includes those effects which are directly and indirectly imposed by the proposed or final rule and are beneficial and negative.".

INITIAL REGULATORY FLEXIBILITY ANALYSIS

SEC. 2. Section 603 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence by inserting "as defined under section 601(2)" after "any proposed rule"; and

(B) in the second sentence by striking out "the impact" and inserting in lieu thereof "both the direct and indirect impacts";

(2) in subsection (b)(3) by striking out "apply" and inserting in lieu thereof "directly apply and an estimate of the number of small entities to which the rule will indirectly apply"; and

(3) in subsection (c) in the first sentence by inserting before the period "either directly or indirectly effected".

FINAL REGULATORY FLEXIBILITY ANALYSIS

SEC. 3. Section 604(a) of title 5, United States Code, is amended in the first sentence by striking out "under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking" and inserting in lieu thereof "as defined under section 610(2)".

JUDICIAL REVIEW

SEC. 4. Section 611(b) of title 5, United States Code, is amended in the second sentence by inserting "or a decision made by the head of the agency under section 605(b)," after "regulatory flexibility analysis".●

A POLITICIAN'S DREAM IS A BUSINESSMAN'S NIGHTMARE

(By George McGovern)

It's been 11 years since I left the U.S. Senate, after serving 24 years in high public office. After leaving a career in politics, I devoted much of my time to public lectures that took me into every state in the union and much of Europe, Asia, the Middle East and Latin America.

In 1988, I invested most of the earnings from this lecture circuit acquiring the leasehold on Connecticut's Stratford Inn. Hotels, inns and restaurants have always held a special fascination for me. The Stratford Inn promised the realization of a longtime dream to own a combination hotel, restaurant and public conference facility—complete with an experienced manager and staff.

In retrospect, I wish I had known more about the hazards and difficulties of such a business, especially during a recession of the kind that hit New England just as I was acquiring the inn's 43-year leasehold. I also wish that during the years I was in public office, I had this firsthand experience about the difficulties business people face very day. That knowledge would have made me a better U.S. senator and a more understanding presidential contender.

Today we are much closer to a general acknowledgment that government must encourage business to expand and grow. Bill Clinton, Paul Tsongas, Bob Kerrey and others have, I believe, changed the debate of our party. We intuitively know that to create job opportunities we need entrepreneurs who will risk their capital against an expected payoff. Too often, however, public policy does not consider whether we are choking off those opportunities.

My own business perspective has been limited to that small hotel and restaurant in Stratford, Conn., with an especially difficult lease and a severe recession. But my business associates and I also lived with federal, state and local rules that were passed with the objective of helping employees, protecting the environment, raising tax dollars for schools, protecting our customers from fire hazards, etc. While I never have doubted the worthiness of any off these goals, the concept that most often eludes legislators is: "Can we make consumers pay the higher prices for the increased operating costs that accompany public regulation and government reporting requirements with reams of red tape." It is a simple concern that is nonetheless often ignored by legislators.

For example, the papers today are filled with stories about businesses dropping health coverage for employee. We provided a substantial package for our staff at the Stratford Inn. However, were we operating today, those costs would exceed $150,000 a year for health care on top of salaries and other benefits. There would have been no reasonable way for us to absorb or pass on these costs.

Some of the escalation in the cost of health care is attributed to patients suing doctors. While for one assess the merit of all these claims, I've also witnessed firsthand the explosion in blame-shifting and scapegoating for every negative experience in life.

Today, despite bankruptcy, we are still dealing with litigation from individuals who fell in or near our restaurant. Despite these injuries, not every misstep is the fault of someone else. Not every such incident should be viewed as a lawsuit instead of an unfortunate accident. And while the business owner may prevail in the end, the endless exposure to frivolous claims and high legal fees is frightening.

Our Connecticut hotel, along with many others, went bankrupt for a variety of reasons, the general economy in the Northeast being a significant cause. But that reason masks the variety of other challenges we faced that drive operating costs and financing charges beyond what a small business can handle.

It is clear that some businesses have products that can be priced at almost any level. The price of raw materials (e.g., steel and glass) and life-saving drugs and medical care are not easily substituted by consumers. It is only competition or antitrust that tempers price increases. Consumers may delay purchases, but they have little choice when faced with higher prices.

In services, however, consumers do have a choice when faced with higher prices. You may have to stay in a hotel whole on vacation,but you can stay fewer days. You can eat in restaurants fewer times per month, or forgo a number of services from car washes to shoeshines. Every such decision eventually results in job losses for someone. And often these are the people without the skills to help themselves—the people I've spent a lifetime trying to help.

In short, "one-size-fits-all," rules for business ignore the reality of the marketplace. And setting thresholds for regulatory guidelines at artificial levels—e.g., 50 employees or more, $500,000 in sales—takes no account of other realities, such as profit margins, labor intensive vs. capital intensive businesses, and local market economics.

The problem we face as legislators is: Where do we set the bar so that it is not too high to clear? I don't have the answer I do know that we need to start raising these questions more often.

By Mr. MOYNIHAN:

S. 167. A bill to create a bipartisan commission to recommend ways to strengthen the protection of classified information and eliminate the classification of nonsensitive information; to the Committee on Governmental Affairs.

PROTECTION AND REDUCTION OF GOVERNMENT SECRECY ACT

● Mr. MOYNIHAN. Mr. President, the cold war ends on a pretty note. Across the Nation audiences are watching the movie "JFK" in which a former intelligence officer, sitting on a bench with the Washington Monument in view, explains to a district attorney that the President of the United States was murdered by the military in order to keep that war going for what turned out to be another three decades. Polls would suggest that an overwhelming proportion of American citizens believe something conspiratorial happened, and that whatever it was, the Government isn't telling.

Edward A. Shils wrote about all this far back in the fifties in his invaluable, "The Torment of Secrecy." From Freemasons through Bolsheviks—and now to the Central Intelligence Agency—

The exfoliation and intertwinement of the various patterns of belief that the world is dominated by unseen circles of conspirators, operating behind our backs, is one of the characteristic features of modern society. It is radical in its fundamental distrust of the dominant institutions and authorities of modern society.

Sad, of course. But not funny. You lose your liberties that way. Madison to Jefferson, 1793: Perhaps it is a universal truth that the loss of liberty at home is to be charged to provisions against danger, real or pretended, from abroad. I happen to believe that something of this has happened to us. There has been a loss of liberty. By which I am not talking about Red scares and loyalty oaths. But rather liberty in the sense of easiness with ideas, awareness of options, sense of opportunities. The secrecy system has done this to us. The all encompassing, smothering, suffocating secrecy system that we built up during the cold war and which won't go away because its existence is itself a kind of secret.

The new President could do no greater service to the Nation and to his administration than to set about an energetic, determined, public dismantling of said secrecy system. As the system

has grown it has become harder and harder for Government officials to discuss vital issues of the day with the American people. It has become harder for colleagues in the scientific community to discuss research and technical breakthroughs with their peers. Millions of Americans working in the Government and in defense industries must submit themselves and their families to the intrusive investigations concomitant to receiving security clearances. Nearly 7 million new documents are classified each year—a fact documented by the Information Security Oversight Offices [ISOO]. We have created an office to oversee the offices that oversee the classifiers. But the ISOO only counts secrets up to top secret. The secret is that the real secrets have even higher classifications. Perhaps they didn't tell that to the people who count the secrets.

One consequence of having 3 million security clearances and 7 million new secrets annually is that classified information is published in the papers every day. If the United States would classify a small volume of truly sensitive information it would require far fewer security clearances. And, consequently, fewer leaks.

Perhaps most important, however, the secrecy system has dulled our senses. It cuts off criticism. And ever so slightly it cautioned against seeming to be soft. Threat analysis in the worst possible condition—there's the ticket to promotion. How else to explain the utter failure of the intelligence community to predict the collapse of the Soviet Union?

Adm. Stansfield Turner has acknowledged this failure. In Foreign Affairs, he wrote of the enormity of the intelligence community failure to forecast the magnitude of the Soviet crisis. Adding, "Today we hear some revisionist rumblings that the CIA did in fact see the Soviet collapse emerging after all. Some might, he conceded. But on this one, the corporate view missed by a mile.

Owen Harries has written of the 1980's, that conservatives correctly perceived totalitarianism as an unmitigated evil that had to be fought at all costs. There is an alternative view. It is that the cold war institutions put in place in the late 1940's gradually mutated: From informing policy to making it. There was nothing conspiratorial about this. Organizations believe that way. But we ended up with a President who thought we might have to hold off the Commies at Harlingen, TX. Two days' drive, as Mr. Reagan put it, from Nicaragua. And so we became the world's largest debtor. Acheson spotted it at the time:

I had the gravest forebodings about this organization [the CIA] and warned the President that as set up neither he, the National Security Council, nor anyone else would be in a position to know what it was doing or to control it.

But then, he had insufficient foreboding about the National Security Council. In short order, it would replace the State Department in the Executive Office Building, and the NSC Director would at times displace the Secretary of State.

For what it's worth, in 1970 a task force organized by the Defense Science Board and headed by Dr. Frederick Seitz proposed just this:

The task force noted that more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information. * * * [A]ll areas.

But then they decided it wasn't practical. But today it is. We have the freedom to simultaneously reduce Government secrecy dramatically and hold closer those small number of true national security secrets.

Mr. President, this is a subject that deserves the most immediate attention. For that reason, I am introducing today legislation to create a bipartisan commission on reducing and protecting Government secrecy. I believe that this should be one of the earliest national security priorities of the first post-cold-war Presidency.

I send the legislation to the desk and ask unanimous consent that the text of the legislation be printed in the RECORD at this point.

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

S. 167

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

TITLE I. SHORT TITLE

SEC. 101. This Act may be cited as the "Protection and Reduction of Government Secrecy Act".

TITLE II: COMMISSION ON PROTECTING AND REDUCING GOVERNMENT SECRECY

SEC. 201. PURPOSE.—It is the purpose of this title to establish a study commission which will examine the implications of the systematic over classification of information and to make recommendations to reduce the volume of information classified and to strengthen the protection of legitimately classified information.

SEC. 202. FINDINGS.—(a) Following World War II the United States and the Soviet Union engaged in a global conflict known as the cold war;

(b) During the cold war a secrecy system developed to enormous proportions, thereby limiting the public's access to vital information and reducing the ability of the public to participate with full knowledge in the process of governmental decisionmaking;

(c) In 1990 6,797,720 documents were classified and approximately 3 million persons held some form of security clearance;

(d) The burden of managing nearly 7 million newly classified documents every year has led to reduced communication within the Government and within the scientific community, reduced communication between the Government and the people of the United States, tremendous administrative expense and the selective and unauthorized public disclosure of classified information;

(e) The requirement that approximately 3 million persons obtain security clearances represents a substantial loss of individual privacy which is inconsistent with American traditions;

(f) If a smaller amount of truly sensitive information was classified expense, lost privacy and inhibitions on public discussion would be reduced and the remaining classified information could be held more securely;

(g) In 1970 a task force organized by the Defense Science Board and headed by Dr. Frederick Seitz concluded that "more might be gained than lost if our Nation were to adopt—unilaterally, if necessary—a policy of complete openness in all areas of information;" and

(h) A bipartisan study commission specially constituted for the purpose of examining the consequences of the secrecy system will be able to offer comprehensive proposals for reform.

SEC. 203. FUNCTION OF THE COMMISSION.—(a) The function of the Commission shall be—

(1) to conduct an investigation into all matters in any way related to any legislation, executive order, regulation, practice or procedure relating to the access to or the classification of information or involving security clearances, including without limitation access to classified information under the Freedom of Information Act;

(2) to make such recommendations concerning the classification of national security information as the Commission shall see fit, including proposing new legislation.

SEC. 204. COMPOSITION OF THE COMMISSION.—(a) To carry out the purposes of this title, there is established a Commission on the Protection and Reduction of government Secrecy (hereafter referred to in this title as the "Commission").

(b) The Commission shall be composed of the following 12 members:

(1) Four members appointed by the President, two from the executive branch of the Government and two from private life;

(2) Four members appointed by the President of the Senate, two from the Senate (one from each of the two major political parties) and two from private life; and

(3) Four members appointed by the Speaker of the House of Representatives, two from the House of Representatives (one from each of the two major political parties) and two from private life.

(c) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(d) Seven members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) Compensation and Travel Expenses.

(1) COMPENSATION IN GENERAL.—Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(2) GOVERNMENT PERSONNEL.—Members of the Commission who are full-time officers or employees of the United States or Members of Congress shall receive no additional pay on account of their service on the Commission.

(3) TRAVEL EXPENSES.—While away from their homes or regular places of business in

the performances of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 205. POWERS OF THE COMMISSION.—(a) The Commission, or on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpoenas may be issued under the signature of the Chairman of the Commission, of any such subcommittee, or any designated member, and may be served by any person designated by such Chairman or member. The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purposes of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent authorized by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

SEC. 206. STAFF OF THE COMMISSION.—(a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at GS–18.

SEC. 207. EXPENSES OF THE COMMISSION.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.●

By Mr. GLENN (for himself and Mr. AKAKA):

S. 168. A bill to provide for procedures for the review of Federal department and agency regulations, and for other purposes; to the Committee on Governmental Affairs.

REGULATORY REVIEW SUNSHINE ACT OF 1993

● Mr. GLENN. Mr. President, I rise today to introduce the Regulatory Review Sunshine Act of 1993. This legislation, which is very similar to a bill I introduced in the last Congress, is designed to bring greater openness and public accountability to the Federal regulatory process.

Regulation is the primary means by which our Nation's laws are implemented. It is also the means by which our businesses and citizens too often experience the heavy hammer of big government. To serve its beneficial purpose, Congress and the courts have, over the course of 50 years, developed administrative procedures to make the Federal agency rulemaking process fair, reasonable, and accountable. To blunt its burdens, Presidents have more recently experimented with regulatory review requirements to try to make Federal rules less burdensome, more beneficial, and less costly.

I, for one, support both developments. Administrative procedures are needed to assure the American public that Government regulations are drafted with public participation and can be held up to judicial review. Likewise, regulatory review is needed to assure the American public that agencies are not overzealous or biased, that the Federal Government speaks with one consistent voice, and that regulations only be used where absolutely needed, with the most benefit and the least cost.

Unfortunately, over the last decade, regulatory review has been used not so much to improve rulemaking but to control it. In the last 2 years, particularly, I have seen how White House staff can use regulatory review to give special access to friendly interests, to secretly pressure agency officials to make politically favored decisions, and to hide decisions from congressional oversight. This mode of operation, as seen in the activities of the Council on Competitiveness, is unacceptable. It destroys the integrity of the rulemaking process and further undermines the faith of the American people in the institutions of government.

My legislation, almost identical to the bill that was reported favorably by the Committee on Governmental Affairs, with a bipartisan vote, in the 102d Congress, provides basic public accountability requirements to ensure that the public has fair notice of what proposals are undergoing review, who outside of government is trying to lobby the review process, and to what extent regulatory review affects any rulemaking decision. The legislation would also impose reasonable time limits on regulatory review—OMB officials have admitted that they used delay to surreptiously stop agency rulemaking.

The legislation stops at these public accountability provisions. As in the last Congress, with the last President, I believe that the structure of regulatory review should still be left to the President. If we have an assurance of public accountability and faithful implementation of statutory mandates, I think it best to defer to the President's design and operation of a central review mechanism. If, of course, sunshine is not enough, then I will revisit this issue.

I introduce this bill just as a new administration begins, and before the issuance of any new regulatory review directives. I look forward to working with the new administration on this issue and hope that my legislation will provide a standard by which they may evaluate the regulatory review system they have inherited and develop a system of their own.

I ask unanimous consent that a copy and summary of the legislation be placed into the RECORD.

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

S. 168

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Review Sunshine Act of 1993".

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) "agency" means an agency as defined under section 551(1) of title 5, United States Code, and section 552(f) of title 5, United States Code;

(2) "regulatory review" means the evaluation, review, oversight, supervision, or coordination of agency rulemaking activity by a reviewing entity directed by the President or his designee to conduct such review on an ongoing basis;

(3) "reviewing entity" means any agency, or other establishment in the executive branch of the Federal Government established by the President, which engages, in whole or in part in regulatory review;

(4) "review action" means any action, including but not limited to a recommendation or direction, regarding an agency rulemaking activity taken by a reviewing entity; and

(5) "rulemaking activity" means any activity involving a rulemaking as defined under section 551(5) of title 5, United States Code, and includes activity involving a schedule or plan for rulemaking, strategy statements, guidelines, policy manuals, grant and loan procedures, advance notices of proposed rulemaking, press releases and other documents announcing or implementing regulatory policy that affects the public.

SEC. 3. DISCLOSURE BY A REVIEWING ENTITY.

(a) PUBLIC ACCESS.—A reviewing entity shall establish procedures, consistent with subsection (b), to provide public access to information concerning each agency rulemaking activity under its review. Such information shall include a copy of—

(1) all written communications, regardless of format, including drafts of all proposals and associated analyses, between the reviewing entity and the rulemaking agency;

(2) all written communications, regardless of format, between the reviewing entity and any person not employed by the Federal Government relating to the substance of an agency rulemaking activity;

(3) a record, including the date, participants, and substance, of all oral communications relating to the substance of an agency rulemaking activity, including meetings, between the reviewing entity and any person not employed by the Federal Government;

(4) a written explanation as required by section 4(c) and the date of any significant review action; and

(5) any notice of any extensions of review under section 6.

(b) PROCEDURES.—Information described under subsection (a) shall be made available to the public upon request—

(1) within 14 days of conclusion of review;

(2) in a manner consistent with the requirements of section 552(a) of title 5, United States Code; and

(3) for review, and copying, in a publicly accessible reading room during normal business hours.

SEC. 4. DISCLOSURE TO A RULEMAKING AGENCY BY A REVIEWING ENTITY.

(a) WRITTEN COMMUNICATIONS.—A reviewing entity shall transmit to the rulemaking agency, on a timely basis, copies of any written communications between the reviewing entity and any person not employed by the Federal Government concerning the substance of a rulemaking activity of that agency.

(b) ORAL COMMUNICATIONS.—A reviewing entity shall disclose to the rulemaking agency, on a timely basis, all oral communications, including meetings, between any person not employed by the Federal Government and the reviewing entity concerning the substance of a rulemaking activity of that agency. The reviewing entity shall—

(1) advise the rulemaking agency of the date, participants, and substance of such communications; and

(2) invite the rulemaking agency head or designee to all scheduled meetings involving such communications.

(c) EXPLANATION OF SIGNIFICANT REVIEW ACTION.—A reviewing entity shall, in a timely manner, provide the rulemaking agency with a written explanation of any significant review action taken by the reviewing entity concerning an agency rulemaking activity.

SEC. 5. PUBLIC DISCLOSURE BY A RULEMAKING AGENCY.

(a) STATUS OF REVIEW.—A rulemaking agency shall upon request identify a rulemaking activity, the date upon which it was submitted to a reviewing entity for review, and any notice of any extensions of review under section 6.

(b) EXPLANATIONS.—For each proposed and final rule, a rulemaking agency shall explain in its rulemaking notice any significant changes made to such rule as a consequence of regulatory review.

(c) RECORD.—A rulemaking agency shall place in the appropriate rulemaking record all of the documents received from a reviewing entity as required under section 4.

SEC. 6. TIME LIMITS FOR REVIEW.

(a) TIME LIMITS.—Within 60 days after the receipt of a rulemaking activity submitted to a reviewing entity for review, the reviewing entity shall conclude review of the rulemaking activity. The reviewing entity may, for good cause explained to the rulemaking agency extend the time for review for 30 days.

(b) RESOLUTION OF OUTSTANDING ISSUES.—If the President, or such other person or entity as the President may designate, reviews for resolution an issue arising out of a regulatory review—

(1) the applicable time limits described under subsection (a) may be extended, although any such issue shall be resolved as promptly as practicable; and

(2) any such review shall be subject to the requirements of this Act, except for section 6(a).

(c) EXTENSIONS.—A reviewing entity shall notify the rulemaking agency of an extension beyond 60 days and provide public notice, pursuant to sections 3 and 7. The rulemaking agency shall promptly publish a notice of any such extension in the Federal Register, and shall give public notice pursuant to section 5.

SEC. 7. PUBLIC ACCOUNTING OF REGULATORY REVIEW.

(a) PUBLICATION OF ACCOUNTING.—The Office of Management and Budget shall prepare and make available to the public a monthly and an annual accounting of regulatory review conducted by any and all reviewing entities. Such accounting shall include a list of all rulemaking activities submitted to a reviewing entity for review, under review by a reviewing entity, or for which a review action was taken by a reviewing entity during the reporting period.

(b) INFORMATION INCLUDED IN ACCOUNTING.—The monthly accounting required under subsection (a) shall be prepared and made available to the public within 10 working days of the end of each month and shall include the name and type of each rulemaking activity reviewed, the reviewing entity, the rulemaking agency, the date of submission, the status of review, notice of any extensions of review under section 6, any review action, the date of such action, and the authority for review.

(c) FEDERAL REGISTER PUBLICATION.—Each rulemaking agency shall publish in the Federal Register within 10 working days of the end of each month a list of all rulemaking activities undergoing regulatory review during the preceding month. Such list shall include the name and type of each rulemaking activity, the reviewing entity, the date of submission, any review action taken during the reporting period, and the date of any such action.

SEC. 8. EXCLUSIONS.

Oral communications with the President, the Vice President, the Administrator of the Environmental Protection Agency, the Director of the Office of Management and Budget, and the heads of executive departments as defined under section 101 of title 5, United States Code, are not covered by this Act.

SEC. 9. EFFECT OF ACT.

(a) AUTHORIZATION.—Nothing in this Act authorizes a reviewing entity to—

(1) review a rulemaking activity; or

(2) direct an agency to make a decision with regard to a rulemaking activity unless specifically authorized by law.

(b) ALTERATIONS.—Nothing in this Act alters in any manner—

(1) rulemaking authority vested by law in the head of an agency;

(2) any legally mandated criteria for rulemaking; or

(3) the application of any statutory or judicial deadline or the authority of an agency to undertake rulemaking activity in an emergency situation.

SUMMARY OF THE REGULATORY REVIEW SUNSHINE ACT OF 1993

This legislation establishes procedures to ensure public accountability for presidential review of Federal agency rulemaking activity. The bill is very similar to legislation introduced in the 102nd Congress (S. 1942) and reported favorably by the Governmental Affairs Committee by a bi-partisan vote on November 22, 1991 (S. Rpt. 102-256).

Sec. 1. Short Title.

The Act is the "Regulatory Review Sunshine Act of 1993."

Sec. 2. Definitions.

The definitions of "regulatory review," "reviewing entity," "review action" and "rulemaking activity" reflect the Act's purpose to cover any executive branch regulatory review process created by the President or his designee.

Sec. 3. Disclosure By A Reviewing Entity.

Reviewing entities must make the following information available to the public within 14 days of concluding review:

(1) All written communications between the reviewing entity and any non-governmental party or the rulemaking agency;

(2) A summary of substantive oral communications between the reviewing entity and any non-governmental party;

(3) A written explanation of any significant review action;

(4) Notices of any extension of regulatory review.

Sec. 4. Disclosure To A Rulemaking Agency By A Reviewing Entity.

Reviewing entities must give rulemaking agencies:

(1) Written communications between the reviewing entity and any non-governmental party;

(2) A summary of substantive oral communications between the reviewing entity and non-governmental parties, and an invitation to attend meetings with such parties; and

(3) A written explanation of significant review actions.

Sec. 5. Public Disclosure By A Rulemaking Agency.

Rulemaking agencies must place materials received from a reviewing entity in the rulemaking record, identify upon request proposals under review, and explain in rulemaking notices any significant changes made to a rule as a result of regulatory review.

Sec. 6. Time Limits For Review.

Regulatory review must be concluded within 60 days. The reviewing entity may, for good cause explained to the rulemaking agency, extend its review for 30 days. Also, if the President, or his designee, reviews a regulatory review issue, the time limits may be extended. Such review is subject to the Act's disclosure requirements.

The reviewing entity must notify the rulemaking agency of any extension beyond 60 days. The rulemaking agency must then publish a notice in the Federal Register.

Sec. 7. Public Accounting Of Regulatory Review.

OMB will prepare monthly and annual public accountings of the regulatory review activities of all reviewing entities. Each rulemaking agency will publish a monthly Federal Register notice of all rulemaking activities under review.

Sec. 8. Exclusions.

Oral communications with the President, the Vice President, the Administrator of EPA, the OMB Director, and the heads of Cabinet agencies are not covered by this Act.

Sec. 9. Effect of Act.

The Act neither authorizes regulatory review nor alters any rulemaking authority, criteria, or deadline.•

By Mr. MOYNIHAN:

S. 169. A bill to prohibit the solicitation or diversion of funds to carry out activities forbidden by law; to the Committee on Foreign Relations.

DIVERSION OF FUNDS PROHIBITION ACT

• Mr. MOYNIHAN. Mr. President, Theodore Draper said of the Iran-Contra episode that—

[i]f the constitutional democracy of the United States is overthrown, we now have a better idea of how this is likely to be done.

The Iran-Contra affair is often portrayed as a threat to the Congress, but it is not appreciated how severely it damaged the Presidency as well. Ron-

ald Reagan came near to impeachment. And George Bush leaves office after, as President Clinton put it in his inaugural, a half-century of service to this country, with a lawyer at his side. This, in large part, because aides to the President liberated themselves from the most fundamental of all constitutional constraints on the executive branch, the congressional power of the purse.

In December 1983 the Reagan administration's "Special Interagency Group" decided to bring the situation in Nicaragua to a head with speedboat attacks, minings and other operations. These clearly fell within the definition of "significant anticipated intelligence activities" and yet the Congress was not "fully and currently informed" of these activities as required by law. The Intelligence Committees were ambiguously briefed only after the minings had occurred. The uproar when the minings were publicly disclosed, it led within the year to legislation ending funding for the Contras.

From that point forward the search began for alternative sources of funding. Those sources included funds solicited from foreign states, the use of United States property to arrange quid pro quos to support forbidden activities and, of course, the ill-fated skimming of profits from the sale of arms to Iran. A policy of illegality mutated into a policy of deceit which nearly wrecked the Reagan presidency.

Mr. President, the legislation that I am introducing today is offered with these events in mind. It makes it a crime to circumvent the constitutional power of the purse. It protects the President by preventing his aides from obtaining the means to carry out activities that violate the law. Our distinguished majority leader summed up this legislation in a single sentence: it simply says "Obey the law." And the Congress has already adopted this bill once, only to see it vetoed by President Bush.

Mr. President, we are embarked upon a new beginning with a new President. It is a hopeful moment. I offer this legislation in an effort to support and protect the President and to help safeguard him from the excesses that so nearly wrecked the administrations of his predecessors.

I send the legislation to the desk and ask unanimous consent that the text of the legislation be printed in the RECORD at this point.

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

S. 169

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

TITLE I: PROHIBITION ON CHANNELING OR DIVERTING FUNDS TO CARRY OUT ACTIVITIES FOR WHICH UNITED STATES ASSISTANCE IS PROHIBITED

SEC. 101. (a) PROHIBITION.—Whenever any provision of United States law expressly refers to this section and expressly prohibits all United States assistance, or all assistance under a specified United States assistance account, from being provided to any specified foreign region, country, government, group, or individual for all or specified activities, then no officer or employee of the Executive branch may—

(A) receive, accept, hold, control, use, spend, disburse, distribute, or transfer any funds or property from any foreign government (including any instrumentality or agency thereof), foreign person, or United States person;

(B) use any United States funds or facilities to assist any transaction whereby a foreign government including any instrumentality or agency thereof), foreign person or United States person provides any funds or property to any third party; or

(C) provide any United States assistance to any third party, if the purpose of any such act is the furthering or carrying out of the same activities, with respect to that region, country, government, group, or individual, for which United States assistance is expressly prohibited.

(2) As used within the meaning of paragraph (1), assistance which is provided for the purpose of furthering or carrying out the same or similar activities for which United States assistance is expressly prohibited includes assistance provided under an arrangement conditioning, expressly or impliedly, action by the recipient to further those activities.

(b) PENALTY.—Any person who knowingly and willfully violates the provision of subsection (a)(1) shall be imprisoned not more than 5 years or fined in accordance with title 18, United States Code, or both.

(c) PRESIDENTIAL NOTIFICATION.—(1) Whenever—

(A) any provision of United States law described in subsection (a)(1) expressly refers to this section and expressly prohibits the provision of United States assistance for specified recipients or activities, and

(B) any officer or employee of the Executive branch advocates, promotes, or encourages the provision of funds or property by any foreign government (including any instrumentality or agency thereof), foreign person, or United States person for the purpose of furthering or carrying out the same or similar activities with respect to such recipients,

then the President shall notify the Congress in a timely fashion that such advocacy, promotion, or encouragement has occurred. Such notification may be submitted in classified form.

(2) Nothing in this subsection shall be construed as authorizing any action prohibited by subsection (a).

(d) APPLICABILITY.—The provisions of this section shall not be superseded except by a provision of law enacted on or after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, which specifically repeals, modifies, or supersedes the provisions of this section.

(e) CONSTRUCTION.—(1) Nothing in this section shall be construed to limit—

(A) the ability of the President, the Vice President, or any officer or employee of the Executive branch to make statements or otherwise express his views to any party on any subject;

(B) the ability of an officer or employee of the United States to express the publicly enunciated policies of the President; or

(C) the ability of an officer or employee of the United States to communicate with any foreign country, government, group, or individual, either directly or through a third party, with respect to a prohibition on United States assistance covered by subsection (a)(1), including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of such prohibition.

(2) Nothing in this section shall be construed as waiving or otherwise derogating from any other provision of law imposing penalties or obligations with respect to any of the acts described in subparagraph (A), (B), or (C) of subsection (a)(1).

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

(1) the term "person" includes (A) any natural person, (B) any corporation, partnership, or other legal entity, and (C) any organization, association, or other group;

(2) the term "United States assistance" means—

(A) assistance of any kind under the Foreign Assistance Act of 1961;

(B) sales, credits, and guaranties under the Arms Export Control Act;

(C) export licenses issued under the Arms Export Control Act; and

(D) activities authorized pursuant to the National Security Act of 1947 (50 U.S.C. 410 et seq.), the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.), or Executive Order Number 12333 (December 4, 1981), excluding any activity involving the provision or sharing of intelligence information; and

(3) the term "United States assistance account" means an account corresponding to an authorization of appropriations for United States assistance.•

By Mr. HOLLINGS (for himself, Mr. AKAKA, Mr. BRADLEY, Mr. BREAUX, Mr. BROWN, Mr. CONRAD, Mr. DANFORTH, Mr. DECONCINI, Mr. DURENBERGER, Mr. HATCH, Mr. HEFLIN, Mr. JOHNSTON, Mr. KOHL, Mr. LAUTENBERG, Mr. LEVIN, Mr. METZENBAUM, Mr. NUNN, Mr. REID, Mr. SHELBY, Mr. SIMON, Mr. SIMPSON, Mr. THURMOND, and Mr. WOFFORD):

S. 170. A bill to award a Congressional Gold Medal in honor of the late John Birks "Dizzy" Gillespie; to the Committee on Banking, Housing, and Urban Affairs.

DIZZY GILLESPIE CONGRESSIONAL GOLD MEDAL ACT

• Mr. HOLLINGS. Mr. President, I rise today in remembrance of John Birks "Dizzy" Gillespie who passed away earlier this month at the age of 75.

Dizzy Gillespie was born in Cheraw, SC, on October 21, 1917—the same year that the first jazz record was recorded—and in his lifetime captured the hearts and ears of people all over the world. From his early beginnings as that dizzy trumpet player from down south to his current status as one of the legends of modern jazz, Dizzy Gillespie clearly exhibited his astounding versatility as a performer, innovator, and ambassador of jazz.

Along with the late Charlie "Bird" Parker, Dizzy spearheaded the musical drive toward a style known as be-bop—a fresh harmonic and rhythmic vocabulary that transformed jazz. In addition,

he was widely heralded for his successful experimentation in fusing traditional jazz with Afro-Cuban music.

But beyond his undeniable talent and proficiency, Dizzy Gillespie must also be praised for the countless hours that he spent sharing his craft with the peoples of the world. In 1956, Dizzy was the first jazz musician to be appointed by the Department of State to tour on behalf of the United States of America. After his initial success, this cultural statesman continued to criss-cross the globe performing the music that so many have come to love.

Mr. President, during the 102d Congress, I introduced legislation to honor Dizzy Gillespie with the Congressional Gold Medal. While 43 Senators joined me in cosponsoring this bill, we were unable to bring it before the full Senate prior to Congress' adjournment sine die. Today, I am reintroducing this legislation. I hope that my colleagues will again join me in honoring the enduring legacy that Dizzy Gillespie has left for all of us.

In his autobiography Dizzy Gillespie confided that "* * * I would like to be remembered as a humanitarian * * * maybe my role in music is just a stepping stone to a higher role. The highest role is the role in service to humanity, and if I can make that, then I'll be happy." As millions around the world will continue to attest, he did, indeed, make it. I ask unanimous consent that the full text of this bill be printed in the RECORD at this time.

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

S. 170

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

SECTION 1. FINDINGS.

The Congress finds that:

(1) John Birks "Dizzy" Gillespie was one of the most recognized and beloved artists in the world, admired not only for his unique musicianship, but for his ability to reach people on a distinctly personal level;

(2) as a musician, pioneer, innovator, composer, arranger, bandleader, raconteur, entertainer, and cultural ambassador, Mr. Gillespie distinguished himself as one of the immortal figures in the history of jazz, "a national American treasure";

(3) Mr. Gillespie received the Kennedy Center Honors, the most prestigious public recognition of an artist's lifetime contributions in the performing arts in the United States, the Smithsonian Medal from the Smithsonian Institution, and the American Society of Composers, Authors and Publishers' "Duke" award for his lifetime achievements as a musician, composer, and bandleader;

(4) Mr. Gillespie received many additional honors, including the National Medal of Arts, presented by President Bush, a Grammy Lifetime Achievement Award from the National Academy of Recording Arts and Sciences, and the Commandant D'Ordre des Arts et Lettres, the highest honor in the arts in France, presented by the French Minister of Culture, Jack Lang, and was crowned a traditional African chief, with the title "Bashere of Iperu", in Nigeria;

(5) Mr. Gillespie performed before royalty and countless world leaders, including 4 American Presidents;

(6) at the personal invitation of President Sam Nujoma, Mr. Gillespie performed at the State Independence Banquet of Namibia, before the leaders of many countries of the world, kings, presidents, prime ministers, the Secretary-General of the United Nations, Nelson Mandela, and a host of other dignitaries;

(7) Mr. Gillespie was acclaimed as a visionary risk taker, whose daring integration of ethnic influences added a vibrant and indelible dimension to jazz, and to music in all of its popular forms;

(8) Mr. Gillespie and the late Charlie "Bird" Parker pioneered "be-bop", a new and fresh harmonic and rhythmic vocabulary that created a musical revolution which transformed jazz and dramatically influenced 20th century musical culture;

(9) Mr. Gillespie is universally credited as the catalyst who incorporated Afro-Cuban, Brazilian, and Caribbean music and rhythms into the jazz idiom;

(10) Mr. Gillespie's third great big band, the United Nations Orchestra, which exemplified the essence of Mr. Gillespie's universal musical philosophy, enthralled audiences in 20 countries on the continents of North America, South America, Europe, and Australia since the band's inception in 1988;

(11) in 1956, Mr. Gillespie was the first jazz artist appointed by the Department of State as Cultural Ambassador to tour on behalf of the United States, and his resoundingly successful tours through the Near East, Asia, Eastern Europe, and Latin America were early landmarks in a lifetime of cultural statesmanship by the inimitable jazz master on behalf of his country; and

(12) in January 1989, Mr. Gillespie was asked to represent the United States and embarked on a ground breaking, month-long tour in Africa, sponsored by the United States Information Agency Arts America Program.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to Mrs. Lorraine Gillespie, in memory of her late husband John Birks "Dizzy" Gillespie, a gold medal of appropriate design, in recognition of over half a century of musical genius.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be selected by the Secretary.

(c) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated an amount not to exceed $25,000 to carry out this section.

SEC. 3. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost of such duplicates and the gold medal, including labor, materials, dies, use of machinery, and overhead expenses.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 2 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

By Mr. GLENN (for himself, Mr. BOREN, Mr. BRADLEY, Mr. BRYAN, Mr. BUMPERS, Mr. COHEN, Mr. DODD, Mr. GRAHAM, Mr. JEFFORDS, Mr. KENNEDY, Mr. KOHL, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. RIEGLE, Mr. LAUTENBERG, and Mr. SASSER):

S. 171. A bill to establish the Department of the Environment, provide for a Bureau on Environmental Statistics and a Presidential Commission on Improving Environmental Protection, and for other purposes; to the Committee on Governmental Affairs.

DEPARTMENT OF THE ENVIRONMENT ACT OF 1993

• Mr. GLENN. Mr. President, I rise today to introduce the 1993 Department of the Environment Act. This legislation, which I have introduced twice before, would make the Environmental Protection Agency a Cabinet-level department. The bill I set before the Senate today is essentially the same proposal which was agreed upon by this body on October 1, 1991, except that it does not contain the private property rights amendment added last year by Senator SYMMS.

The United States and the world stand at a dangerous but opportune crossroad. Here and around the globe environmental problems pose significant threats to the health and safety of billions. There is new and growing recognition of the urgent need to address the problems of global warming, ozone depletion, water, air, and sea pollution, and radioactive hazards. Such problems are testing the mettle of governments to develop innovative, comprehensive, and cost-effective solutions that recognize the fragility of our ecosystems and the vulnerability of our people.

Mr. President, in the almost 3 years since I first introduced legislation to elevate the EPA, environmental problems facing our Nation have not improved—in some cases they have grown more dangerous and complex. The waste tanks containing high-level radioactive wastes at the Hanford site in Washington State remain a dangerous threat to public health and safety. Hundreds of Superfund priority list sites remain untouched as the endless battles of bureaucracy and resources wage on. On many fronts, we are still struggling to clean our water, air, and land.

Now, more than ever, we need a Cabinet-level Department of the Environment. I say this because more than one pundit has observed over the past year that such an elevation is merely a cosmetic and political facelift for an agency that can't seem to get its job done in its current status. Well, I don't disagree that improvements can be made at the EPA. The Governmental Affairs Committee, which I chair, held hearings last year on management problems at the agency. As this year's effort proceeds I hope to make further

refinements and improvements to this legislation which reflect what we have learned.

But the fact that the agency can improve in no way diminishes the importance of making it Cabinet level. It remains a fact of diplomatic life, for example, that the seriousness with which one views another government's concerns is influenced by the stature of the person who articulates them. A sub cabinet EPA sends the wrong signal to the rest of the world about the priority and leadership given by the United States to the cause of global environmental protection. Moreover, can anyone truly claim that there should be no room at the Cabinet table for the agency that bears the enormous responsibility for the basic elements of nature that sustain life? Indeed, the real and potential impacts on the human environment of our fragile Earth may be of such magnitude that they will require a level of attention never before imagined both abroad and here at home. The United States must provide aggressive leadership toward a solution of domestic and global environmental problems. To do otherwise would consign the quality of life of all Americans to the decisions of other nations and cede our moral obligation to protect the global commons we all share.

At home, a Cabinet-level EPA will be more competitive in garnering the resources it needs to carry out its burgeoning responsibilities. The increased clout of a Department of the Environment will have beneficial ripple effects throughout all of its programs and activities.

Along with making EPA a Cabinet-level agency, the bill also establishes a Bureau of Environmental Statistics to analyze, compile, and publish data necessary to shape environmental policies. In addition, the legislation authorizes the establishment of a Presidential Commission on Improving Environmental Protection and calls for new measures by the United States to promote energy conservation in connection with multilateral foreign assistance programs.

The bill also calls for the convening in our country of an international meeting on energy efficiency and renewable resources and urges the establishment of an international greenhouse gas monitoring program under the auspices of the U.N. Environment Program and the World Meteorological Organization.

Having had the rare privilege to view the Earth in all of its beauty and grandeur from space, I am struck by how thin and fragile the environment is that sustains life on our planet. This vision, I am gratified to find, is now becoming widely shared. Through the hard work and persistence of people who have dedicated their lives to protecting the environment, we now stand at the threshold of an important and positive change. I am confident that the creation of a Department of the Environment will strengthen our Nation's commitment to help protect this delicate and wonderful planet. I am looking forward to working with the new administration to accomplish this early in the session.●

● Mr. LIEBERMAN. Mr. President, recognizing the urgent need to place the environment at the center of the Nation's agenda, I am pleased to join as an original cosponsor of the Department of the Environment Act of 1993. I commend and thank Senator GLENN for his continued leadership on the bill.

The fundamental reason for creating such a department is that the environment has become a strategic issue that demands a coordinated response at the highest level of government. As Vice President AL GORE and others have compellingly argued, at stake are not only the health of the Nation's lakes, rivers, forests, and wetlands, and the quality of life for our citizens, but the ecological integrity of the planet. Problems like global warming and the loss of biodiversity have brought the environment to the top of the international agenda. Domestically, a variety of local and regional problems, including urban ozone and unacceptable lead levels in children, persist in threatening our environment and our health. These problems are not simple. Solving them will require political leadership and clear plans of action.

These plans must integrate environmental protection objectives with other national objectives. Environmental protection is inexorably linked with the economy. Over the long term, a healthy economy depends on a productive work force and a healthy environment. Environmental regulation has returned major economic benefits through, for example, reducing health care costs, and has spurred a strong domestic pollution control industry. The Office of Technology Assessment estimates that the global market for environmental goods and services will grow to $300 billion by the year 2000. This expanding market presents enormous economic opportunities for U.S. firms. Unfortunately, the United States' absence of a coherent national policy to encourage the development of environmental technology threatens to leave America behind in the emerging worldwide industry. The strategic challenge we now face is to design environmental programs that further both environmental and economic goals.

A Department of the Environment will need to work with other Government agencies and private institutions to achieve environmental goals. It will need to employ an array of new policy tools that complement the traditional command and control environmental regulatory scheme. For example, the Department must further pollution prevention, and strengthen the economic incentives for reducing pollution. It should also assume a new role in promoting the development and widespread use of environmentally clean technologies.

The Department of the Environment will not be the only important Federal factor in environmental policy. Transportation and Energy Policy, for example, will be central to any strategy for reducing greenhouse gas emissions. Agricultural policy will continue to have a far reaching effect on water quality. But the Department of the Environment will be poised to be the central player in meeting today's environmental challenges. A Cabinet-level Department of the Environment will be better positioned to provide leadership on international issues, promote changes in our fundamental approaches to environmental protection, and further consideration of the environment within other Government agencies.

Currently, the Environmental Protection Agency stands alone among its Western partners as a sub-Cabinet agency. As witnesses have testified regarding earlier versions of this bill, this hampers EPA's effectiveness by signaling that the United States does not consider the environment to be of primary importance. Elevating EPA to a Department will correct any misimpressions.

More important, Cabinet status will place EPA on equal footing with the many other departments that have a substantial influence on global, regional, and local environmental quality. Policies in these sectors rarely have environmental protection as a primary goal, but often have an important effect on the quality of our land, sea, and air. In recent years EPA has made strides in working with other Federal agencies to address environmental concerns, but it has only cracked the tip of the iceberg. Cabinet status will foster policy integration.

Cabinet status will also give EPA a stronger voice as it advances new approaches to environmental protection. A Department of the Environment could more authoritatively promote pollution prevention among individuals, firms, and governments. A Cabinet-level organization will also be better positioned to strengthen current economic incentives for pollution prevention, particularly in sectors governed by other Cabinet-level departments.

This bill elevates the EPA to a Cabinet-level agency in a straightforward manner. It establishes a Commission on Improving Environmental Protection and charges it with examining and making recommendations on better integrating Federal environmental laws that overlap with those in its jurisdiction. But it does not change or question EPA's current mandates. Nevertheless, as the leading Federal environ-

mental institution the EPA must be ready to meet new and emerging challenges.

When Congress established the EPA 23 years ago, the Agency's mission was no less urgent than today. Smog plagued our cities, poorly contained toxic waste leached into drinking water supplies, and in too many communities raw sewage poisoned our lakes and rivers. But the scope and complexity of EPA's tasks are even more daunting now. Today's EPA—tomorrow's USDE—will lead the Nation's effort to preserve our future. No mission could be more worthy of Cabinet status.•

By Mr. BRYAN (for himself and Mr. REID):

S. 172. A bill to establish the Spring Mountains National Recreation Area in Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

SPRING MOUNTAIN NATIONAL RECREATION ACT

• Mr. BRYAN. Mr. President, I am pleased to introduce today the Spring Mountain National Recreation Area Act which designates approximately 316,000 areas of the Toiyabe National Forest as a national recreation area.

The Spring Mountain range is a unique natural resource located about 35 miles west of Las Vegas, NV. It includes the 43,000 acre Mt. Charleston Wilderness Area, designated in 1989.

Mt. Charleston is the third highest mountain in Nevada, towering 11,918 feet above the surrounding desert landscape. The proposed national recreation area contains five vegetative zones, a variety of wildlife resources, and the beginning of the aquifer that serves the Las Vegas area.

The Spring Mountain Range wildlife includes elk, deer, wild turkeys, bighorn sheep, golden eagles, wild horses, and burros. It also includes a variety of plant species found nowhere else in the world, coniferous forests, several campground and picnic areas, as well as a ski area.

By designating this area as a national recreation area, greater resources can be dedicated to the conservation and management of the resources, as well as to enhance the public recreation opportunities that this unique area offers for the citizens of the nearby urban area with a population rapidly nearing the 1 million mark.

The legislation directs that the Secretary of Agriculture develop within 3 years a comprehensive management plan for the area and authorizes the necessary appropriations to carry out the recreation and management improvements specified in the plan.

I believe this legislation has great merit, and I will urge its early consideration and adoption.•

By Mr. DECONCINI (for himself, Mr. HARKIN, Mr. HEFLIN, Mr. HOLLINGS, Mr. SHELBY, Mr. DASCHLE, Mr. BURNS, Mr. PRESSLER, Mr. PELL, Ms. MIKULSKI and Mr. BRYAN):

S. 173. A bill to amend title II of the Social Security Act to provide for a more gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in the years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such worker's benefits accordingly, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY ADJUSTMENT REFORM ACT

• Mr. DECONCINI. Mr. President, I rise to introduce the Social Security Adjustment Reform Act of 1993. I have been a longtime supporter of legislation to correct the glaring inequity in our Social Security System known as the notch problem. In previous Congresses dating as far back as the 99th Congress, I have cosponsored legislation to address this notch disparity. I had expected to cosponsor a bill originally crafted by former Senator Terry Sanford. Unfortunately, my dear friend and colleague lost his reelection bid and could not be here today to lead his notch coalition in this new Congress. While we have lost our vigilant leader, Senator Sanford, our coalition is certainly not giving up the fight. Therefore, Senators HARKIN, HEFLIN, HOLLINGS, SHELBY, DASCHLE, BURNS, MIKULSKI, PRESSLER, PELL, BRYAN, and I are reintroducing the Sanford Social Security Notch Adjustment Reform Act of 1993.

Mr. President, Social Security payroll contributions and benefits are based upon wages earned. However, because of inflation, increases in benefits are needed to maintain an adequate standard of living for retirees. In 1977, the Congress sought to ensure that these increases would occur automatically in response to rising prices, rather than being dependent upon a mandate from Congress, which might reflect partisan politics. With this intention, Congress changed the formula used to calculate increases so that it would be based on prices, rather than wages. Economic theory suggested that wages tend to rise nearly twice as fast as prices. So if increases were based on prices, benefit levels would keep pace with inflation, but the contributions being paid into the trust funds would increase faster, keeping pace with wage levels. This would ensure the solvency of the trust fund.

Unfortunately, that wage-price economic theory failed. Wages were rising only slightly faster than prices and the Social Security pension fund began to pay out more than it had available and was in danger of bankruptcy. Congress soon realized its mistake and in 1977 it again adjusted the formula for calculating benefits to prevent the Social Security trust funds from going broke.

However, since the 1977 formula provides a lower benefit than the benefit provided by the 1972 formula, and since activating that change immediately would have caused a reduction in benefits for people already receiving Social Security, Congress provided for a period of transition to allow time for people to alter their retirement plans and make decisions based on knowledge of what their Social Security benefits would be.

To its credit, the 1977 law did prevent the Social Security trust funds from becoming insolvent. However, the current debate regarding the notch issue is over how much notice must be given to individuals before the new benefit levels are activated. I have maintained that the original transition period, 6 to 10 years, was far too short to give adequate notice to the people who had or were in the process of making retirement decisions. This short time frame has worked to the detriment of those retirees who fall in the notch category and receive the middle benefit, but who at age 56 to 60 were too close to retirement to change decisions they had made based on their expected Social Security benefits.

Mr. President, the notch benefit level as it exists today is simply not fair. It is not fair to honest, hard working Americans who responsibly planned for their retirement, anticipating certain income levels from their Social Security benefits. We say over and over again that Americans must plan and save and invest for their future. We should not penalize them by turning the tables on them and changing the rules at what is essentially the last minute.

The legislation I am offering today would correct this grossly unfair situation by enhancing benefit levels during the transition years and extending the transition period to also protect anyone born between 1922 and 1929. It is a fair compromise and it is high time we face up to our mistakes and pass this important legislation.

Again, I thank Senator Sanford for his leadership on this issue and pledge that I will pick up the flag and carry on the fight to make his bill a reality.

Mr. President, I ask unanimous consent that the text of my bill be inserted in the RECORD immediately following the conclusion of my remarks.

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

S. 173

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Notch Adjustment Act of 1993".

SEC. 2. EXPANSION OF PERIOD OF TRANSITION; NEW ALTERNATIVE FORMULA WITH RESPECT TO SUCH PERIOD.

(a) EXPANSION OF PERIOD OF TRANSITION.—Section 215(a)(4)(B)(i) of the Social Security Act (42 U.S.C. 415(a)(4)(B)(i)) is amended by striking "1984" and inserting "1989".

(b) ESTABLISHMENT OF NEW TRANSITIONAL FORMULA.—Section 215(a) of such Act (42 U.S.C. 415(a)) is amended by adding at the end the following new paragraph:

"(8)(A) Paragraphs (1) (except for subparagraph (C)(i) thereof) and (4) do not apply to the computation or recomputation of a primary insurance amount for an individual who had wages or self-employment income credited for one or more years prior to 1979, and who was not eligible for an old-age or disability insurance benefit, and did not die, prior to January 1979, if in the year for which the computation or recomputation would be made the individual's primary insurance amount would be greater if computed or recomputed under subparagraph (B).

"(B) The primary insurance amount computed or recomputed under this subparagraph is equal to the sum of the amount which would be computed under this subsection if this paragraph were not applied, plus the product (not less than zero) derived by multiplying—S

"(i) the excess of the adjusted old-law benefit amount over the new-law benefit amount, by

"(ii) the applicable reduction factor.

"(C) For purposes of this paragraph, in the case of any individual described in subparagraph (A)—

"(i) The term 'adjusted old-law benefit amount' means the amount computed or recomputed under this subsection as in effect in December 1978 (for purposes of old-age insurance benefits in the case of an individual who becomes eligible for such benefits prior to 1989) or subsection (d) (in the case of an individual to whom such subsection applies), subject to the amendments made by section 5117 of the Omnibus Budget Reconciliation Act of 1990.

"(ii) The term 'new-law benefit amount' means the amount which would be computed under this subsection if this paragraph were not applied.

"(iii)(I) The term 'applicable reduction factor' means the excess of the applicable base percentage determined under subclause (II) over the applicable early retirement percentage determined under subclause (III).

"(II) The applicable base percentage determined under this subclause is the percentage provided in the following table:

"If the individual becomes eligible for old-age insurance benefits in:	The applicable base percentage is:
1979	40
1980	37
1981	34
1982	31
1983	25
1984	20
1985	15
1986	10
1987	5
1988	5.

"(III) The applicable early retirement percentage determined under this subclause is the product derived by multiplying 5/12 of 1 percent by the total number of months, before the month in which the individual attains the age of 65, for which an old-age insurance benefit is payable to such individual.".

(c) APPLICABILITY OF OLD PROVISIONS.—Section 215(a)(5) of such Act (42 U.S.C. 415(a)(5)) is amended—

(1) in subparagraph (A), by striking "subject to subparagraphs (B), (C), (D), and (E)," and inserting "subject to subparagraphs (B), (C), (D), (E), and (F),"; and

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

"(F) In applying this section as in effect in December 1978 as provided in subparagraph (A) in the case of an individual to whom paragraph (1) does not apply by reason of paragraph (8)—

"(i) subsection (b)(2)(C) shall be deemed to provide that an individual's 'computation base years' may include only calendar years in the period after 1950 (or 1936 if applicable) and ending with the calendar year in which such individual attains age 65; and

"(ii) the 'contribution and benefit base' (under section 230) with respect to remuneration paid in (and taxable years beginning in) any calendar year after 1981 shall be deemed to be $29,700.".

(d) CONFORMING AMENDMENT.—Section 215(a)(3)(A) of such Act (42 U.S.C. 415(a)(3)(A)) is amended in the matter following clause (iii) by striking "(4)" and inserting "(4) or (8)".

SEC. 3. EFFECTIVE DATE AND RELATED RULES.

(a) IN GENERAL.—Except as provided in subsection (c), the amendments made by this Act shall be effective as if included in the amendments made by section 201 of the Social Security Amendments of 1977.

(b) RECOMPUTATION.—In any case in which an individual (under title II of the Social Security Act) is entitled, for the month in which this Act is enacted, to monthly insurance benefits under such title which were computed—

(1) under section 215 of the Social Security Act as in effect (by reason of the Social Security Amendments of 1977) after December 1978, or

(2) under section 215 of such Act as in effect prior to January 1979 (and subsequently amended and modified) by reason of subsection (a)(4)(B) of such section (as amended by the Social Security Amendments of 1977),

the Secretary of Health and Human Services (notwithstanding section 215(f)(1)) of the Social Security Act) shall recompute such individual's primary insurance amount so as to take into account the amendments made by this section.

(c) PROSPECTIVE APPLICABILITY.—The amendments made by this Act shall apply only with respect to benefits for months after November 1993.

Mr. SHELBY. Mr. President, I would like to express my strong support of Senator DECONCINI'S notch correction legislation. During my tenure in the Senate I have supported numerous efforts at notch reform. This will mark my fourth Congress in the Senate and not coincidentally my fourth cosponsorship of the so-called notch bill. I have shared the frustration of the other proponents of notch reform in the Senate at our inability to pass a notch reform bill. In the spirit of change that currently permeates the Congress and the Executive, I would hope that the Senate finds the will to at last act on the notch bill during this Congress. Essentially, Mr. President, the persistent objection to correcting notch discrimination involves the two claims that notch reform will break the Social Security trust fund and that the so-called notch babies are not discriminated against. Both of these arguments fall in the light of close scrutiny.

When the now infamous notch was created in 1977, no one in good faith intended to discriminate against those retirees born between 1917 and 1921. In an attempt to end the explosion in payment rates from the 1972 benefit formula, Congress changed the formula in 1977. However, eligible retirees from January 1979 and beyond who were born between 1917 and 1921 were placed under a transitional formula or the 1977 formula, depending upon which formula provided the higher benefit. The result of these changes was to provide higher benefits for those who were born in or before 1916 than to those born during the notch period. While the discrepancy is not inordinately large for those who retired at age 62, those retiring at age 65 or beyond who were born during the notch period receive substantially lower benefits than those born before 1916. A person born in 1916 and retiring in 1983 received $716 per month in initial benefits. A person born in 1917 and retiring in 1983 received $592 per month in initial benefit payments.

Mr. President, something is seriously flawed here. Notch retirees are clearly receiving significantly less benefits than their counterparts under the old formula. Not only is the notch problem unfair, but it also punishes individuals who worked longer and paid more money into the Social Security trust fund. As a reward for remaining in the workforce until age 65 and paying Social Security taxes until retirement, the notch retiree receives substantially less money than the age 62 retiree or the retiree born before 1916.

Injustice is often present but unrecognized. However, when we know of an injustice and do not act to correct it, we actively discriminate. We have known about the notch problem for years but have refused to correct it. Regardless of whether the notch babies were targeted to be cheated in 1977, they are clearly being discriminated against now. We know about the problem. We recognize the problem's effects. We should fix the problem, Mr. President. Anything less is indeed discrimination.

Opponents of notch reform claim that correcting the notch would ultimately bankrupt or imperil the trust fund. Under Senator DECONCINI's formula this would not occur. The Social Security trust fund will exceed $1.3 trillion by the year 2000. Because Senator DECONCINI's bill provides for significant transition period for the correction of the notch disparity, the Social Security Administration estimates that trust fund growth will fall by about $60 billion over 10 years under the formula in this legislation. This amounts to only $6 billion per year on average. Relevant to other entitlement

expenditures, $6 billion per year is nothing. This bill is a cautious and wise approach to correcting the notch injustice. The notch bill will in no way reduce the fund by a damaging or significant amount.

Mr. President, if we were arguing over the difference of $100 per month when dealing with benefits of $25,000 per year, then opponents of notch reform might have a valid objection to this bill. However, $100 a month to a Social Security recipient scraping by on less than $10,000 per year is a fortune. Let us remember that the vast majority of the notch retirees are dependent on Social Security as their only source of income. Let us remember, Mr. President, that in most cases the notch retiree truly needs the extra income that this amendment will provide.

Mr. President, the case here is clear. The notch problem is real and it has reached the point of neglect and discrimination. Every year the Congress pays lipservice to notch reform. We tell notch retirees that we are determined to correct the problem. Then we all cosponsor legislation to correct the problem. Subsequently, however, the notch bill stays in committee and another Congress expires. I would hope that we are not delaying notch reform in the hope that the affected age group dies before we are forced to act.

I hope that we have the will to act during this Congress before it is too late for the notch babies. I urge my colleagues to actively support this legislation.

Mr. HEFLIN. Mr. President, I am pleased to join my friend and colleague, Senator DECONCINI, in calling for a long-overdue solution to the notch problem that is of such concern to many of our senior citizens. As I travel throughout my State of Alabama, one of the issues that I hear about most often is the Social Security notch problem. This has been the case for a number of years.

The notch problem in the Social Security system is one of which we are all well aware, yet is also one in which a solution, or even a serious debate, continues to elude us. During past Congresses, I have sponsored legislation in the Senate to correct this problem. Unfortunately, these bills were never brought to the floor for consideration. This inaction by the Congress has led to a disillusionment among those who are so unfairly affected by this problem, and many have justifiably questioned our commitment to finding a solution for this inequity.

Therefore, I take this opportunity to not only support the efforts of our colleague from Arizona, but to also reaffirm my resolve in seeing that the Congress finds an equitable solution to the notch problem, which is, in effect, unfair discrimination against a select group of citizens simply because of their birthdate.

When the 1977 Social Security measure was passed, a year before I was elected to the Senate, a new formula was implemented for calculating benefits dispensed under the program. In order to protect Social Security benefits for people already retired or soon to reach retirement age, a transitional period was established, causing the notch baby problem that we now have.

When Congress changed the Social Security formula, it intended to prevent the overpayment of benefits to some recipients. I do not believe that it was the intent of Congress in passing the 1977 Social Security amendments to create a situation whereby persons born between 1917 and 1921 would be penalized for working beyond the age of 62, particularly inasmuch as the difference in benefits is, as a general rule, greater for those who delay retirement beyond that age.

In practice, it was soon realized that this new formula created as much as a $100 per month disparity between benefits paid to one person born December 31, 1916, and another born January 1, 1917—only 1 day apart—even if they worked on the same job side-by-side, earning the same amount of money, for the same length of time. This disparity, which exists for all those who were born in the so-called notch years between 1917 and 1921, is not fair. Obviously, this comes out to approximately a significant $1,200 difference in Social Security paid for those workers over the course of a year.

I intend to continue doing what I can to correct this obvious discrimination. Almost everyone has a parent, friend, or acquaintance who was born between those years and is subject to this gross inequity. Incredibly, my State of Alabama, as of the end of 1990, had over 98,000 retired beneficiaries born during the notch years. We cannot sit back and allow a computer formula to randomly strip the benefits of these people who have worked so hard for so long.

Therefore, it is imperative that we amend the formula to close the benefit disparity which, understandably, has caused widespread concern among citizens around the country. The disadvantage to those who continue to work after age 65 especially must be resolved. The Social Security system was established to provide supplemental income and piece of mind to our retired citizens. Older Americans who have devoted considerable energy to their careers deserve a fair and reasonable return from the Social Security system on the money they have invested.

I urge each Member of the U.S. Congress to join in correcting this inequity in the Social Security system. We were elected to this body to represent the interests of our constituents. Our elderly and retired citizens deserve to be represented by responsible leaders. It is time for the U.S. Congress to commit itself to providing justice for these citizens. Action on this issue has been delayed for far too long already. As the saying goes, "justice delayed is justice denied."

By Mr. MOYNIHAN:

S. 174. A bill to end certain cold war practices; to the Select Committee on Intelligence.

END OF COLD WAR PRACTICES ACT

• Mr. MOYNIHAN. Mr. President, I rise to offer legislation to end two cold war practices which are inconsistent with the best American traditions: Excluding aliens on the basis of their statements and beliefs and the failure of the Federal Government to publish the figure for all intelligence expenditures.

We have made great strides toward removing the cold war authority to exclude persons from the United States based on their beliefs. My legislation would strengthen our previous efforts and make it unambiguously clear that no person should be excluded from the United States due to their beliefs.

My legislation also requires the publication of a single figure for all funds spent on intelligence activities. This is a requirement of the Constitution, Mr. President, which we have neglected because of the cold war and should neglect no longer.

Mr. President, I send my legislation to the desk and ask for unanimous consent that it be printed in the RECORD at this point.

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

S. 174

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

TITLE I—RESTRICTION ON IDEOLOGICAL RESTRICTIONS

SEC. 101. FINDINGS.—The Congress finds that—

(a) During the Cold War the United States excluded from entry into the United States persons with allegedly "unacceptable" opinions;

(b) Such exclusions are inconsistent with the fundamental American principles of free speech and the competition of ideas.

SEC. 102. REPEAL OF IDEOLOGICAL EXCLUSION AUTHORITY.—Subsection (c) of United States Code, Title 8, Section 1182 is amended to read—

"(i) IN GENERAL.—An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have a serious adverse foreign policy consequences for the United States is excludable.

"(ii) EXCEPTION.—An alien shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States."

SEC. 103. Nothing in this title requires the admission of any alien believed to be a national security threat to the United States.

TITLE II—PUBLICATION OF TOTAL INTELLIGENCE EXPENDITURES

SEC. 201. FINDINGS.—The Congress finds that—

(1) Article I, Section 9, Clause 7 of the United States Constitution states that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

(2) During the Cold War the United States did not provide to the American people a "regular Statement and Account of the * * * Expenditures" for intelligence activities.

(3) The failure to provide to the American people a statement of the total amount of expenditures on intelligence activities prevents them from participating in an informed, democratic decision concerning the appropriate level for such expenditures.

SEC. 202. Section 1105(a) of Title 31 of the United States Code is amended to add at the end thereof—"(27) a separate, unclassified statement of the aggregate amount of budget outlays for the prior fiscal year for national and tactical intelligence activities. This figure shall include, without limitation, outlays for activities carried out under the Department of Defense budget to collect, analyze, produce, disseminate or support the collection of intelligence."•

By Mr. DECONCINI:

S. 175. A bill to amend the Child Nutrition Act of 1966 to make the special supplemental food program for women, infants, and children [WIC] an entitlement program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

WIC ENTITLEMENT PROGRAM ACT OF 1993

• Mr. DECONCINI. Mr. President, for the last several years my friend from Rhode Island, Senator CHAFEE, and I have led the efforts in the Senate to increase appropriations for the special supplemental food program for women, infants, and children [WIC]. As my colleagues will recall, our effort last year sought to increase WIC funding by $400 million over the prior year's current services level in order to maintain on schedule for full funding of WIC by 1995. Despite a record number of cosponsors for our annual WIC appropriations initiative, the enacted appropriations level for the fiscal year 1992 for WIC was a full $160 million short of the target. It is very hard to imagine a consensus in this body on a discretionary program, but it is even harder to imagine that such a consensus could be formed and fail to achieve its goal.

Mr. President, I do not find fault in any way with the conferees on the fiscal year 1993 Agriculture appropriations bill. Their task was near impossible given an insufficient subcommittee allocation to meet all the demands upon them, especially in light of continued problems related to crop disaster insurance. I sincerely applaud the efforts of acting subcommittee chair, Senator BUMPERS, and ranking member, Senator COCHRAN, last year—both have consistently done whatever they could on behalf of WIC and last year's effort was no exception.

Mr. President, the reason our efforts to date have failed to keep pace with the WIC full funding schedule by 1995 are many, the most important of which are that the number of new poor at nutritional risk are growing faster than our ability to serve them. Hence, Senator DASCHLE and I are again calling for WIC to be permanently funded as an entitlement in fiscal year 1996 to assure that our Nation's needy children have a fighting chance to live, learn in school, and reach their full potential.

WIC provides critical nutrition and health benefits to over 4.7 million low-income pregnant women and young children at risk of diet-related health problems, but almost as many other needy women and children are unserved. Tragically, America ranks 19th in the world in infant mortality. Every year 40,000 infants die in the United States and another 11,000 babies are born with long-term disabilities that result from their weakened condition. Unless we act—and act soon—to provide full funding for WIC, we will lose more American infants in the next 13 years than we have lost soldiers in all the wars fought by this country in this century.

WIC is a Government program that works and I have been a leading advocate for this program since its inception because it is the right thing to do. WIC not only prevents infant mortality and low-birthweight, study after study has shown WIC is the most cost-effective method to do so. WIC reduces Medicaid costs: each dollar invested in WIC's prenatal component saved between $1.77 and $3.13 in Medicaid costs. In addition, studies show that future special education costs are reduced through WIC's early nutrition intervention.

There is room to improve though. WIC has not come close to fulfilling its potential. Current funding levels support about 60 percent of the eligible women, infants, and children nationwide. Arizona currently receives funding that enables the WIC Program to assist approximately 60 percent of those eligible throughout the State, but serves only 40 percent of those eligible in the urban areas. Nationwide, WIC isn't doing any better—nearly 60 percent of all women, and just over 40 percent of children eligible for the program. The bipartisan National Commission on Children's report says that the Federal Government isn't investing enough in WIC and recommends WIC be expanded to serve all 8.6 million financially needy pregnant and nursing women, and infants and children at nutritional risk. To do so will require increased annual funding of approximately $1.15 billion, or 44 percent more than the $2.6 billion appropriated for fiscal year 1992.

The reality is that we are never going to serve all the people who are eligible by 1995 if we proceed on the current track. We have to get beyond the way money is currently budgeted. WIC funding tripled during the 1980's—faster than any other nondefense, domestic program. However, rising poverty rates have all but wiped out the earnest efforts which several of my colleagues and I have made. In 1990 alone, the number of children in poverty in America rose over 840,000 to 13.5 million children, many of whom are nutritionally at risk. That is why WIC needs permanent funding.

Many child nutrition advocates have not agreed with me about setting up an entitlement for WIC. They fear that other Government programs, including other child health and nutrition programs, will unduly suffer from rapid expansion of WIC. If that were true, I would not embark upon this effort. The reality is that WIC can be transformed into an entitlement with barely more than the short- and long-term savings it will produce. We need only to reform the Federal budget process to allow WIC to be able to recoup the savings it creates for Medicare as well as other Federal health care and education programs.

Mr. President, some other funds would be needed to fund WIC until the savings are realized, but these early outlays are insignificant in relation to the long-term savings. Even if the money was deducted out of the defense budget, it still would amount to only a fraction of their expenditures. The cost of infant mortality is borne by all of American society. The lifetime costs of caring for just one low-birthweight infant can total $400,000. The cost of prenatal care—care that might prevent the low birthweight condition in the first place—can be as little as $400. As a nation we have a choice. We can pay now, or we can pay much more later.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD immediately following my remarks.

Mr. President, I yield the floor.

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

S. 175

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

SECTION 1. SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) IN GENERAL.—Section 17(c)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(1)) is amended—

(1) in the first sentence, by striking "may" and inserting "shall"; and

(2) by inserting after the first sentence the following new sentence: "Subject to the other provisions of this section, an eligible individual shall be entitled to receive the full amount of benefits authorized under this section.".

(b) APPROPRIATION.—Section 17(g)(1) of such Act (42 U.S.C. 1786(g)(1)) is amended by striking the first sentence and inserting the following new sentences: "For purposes of providing benefits to all eligible individuals in the program and otherwise carrying out this section, there are authorized to be ap-

propriated, and there are appropriated, to carry out this section such sums as are necessary for fiscal year 1994 and each succeeding fiscal year. The Secretary shall make available the sums described in the previous sentence to carry out this section.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1993.●

By Mr. DOLE (for himself, Mr. MCCAIN, Mr. DANFORTH, Mr. GRASSLEY, Mr. DURENBERGER, Mrs. KASSEBAUM, Mr. CRAIG, Mr. NICKLES, Mr. JEFFORDS, Mr. BOND, Mr. PACKWOOD, Mr. BURNS, Mr. MCCONNELL, Mr. WALLOP, Mr. SHELBY, Mr. BOREN, and Mr. BAUCUS):

S. 176. A bill to amend title XVIII of the Social Security Act with respect to essential access community hospitals, the rural transition grant program, regional referral centers, Medicare-dependent small rural hospitals, interpretation of electrocardiograms, payment for new physicians and practitioners, prohibitions on carrier forum shopping, treatment of nebulizers and aspirators, and rural hospital demonstrations; to the Committee on Finance.

MEDICARE AMENDMENTS OF 1993

Mr. DOLE. Mr. President, these days the topic of health care reform is dominating many of our political debates—a topic that also dominated much of our recent campaign rhetoric. Just about everyone is running around talking about expanding access to health care in the United States. I, too, share in this concern, as I have throughout my career in public life. But, today, Mr. President, I am introducing a bill, which has bipartisan support, whose primary intention is not the expansion of health care, but instead the preservation of health care in rural areas.

Mr. President, as many newcomers become acquainted with the topic of health care reform, many Americans await action by their Government officials to do something before health care becomes a privilege enjoyed only by a few. This is perhaps nowhere more true than in rural areas.

The legislation I am introducing today would make minor and technical changes in title 18 of the Social Security Act to improve the operation of the Medicare Program. These provisions were included in H.R. 11, the Revenue Act of 1992, which was passed by both the House and Senate on October 5, 1992, but later vetoed.

Mr. President, in addition to preserving access to health care in rural areas, the provisions in the bill I am introducing today have a time sensitive quality in that without rapid action on the part of Congress, many of these provisions will expire. In some cases they already have done so. Many of these provisions have allowed rural hospitals to provide outreach services to rural populations and have enabled rural areas to continue to offer vital diagnostic, medical, and surgical facilities and services to the residents of these communities.

Mr. President, if because of congressional inaction, these provisions expire, many rural areas will be forced to reconsider the degree and level of services offered to area residents. In some cases, hospitals may have to close their doors altogether. Citizens in these areas would be forced to travel great distances to obtain critical health care services or be compelled to sacrifice health care entirely in some instances. Traveling may represent a significant hardship for our elderly and disabled populations and their families. Furthermore, to create a situation where individuals must forego services is, frankly, poor health policy.

The bill includes a number of provisions pertaining to hospital and physician payments:

Extends the Medicare dependent hospital provision for 3 full years and then is phased down until such time as the urban-rural differential expires.

The Rural Transition Grant Program would be reauthorized for an additional 3 years.

Extends the regional referral center provision until September 30, 1994.

The number of States authorized to participate in the Essential Access Community Hospital Program would be increased from seven to nine.

Repeals provisions that reduced the Medicare payment for new physicians during their first 4 years of practice.

Restores payment to physicians for EKG interpretations.

Mr. President, the cost associated with EKG interpretations and new physicians would be funded by reducing payments for all other physician services. Both provisions have the support of physician groups, including the American Medical Association.

In addition, the bill includes two provisions from H.R. 11 that passed both the House and Senate, which will result in revenue savings, thereby offsetting the costs of other provisions. One of these involves a change in Medicare reimbursement for nebulizers and aspirators. These two forms of equipment would be removed from the category of DME items or purchase amounts for such items would be established. Separate payments would be made for accessories used in conjunction with nebulizers and aspirators.

The other provision which results in revenue savings is a prohibition against carrier forum shopping. This provision would result in one carrier for one or more entire regions to process all claims within that region.

Mr. President, this is important legislation to the preservation of health care services in rural areas. It is budget neutral and has the support of my colleagues on both sides of the aisle. My hope is that Congress will not delay and enact this legislation on a timely basis.

Mrs. KASSEBAUM. Mr. President, I am pleased to join my colleague, Senator DOLE, in today introducing legislation vital to ensuring access to care in our State, Kansas, and across rural America. While we in Congress work to enact comprehensive health care reform for all Americans, urban and rural, we must keep in place those programs and policies which bridge gaps and weaknesses in our current system.

The legislation we are introducing today will help to ensure that rural Americans continue to have access to high-quality, affordable, community-based care.

First, the legislation extends the Medicare Dependent Rural Hospital Program through October 1, 1994. I was an early cosponsor and supporter of this extension in the last Congress and will press hard for its timely enactment by this Congress.

The Medicare Dependent Rural Hospital Program is designed to ease the fiscal burden of rural hospitals with an exceptionally high proportion of Medicare patients. Kansas has 55 Medicare dependent hospitals, second in number only to Texas. The failure to extend this program would mean a loss of $8.6 million in improved Medicare payments to struggling Kansas hospitals.

Second, the measure extends the regional referral center status of currently qualified rural hospitals. Regional referral centers, of which Kansas has five, are large rural hospitals which provide more intensive and specialized care than is typical in smaller rural hospitals and therefore receive higher Medicare payment rates.

Third, the legislation extends and expands the Rural Health Transition Grant Program and the Essential Access Community Hospital Pilot Program. These two programs provide incentives to rural hospitals and communities to develop networks of care and focus on unmet health care needs. Last year, hospitals in six Kansas communities competed successfully for rural health transition grants. Kansas was also one of 7 States chosen to participate in the Essential Access Community Hospital Program, and we now have 10 care networks in the State.

Finally, the legislation repeals provisions that reduce Medicare payments for new physicians during their first 4 years of practice and eliminated separate reimbursement for interpreting electrocardiograms Since parity in rural and urban physician payments is still being phased in, these provisions of current law have a particularly hard impact on rural physicians.

The enactment of these modest but vital provisions will help to maintain access to care in underserved areas of rural America while Congress develops a comprehensive health care plan for all Americans.

Mr. DURENBERGER. Mr. President, there is no single issue that unites the

concern of rural Americans more than access to quality health care. Unfortunately, no one piece of legislation will solve all the serious problems facing hospitals in rural areas. It is one of the crucial components of rural quality of life, which keeps and attracts people to small towns. A major obstacle is the financial squeeze faced by many rural hospitals and physicians because the reimbursements from Medicaid and Medicare are often much less than the cost of the specific medical procedures. These inequities are what I have been working to resolve during my years in the Senate.

Approximately 27 percent of the Nation's population lives in rural America. However, the rural population is disproportionately poor, experiences significantly higher rates of chronic illness and disability and is aging at a faster rate than the Nation as a whole. In rural areas, the elderly accounted for 13.8 percent of the population, but 22.5 percent of all physician visits.

The prospective payment system implemented by Medicare in 1983 has had a negative effect on many rural hospitals. Payments to hospitals for their Medicare patients have been subject to a variety of adjustments, including a geographic adjustment which reimburses rural hospitals at a lower rate than urban hospitals. A recent CBO report concludes that payments to rural hospitals have been much lower, relative to their costs, than payments to urban hospitals. And there is a constant threat of closure of rural hospitals, clinics, and other rural health care providers. Since 1986, 14 rural hospitals have closed in Minnesota and another 8 are identified as high financial risk institutions.

In 1986, we succeeded in reducing the unfair Medicare payment differential between urban and rural hospitals by 20 percent. And, in 1987 we were able to realize an increase in Medicare payment rates for rural hospitals which was two to three times as great as the increase for urban hospitals.

Today, I am pleased to join the distinguished Republican leader as an original cosponsor of legislation to address the needs of rural hospitals and correct problems in the OBRA '90 legislation which created inequities in EKG and new physicians Medicare reimbursement. Mr. President, each provision included in this legislation passed both bodies of Congress last year. Yet, they failed to become law because they were engulfed by the urban aid package which was ultimately vetoed.

Many of these Medicare provisions have been brought up through grassroots because they deeply affect rural States. In 1986, while visiting with staff from the Eveleth Hospital, in northern Minnesota, an idea was born that was translated into legislation. The Eveleth staff proposed that the Federal Government provide grants to small rural hospitals to help assure access to high-quality health care in communities that are attempting to cope with upheaval on many levels. Many of my colleagues joined me in this concept to introduce the Rural Health Services Transition Act of 1987, which provides grants of up to $50,000 per year to smaller rural hospitals to help them diversify and add new services.

There is no reason that facilities which we have known as hospitals can't expand and diversify into these new areas as they reduce or phase out other services. But, making this kind of transition is more difficult for smaller, rural hospitals because they may lack the time, resources, or staff expertise needed to assess community needs, and plan, implement, and market new services. The purpose of this legislation was to provide smaller rural hospitals with seed money to begin the transition to a more diverse health service center which can continue to provide essential emergency and other services which its community now depends on.

As a result, rural health transition grants have helped numerous rural hospitals. Last year, 12 Minnesota hospitals were awarded up to $50,000 over 3 years. Kanabec Hospital in Mora, MN, is working on shifting its focus to provide more outpatient services. Hendricks Community Hospital, in western Minnesota is putting their money toward a renovation project, coordinating additional services between hospital and elderly care programs.

Second, this legislation extends the rural referral center classification. On October 1, hospitals in rural areas meeting certain criteria lost their classification as regional referral centers. In Minnesota, rural hospitals are already experiencing a decline in reimbursement as their classification is reevaluated. For instance, Rice Hospital in Willmar, MN, receives $139.13 less per discharge from Medicare. Rural hospitals already face many financial impediments. Therefore, I urge my colleagues to work quickly to pass this legislation before inaction generates irreversible consequences on our rural hospitals.

Mr. President, this legislation provides for the continuation of special payments for small rural hospitals qualifying as Medicare dependent hospitals [MDH's]. MDH status is beneficial to 11 Minnesota rural hospitals. Another 21 hospitals are eligible. Specifically, this provision would be very helpful for the Swift County-Benson Hospital in Benson, MN. This provision is beneficial because this 31-bed hospital's 1982 or 1987 costs are greater than the prospective payment rate.

Also, this bill addresses the Essential Access Community Hospital [EACH] Demonstration Program created in OBRA '89. Currently, there are seven States authorized to participate in the EACH Program. One aspect of this legislation would increase the number of States eligible for grants under the program to nine. The Riverview Healthcare Association in Crookston, MN, and the center for rural health at the University of North Dakota work together to provide an integrated rural health network. Therefore, it is my hope that this provision will open the EACH Program to North Dakota.

In addition, this bill moves toward correcting an inequity in the Medicare Program that reduces rates for new physicians. This has a severe impact on group practices. Both the Mayo Clinic and Park Nicollet in Minnesota have been impacted by such reductions. Group practices were exempt from the so-called new physicians reduction prior to OBRA '90. However, under current law, an established physician can be treated as a new physician if one never independently submitted claims for services provided to Medicare beneficiaries. This practice ignores the purpose of physician payment reform in which Medicare reimbursement is based on a resource-based relative value scale.

Lastly, Mr. President, I am pleased that this legislation includes a provision that I introduced separately last year. OBRA '90 prohibited separate payment for the interpretation of EKG's that are performed or ordered to be performed as part of a visit to a physician. This resulted in inequities. Therefore, over the past 2 years, I have sponsored legislation to reestablish separate payment for EKG interpretation.

Because HCFA was prohibited from establishing separate payment for EKG interpretation in the Medicare fee schedule, it increased the reimbursement for office visits and consultations. In other words, it bundled EKG reimbursement into the visit and consultation billing codes. However, in this case, the provision redistributes moneys to physicians who never interpret EKG's and does not sufficiently pay physicians who interpret many EKG's. Because the use of EKG's varies widely by specialty, it is not currently possible to construct a bundled fee for office visits that, on average, would balance out fairly over time.

We have created a financial disincentive which may discourage physicians from interpreting EKG's. We have to make a change in the fee schedule to eliminate this false economy and deliver the quality care Medicare patients deserve.

This bill is no silver bullet which will save all rural hospitals. Nor will it correct every inequity in the Medicare fee schedule. But, this bill is a strong forward step in assisting rural hospitals to become stronger health service institutions. This bill sends a strong message to rural America: Washington cares about your problems and wants

to help ensure access to quality health care.

I ask unanimous consent that the text of the bill be printed in the CONGRESSIONAL RECORD.

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

S. 176

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

SECTION 1. SHORT TITLE; REFERENCES IN ACT.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Amendments of 1993".

(b) REFERENCES IN ACT.—Except as otherwise specifically provided, whenever in this Act, an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

SEC. 2. ESSENTIAL ACCESS COMMUNITY HOSPITAL (EACH) AMENDMENTS.

(a) INCREASING NUMBER OF PARTICIPATING STATES.—Section 1820(a)(1) (42 U.S.C. 1395i-4(a)(1)) is amended by striking "7" and inserting "9".

(b) TREATMENT OF INPATIENT HOSPITAL SERVICES PROVIDED IN RURAL PRIMARY CARE HOSPITALS.—

(1) IN GENERAL.—Section 1820(f)(1)(F) (42 U.S.C. 1395i-4(f)(1)(F)) is amended to read as follows:

"(F) subject to paragraph (4), provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care to patients requiring stabilization before discharge or transfer to a hospital, except that the facility may not provide any inpatient hospital services—

"(i) to any patient whose attending physician does not certify that the patient may reasonably be expected to be discharged or transferred to a hospital within 72 hours of admission to the facility; or

"(ii) consisting of surgery or any other service requiring the use of general anesthesia (other than surgical procedures specified by the Secretary under section 1833(i)(1)(A)), unless the attending physician certifies that the risk associated with transferring the patient to a hospital for such services outweighs the benefits of transferring the patient to a hospital for such services.".

(2) LIMITATION ON AVERAGE LENGTH OF STAY.—Section 1820(f) (42 U.S.C. 1395i-4(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION ON AVERAGE LENGTH OF INPATIENT STAYS.—The Secretary may terminate a designation of a rural primary care hospital under paragraph (1) if the Secretary finds that the average length of stay for inpatients at the facility during the previous year in which the designation was in effect exceeded 72 hours. In determining the compliance of a facility with the requirement of the previous sentence, there shall not be taken into account periods of stay of inpatients in excess of 72 hours to the extent such periods exceed 72 hours because transfer to a hospital is precluded because of inclement weather or other emergency conditions.".

(3) CONFORMING AMENDMENT.—Section 1814(a)(8) (42 U.S.C. 1395f(a)(8)) is amended by striking "such services" and all that follows and inserting "the individual may reasonably be expected to be discharged or transferred to a hospital within 72 hours after admission to the rural primary care hospital.".

(4) GAO REPORTS.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit reports to the Congress on—

(A) the application of the requirements under section 1820(f) of the Social Security Act (as amended by this subsection) that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain an average length of inpatient stay during a year that does not exceed 72 hours; and

(B) the extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited the ability of such hospitals to provide needed services.

(c) DESIGNATION OF HOSPITALS.—

(1) PERMITTING DESIGNATION OF HOSPITALS LOCATED IN URBAN AREAS.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by striking paragraph (1) of subsection (e) and redesignating paragraphs (2) through (6) as paragraphs (1) through (5);

(ii) in subsection (e)(1)(A) (as redesignated by subparagraph (A))—

(I) by striking "is located" and inserting "except in the case of a hospital located in an urban area, is located"

(II) by striking ", (ii)" and inserting "or (ii)", and

(III) by striking "or (iii)" and all that follows through "section,"; and

(iii) in subsection (i)(1)(B), by striking "paragraph (3)" and inserting "paragraph (2)".

(B) NO CHANGE IN MEDICARE PROSPECTIVE PAYMENT.—Section 1886(d)(5)(D) (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(i) in clause (iii)(III), by inserting "located in a rural area and" after "that is", and

(ii) in clause (v), by inserting "located in a rural area and" after "in the case of a hospital".

(2) PERMITTING HOSPITALS LOCATED IN ADJOINING STATES TO PARTICIPATE IN STATE PROGRAM.—

(A) IN GENERAL.—Section 1820 (42 U.S.C. 1395i-4) is amended—

(i) by redesignating subsection (k) as subsection (l); and

(ii) by inserting after subsection (j) the following new subsection:

"(k) ELIGIBILITY OF HOSPITALS NOT LOCATED IN PARTICIPATING STATES.—Notwithstanding any other provision of this section—

"(1) for purposes of including a hospital or facility as a member institution of a rural health network, a State may designate a hospital or facility that is not located in the State as an essential access community hospital or a rural primary care hospital if the hospital or facility is located in an adjoining State and is otherwise eligible for designation as such a hospital;

"(2) the Secretary may designate a hospital or facility that is not located in a State receiving a grant under subsection (a)(1) as an essential access community hospital or a rural primary care hospital if the hospital or facility is a member institution of a rural health network of a State receiving a grant under such subsection; and

"(3) a hospital or facility designated pursuant to this subsection shall be eligible to receive a grant under subsection (a)(2).".

(B) CONFORMING AMENDMENTS.—(i) Section 1820(c)(1) (42 U.S.C. 1395i-4(c)(1)) is amended by striking "paragraph (3)" and inserting "paragraph (3) or subsection (k)".

(ii) Paragraphs (1)(A) and (2)(A) of section 1820(i) (42 U.S.C. 1395i-4(i)) are each amended—

(I) in clause (i), by striking "(a)(1)" and inserting "(a)(1) (except as provided in subsection (k))", and

(II) in clause (ii), by striking "subparagraph (B)" and inserting "subparagraph (B) or subsection (k)".

(d) SKILLED NURSING SERVICES IN RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(3) (42 U.S.C. 1395i-4(f)(3)) is amended by striking "because the facility" and all that follows and inserting the following: "because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.".

(e) PAYMENT FOR OUTPATIENT RURAL PRIMARY CARE HOSPITAL SERVICES.—Section 1834(g)(1) (42 U.S.C. 1395m(g)(1)) is amended by adding at the end the following:

"The amount of payment shall be determined under either method without regard to the amount of the customary or other charge.".

(f) CLARIFICATION OF PHYSICIAN STAFFING REQUIREMENT FOR RURAL PRIMARY CARE HOSPITALS.—Section 1820(f)(1)(H) (42 U.S.C. 1395i-4(f)(1)(H)) is amended by striking the period and inserting the following: ", except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1861(r)(1).".

(g) TECHNICAL AMENDMENTS RELATING TO PART A DEDUCTIBLE, COINSURANCE, AND SPELL OF ILLNESS.—(1) Section 1812(a)(1) (42 U.S.C. 1395d(a)(1)) is amended—

(A) by striking "inpatient hospital services" the first place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services";

(B) by striking "inpatient hospital services" the second place it appears and inserting "such services"; and

(C) by striking "and inpatient rural primary care hospital services".

(2) Sections 1813(a) and 1813(b)(3)(A) (42 U.S.C. 1395e(a), 1395e(b)(3)(A)) are each amended by striking "inpatient hospital services" each place it appears and inserting "inpatient hospital services or inpatient rural primary care hospital services".

(3) Section 1813(b)(3)(B) (42 U.S.C. 1395e(b)(3)(B)) is amended by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services".

(4) Section 1861(a) (42 U.S.C. 1395x(a)) is amended—

(A) in paragraph (1), by striking "inpatient hospital services" and inserting "inpatient hospital services, inpatient rural primary care hospital services"; and

(B) in paragraph (2), by striking "hospital" and inserting "hospital or rural primary care hospital".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 1820(l) (42 U.S.C. 1395i–4(l)), as redesignated by subsection (c)(2), is amended by striking "1990, 1991, and 1992" and inserting "1990 through 1995".

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

SEC. 3. REAUTHORIZATION OF RURAL TRANSITION GRANT PROGRAM.

Section 4005(e)(9) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100–203) is amended by striking "1992" and inserting "1992 and $30,000,000 for each of fiscal years 1993 through 1997".

SEC. 4. REGIONAL REFERRAL CENTERS.

(a) EXTENSION THROUGH FISCAL YEAR 1994.—

(1) IN GENERAL.—Section 6003(d) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395ww note) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

(2) PAYMENT ADJUSTMENT.—

(A) IN GENERAL.—In the case of a hospital which would have retained its status as a regional referral center during the period described in subparagraph (B) if the amendments made by paragraph (1) had been included in the enactment of section 6003(d) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395ww note), the Secretary of Health and Human Services shall make a lump sum payment to such hospital based on the difference between the aggregate payments (excluding outlier payments) such hospital would have received during such period if such hospital was classified as a regional referral center during such period and the aggregate payments (excluding outlier payments) such hospital actually received during such period.

(B) DEFINITION.—The period described in this subparagraph is the period beginning the day after the last day a hospital was classified as a regional referral center under section 6003(d) of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395ww note) and ending on the date of the enactment of the amendments made by paragraph (1).

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—

(1) IN GENERAL.—If any hospital fails to qualify as a rural referral center under section 1886(d)(5)(C) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993, the Secretary of Health and Human Services shall—

(A) notify such hospital of such failure to qualify,

(B) provide an opportunity for such hospital to decline such reclassification, and

(C) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D) of such Act) for fiscal year 1993 as if the decision by the Review Board had not occurred.

(2) PAYMENT ADJUSTMENT.—In the case of a hospital which declines a reclassification under paragraph (1)(C), the Secretary of Health and Human Services shall make a lump sum payment to such hospital for any period in which such hospital was reclassified under section 1886(d)(10) of the Social Security Act based on the difference between the aggregate payments (excluding outlier payments) such hospital would have received during such period if such hospital was classified as a regional referral center during such period and the aggregate payments (excluding outlier payments) such hospital actually received during such period.

SEC. 5. MEDICARE-DEPENDENT, SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5)(G) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)) is amended—

(1) by amending clause (i) to read as follows:

"(i) In the case of a subsection (d) hospital which is a medicare-dependent, small rural hospital, payment under paragraph (1)(A) for discharges occurring before October 1, 1994, shall be—

"(I) for any cost reporting period beginning on or after April 1, 1990, and ending before March 31, 1994, the amount determined under clause (ii); and

"(II) for any cost reporting period beginning on or after April 1, 1993, the amount determined under clause (ii) by substituting '50 percent' for '100 percent'.",

(2) by redesignating clauses (ii) and (iii), as clauses (iii) and (iv), respectively, and

(3) by inserting after clause (i) the following new clause:

"(ii) The amount determined under this clause is the sum of—

"(I) the amount determined under paragraph (1)(A)(iii), and

"(II) 100 percent of the excess (if any) of—

"(aa) the hospital's target amount for the cost reporting period, as defined in subsection (b)(3)(D), over

"(bb) the amount determined under paragraph (1)(A)(iii).".

(b) PERMITTING HOSPITALS TO DECLINE RECLASSIFICATION.—

(1) IN GENERAL.—If any hospital fails to qualify as a medicare-dependent, small rural hospital under section 1886(d)(5)(G)(i) of the Social Security Act as a result of a decision by the Medicare Geographic Classification Review Board under section 1886(d)(10) of such Act to reclassify the hospital as being located in an urban area for fiscal year 1993, the Secretary of Health and Human Services shall—

(A) notify such hospital of such failure to qualify,

(B) provide an opportunity for such hospital to decline such reclassification, and

(C) if the hospital declines such reclassification, administer the Social Security Act (other than section 1886(d)(8)(D) of such Act) for fiscal year 1993 as if the decision by the Review Board had not occurred.

(2) PAYMENT ADJUSTMENT.—In the case of a hospital which declines a reclassification under paragraph (1)(C), the Secretary of Health and Human Services shall make a lump sum payment to such hospital for any period in which such hospital was reclassified under section 1886(d)(10) of the Social Security Act based on the difference between the aggregate payments (excluding outlier payments) such hospital would have received during such period if such hospital was classified as a medicare-dependent, small rural hospital during such period and the aggregate payments (excluding outlier payments) such hospital actually received during such period.

SEC. 6. SEPARATE PAYMENT FOR INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Paragraph (3) of section 1848(b) (42 U.S.C. 1395w–4(b)) is amended to read as follows:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—The Secretary—

"(A) shall make separate payment under this section for the interpretation of electrocardiograms performed or ordered to be performed as part of or in conjunction with a visit to or a consultation with a physician, and

"(B) shall adjust the relative values established for visits and consultations under subsection (c) so as not to include relative value units for interpretations of electrocardiograms in the relative value for visits and consultations.".

(b) ASSURING BUDGET NEUTRALITY.—Section 1848(c)(2) (42 U.S.C. 1395w–4(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) BUDGET NEUTRALITY ADJUSTMENTS.—The Secretary—

"(i) shall reduce the relative values for all services (other than anesthesia services) established under this paragraph (and, in the case of anesthesia services, the conversion factor established by the Secretary for such services) by such percentage as the Secretary determines to be necessary so that, beginning in 1996, the amendment made by section 6(a) of the Medicare Amendments of 1993 would not result in expenditures under this section that exceed the amount of such expenditures that would have been made if such amendment had not been made, and

"(ii) shall reduce the amounts determined under subsection (a)(2)(B)(i)(I) by such percentage as the Secretary determines to be required to assure that, taking into account the reductions made under clause (i), the amendment made by section 6(a) of the Medicare Amendments of 1993 would not result in expenditures under this section in 1993 that exceed the amount of such expenditures that would have been made if such amendment had not been made.".

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w–4) is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting "and as adjusted under subsection (c)(2)(E)(ii)" after "for 1993";

(2) in subsection (c)(2)(A)(i), by adding at the end the following: "Such relative values are subject to adjustment under subparagraph (E)(i).''; and

(3) in subsection (i)(1)(B), by adding at the end "including adjustments under subsection (c)(2)(E),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1993.

SEC. 7. PAYMENTS FOR NEW PHYSICIANS AND PRACTITIONERS.

(a) EQUAL TREATMENT OF NEW PHYSICIANS AND PRACTITIONERS.—(1) Section 1848(a) (42 U.S.C. 1395w–4(a)) is amended by striking paragraph (4).

(2) Section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended by striking subparagraph (F).

(b) BUDGET NEUTRALITY ADJUSTMENT.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall reduce the following values and amounts for 1993 (to be applied for that year and subsequent years) by such uniform percentage as the Secretary determines to be required to assure that the amendments made by subsection (a) will not result in expenditures under part B of title XVIII of the Social Security Act in 1993 that exceed the amount of such expenditures that would have been made if such amendments had not been made:

(1) The relative values established under section 1848(c) of such Act for services (other than anesthesia services) and, in the case of anesthesia services, the conversion factor established under section 1848 of such Act for such services.

(2) The amounts determined under section 1848(a)(2)(B)(i)(I) of such Act.

(3) The prevailing charges or fee schedule amounts to be applied under such part for services of a health care practitioner (as defined in section 1842(b)(4)(F)(ii)(I) of such Act, as in effect before the date of the enactment of this Act).

(c) CONFORMING AMENDMENTS.—Section 1848 (42 U.S.C. 1395w-4), as amended by section 6(c) of this subtitle, is amended—

(1) in subsection (a)(2)(B)(i)(I), by inserting "and section 7(b) of the Medicare Amendments of 1993" after "(c)(2)(E)(ii)";

(2) in subsection (c)(2)(A)(i), by inserting "and section 7(b) of the Medicare Amendments of 1993" after "under subparagraph (E)(i)"; and

(3) in subsection (i)(1)(B), by inserting "and section 7(b) of the Medicare Amendments of 1993" after "under subsection (c)(2)(E)".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after January 1, 1993.

SEC. 8. PROHIBITION AGAINST CARRIER FORUM SHOPPING.

(a) IN GENERAL.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended to read as follows:

"(12) USE OF CARRIERS TO PROCESS CLAIMS.—

"(A) DESIGNATION OF REGIONAL CARRIERS.—The Secretary may designate, by regulation under section 1842, one carrier for one or more entire regions to process all claims within the region for covered items under this section.

"(B) PROHIBITION AGAINST CARRIER SHOPPING.—(i) No supplier of a covered item may present or cause to be presented a claim for payment under this part unless such claim is presented to the appropriate carrier.

"(ii) For purposes of clause (i), the term 'appropriate carrier' means the carrier having jurisdiction over the geographic area that includes the permanent residence of the patient to whom the item is furnished.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after July 1, 1993.

(c) CLARIFICATION OF AUTHORITY TO DESIGNATE CARRIERS FOR OTHER ITEMS AND SERVICES.—Nothing in this subsection or the amendment made by this subsection may be construed to restrict the authority of the Secretary of Health and Human Services to designate regional carriers or modify claims jurisdiction rules with respect to items or services under part B of the medicare program that are not covered items under section 1834(a) of the Social Security Act or prosthetic devices or orthotics and prosthetics under section 1834(h) of such Act.

SEC. 9. TREATMENT OF NEBULIZERS AND ASPIRATORS.

(a) IN GENERAL.—Section 1834(a)(3)(A) (42 U.S.C. 1395m(a)(3)(A)) is amended by striking "ventilators, aspirators, IPPB machines, and nebulizers" and inserting "ventilators and IPPB machines".

(b) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (14) the following new paragraph:

"(15) PAYMENT FOR ACCESSORIES RELATING TO NEBULIZERS AND ASPIRATORS.—In the case of accessories to be used in conjunction with a nebulizer or aspirator for which payment is made under this subsection, payment shall be made in accordance with paragraph (2) of this subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items furnished on or after January 1, 1993.

SEC. 10. EXTENSION OF RURAL HOSPITAL DEMONSTRATION.

Section 4008(i)(1) of the Omnibus Budget Reconciliation Act of 1990 is amended by adding at the end the following new sentence: "The Secretary shall continue any such demonstration project until at least December 31, 1995.".

By Mr. DOLE (for himself, Mr. CRAIG, Mr. WALLOP, Mr. GRAMM, Mr. SIMPSON, Mr. HELMS, Mr. NICKLES, Mr. BOND, Mr. MCCONNELL, Mr. STEVENS, and Mr. LOTT):

S. 177. A bill to ensure that agencies establish the appropriate procedures for assessing whether or not regulation may result in the taking of private property, so as to avoid such where possible; to the Committee on Governmental Affairs.

PRIVATE PROPERTY RIGHTS ACT

Mr. DOLE. Mr. President, it is an honor for me to have been asked by our very distinguished former colleague, Steve Symms of Idaho, to introduce a bill he sponsored in 1991, the Private Property Rights Act.

One might reasonably ask why, in a nation in which the rights of property owners are supposed to protected from the Federal Government under the fifth amendment to our Constitution, and from State governments by the 14th amendment, would we need a law protecting private property? The reason is, unfortunately, those working in government, those who have sworn to uphold our Constitution, are not always as vigilant as they need to be.

There are literally billions of dollars in claims filed against the Federal Government by landowners who believe their private property has been taken by the Government without just compensation, as is required by the Constitution. It is important to note that a taking can occur even though title to the property remains with the original owner and the Government has only placed restrictions on its use.

Fortunately, courts have recognized these partial takings are subject to just compensation. Unfortunately, the only check on the enforcement of the Constitution has been through the court system, wherein citizens can, at the expense of vast amounts of money and time, ensure the Government complies with the Constitution. Were it not so tragic, it might be amusing—we are forcing our citizens to spend their time, their money, to ensure those who are sworn to uphold the Constitution—Government employees—actually do so.

President Ronald Reagan recognized this failure of the system and, on March 15, 1988, issued Executive Order 12630 which, in effect, required Federal agencies to review regulations before they were issued to determine whether takings of private property could occur thereunder. The order also established a set of principles based on the age-old law of man that private property ownership is sacred and should be defended. The order told the agencies not to take private property—in whole or in part—unless absolutely necessary.

The bill I am introducing today would accomplish two goals: First, the Executive order would become law, and second, would require all Federal departments and agencies to comply. Simple goals really, we are asking the Government to uphold the Constitution—we are asking those who have sworn to uphold our precious Bill of Rights to do so, we are telling the citizens, the taxpayers, the landowners that finally we will do our job, and they can rest assured they will not spend their time, their money to ensure we do our job.

Mr. President, I ask my colleagues to talk with their small business men and women, their farmers, their ranchers, those who believe in the private property rights contained in our Constitution, what they think about this most appropriate legislation. After doing so, I am certain we can move this legislation early in this Congress.

I ask unanimous consent that the text of the bill and additional material be printed in the CONGRESSIONAL RECORD.

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

S. 177

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Property Rights Act of 1993".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the Executive Branch of the United States Government.

(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the Fifth Amendment to the Constitution of the United States.

SEC. 3. PROTECTION OF PRIVATE PROPERTY.

No regulation promulgated after the date of enactment of this Act by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630, as in effect in 1991, the language of which is hereby incorporated by reference and enacted into public law, to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

SEC. 4. JUDICIAL REVIEW.

(a) Judicial review of actions taken pursuant to this Act shall be limited to whether the Attorney General has certified the issuing agency as in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and

at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this Act. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

(b) Nothing in this section shall affect any otherwise available judicial review of agency action.

Mr. WALLOP. Mr. President, I am very pleased to join the Republican leader Senator DOLE and Senator BOREN in the sponsorship of a critical piece of bipartisan legislation, the Private Property Rights Act of 1993. This bill will codify Executive Order No. 12630, the takings order, signed by President Reagan in 1988 to protect fifth amendment private property rights which include ownership, use, and transfer of private property of all types. The fifth amendment clearly states "* * * nor shall private property be taken for public use, without just compensation."

A taking can occur when Government action does not invoke the condemnation power yet infringes on private property rights. This legislation's key provision declares that no Federal regulation can take effect until the potential for taking private property has been assessed. It gives muscle to the executive order's demand that agencies adopt supplemental guidelines for assessing the taking implication of their actions.

The passage of this legislation will continue to safeguard property owners—it is most critical to the residents of my State of Wyoming, where the Federal Government holds half of all lands, and other western States where the Government owns often even more.

Acreage of Federal lands expanded by cessions and purchase are concentrated in the American West and dramatically diminish the West's control over its own destiny. As a result, the West is less whole and has more limited opportunities than those States with only occasional Federal lands. The Federal Government has managed to become the de facto manager of all the lands, public and private, and controls them by rules and regulations that are often unwise and ill-advised. This is where takings becomes important.

Those who render preservationist agendas for the western States by law and regulations have little at stake. If they prevail, the healthy, productive West will be stripped of the very qualities that draw people to it today. This Senator strongly opposes the preservationists' agenda, and my position relies on the text of the Constitution.

The basic element at issue on the Federal lands is production—do we or do we not support production on our Federal lands? The other values such as recreation and wildlife are benefits which result from healthy, productive lands. When Government actions suppress viable production, the Nation must import what we are regulated from producing. Jobs are lost, economies are wrecked, and America's ability to compete internationally is impaired. This is ludicrous. If our ranchers and farmers are unable to make a living from the land, their capital investments will disappear. Then the public will have to dig deep into its pockets in order to rebuild the infrastructure. At a time when the primary concern is deficit reduction, we cannot tolerate actions that reduce the balance of payments on one-third of our Nation's land.

The West, not unlike other regions of the country, has unique concerns. It has long been a goal of this Senator to foster a better understanding of the western lifestyle and its related problems which this Congress must address. The West is populated with savvy, well-educated, and creative stewards. These are the people who have invested their lives and their incomes in the land. They work at maintaining partnerships with the Federal Government at local levels as both they and Federal land managers strive to balance the differing opinions and competing values. These efforts are increasingly thwarted by the 29-cent appeal and other obstacles orchestrated by some environmental groups who are totally disinterested in balance or solutions. Millions of taxpayer dollars are spent by the bureaucracy to ward off a feels-good management system. Rules and regulations touted as protecting and enhancing the environment most often strangle the economic vitality of communities. They put at risk not only western jobs and the environment, but the economic health and the food supply of this Nation as well.

The Framers of the Constitution saw the need to protect private property from a hungry Federal Government. The U.S. Congress enacted the principles of multiple-use and sustained yield to protect western heritage, production, cultures, and economies from those who would mistakenly turn the land into a playground for urban sprawl. It is ironic that one need only look at the wave of development creeping from the highly populated cities of the West to understand that there is not a more sustainable use and protector of open space than farmers and ranchers.

As we begin this 103d Congress, I invite my colleagues and their staffs to join those of us in the West for an on-the-ground tour of our imtermingled Federal lands. I invite you to come view the vastness and complexities of our land, learn about wildlife migration routes, and see how the private sector keeps the wildlife numbers growing: See too where the water flows and how that pattern affects access and grazing issues, and yes, understand how a grizzly bear can control riparian areas and how elk, deer, antelope, and wild horses determine land use.

The mosaic of the West is complex and interdependent. What seems to be is not always the case and wise decisions cannot be made without understanding the whole. This information is not found in slick magazines or in Government studies. Stewardship and protection of the environment go hand in hand. There is a tremendous opportunity in the West to nurture a sustainable and traditional way of life while, at the same time, protecting the environment and providing the recreational experiences the Nation demands.

Mr. President, passage of the Private Property Act of 1993 will provide for better government and better business. As this legislation moves from committee to the Senate and House floor, I urge my colleagues to weigh the matter carefully—study it—and approve this protection for all of our fifth amendment rights.

By Mr. MOYNIHAN:

S. 178. A bill to amend chapter 44 of title 18, United States Code, to prohibit the manufacture, transfer, or importation of .25 caliber and .32 caliber and 9 millimeter ammunition; to the Committee on the Judiciary.

S. 179. A bill to tax 9 millimeter, .25 caliber, and .32 caliber bullets; to the Committee on Finance.

TAXATION AND RESTRICTIONS ON CERTAIN AMMUNITION

Mr. MOYNIHAN. Mr. President, I rise to introduce two bills—the Violent Crime Prevention Act and the Real Cost of Ammunition Act. Their purposes are to ban or tax those calibers of ammunition used disproportionately in crime. These bills represent new approaches for protecting U.S. citizens from gun violence. I introduced these provisions, as S. 51 and as title II of S. 3373, in the last Congress to ban or tax crime rounds. There is a real need for these provisions to account for the true costs of bullets. Look at the data.

In 1989, 34,776 people lost their lives in the United States from bullets, 14,464 were murdered, 18,178 committed suicide, the rest died from accidents or legal intervention—shot by a policeman or such. Although no national statistics are kept on bullet-related injuries, studies suggest they are from 2 to 5 times more frequent than deaths; up to 175,000 bullet injuries per year.

Homicide is the second leading cause of death in the 15- to 34-year-old age bracket, surpassed only by unintentional events like automobile crashes. It is the leading cause of death for black males aged 15 to 34. The lifetime risk of death from homicide in U.S. males is 1 in 164, about the same as the risk of battle death faced by U.S. servicemen from all forces serving in Vietnam. For black males the lifetime risk of death from homicide is 1 in 28, twice

the risk of battle death faced by marines serving in Vietnam. Almost all homicides are caused by bullets.

Consider, in 1989 a total of 17,277 black males in the 15- to 34-year age group died in the United States. Homicides accounted for 6,031 of the total deaths; 4,804 were murdered by bullets or 80 percent. That same year a total of 52,148 white males in the 15- to 34-year age group died in the United States. Of these, homicide accounted for 4,464 of the total deaths among these young white males; 3,126 were killed by bullets, over 75 percent. For black males it is pure carnage; 10 times the white rate.

As noted by Susan Baker and her colleagues in the book "Epidemiology and Health Policy" edited by Sol Levine and Abraham Lilienfeld:

There is a correlation between rates of private ownership of guns and gun-related death rates;

Guns cause two-thirds of family homicides; and

Small easily concealed weapons comprise the majority of guns used for homicides, suicides and unintentional death.

Baker states that—

* * * these facets of the epidemiology of firearm-related deaths and injuries have important implications. Combined with their lethality, the widespread availability of easily concealed handguns for impetuous use by people who are angry, drunk, or frightened appears to be a major determinant of the high firearm death rate in the United States. Each contributing factor has implications for prevention. Unfortunately, issues related to *gun control* have evoked such *strong sentiments* that epidemiologic data are rarely employed to good advantage (emphasis added).

Certainly, the strong sentiments about gun control have made the subject difficult for the epidemiologists. But, it might also be they are looking at the wrong interaction. Couldn't we focus on the bullets and not the guns, avoid some of the strong sentiments and even save lives?

Let's look at our experience with controlling epidemics. Although the science of epidemiology traces its roots to antiquity—Hippocrates stressed the importance of considering environmental influences on human diseases—the first modern epidemiology study was conducted by James Lind in 1747. His efforts led to the eventual control of scurvy. It wasn't until 1795 that the British Navy accepted his analysis and required limes in shipboard diets. Most solutions are not perfect. Disease is rarely eliminated. But might epidemiology be applied in the case of bullets to reduce suffering? I think so.

In 1854 John Snow and William Farr collected data that clearly showed cholera was caused by contaminated drinking water. Snow removed the handle of the Broad Street pump in London to prevent people from drawing water from this contaminated water source and the disease stopped in this population. His observations led to a legislative mandate that all London water companies filter their water by 1857. Cholera epidemics subsided. Now treatment of sewage prevents cholera from entering our rivers and lakes, and disinfection of drinking water makes water distribution systems uninhabitable for cholera vibrio, identified by Robert Koch as the causative agent in 1883, 26 years after Snow's study.

In 1900, Walter Reed identified mosquitos as the carriers of yellow fever. Subsequent, mosquito control efforts by another U.S. Army doctor, William Gorgas, enabled the United States to complete the Panama Canal. The French failed because their workers were too sick from yellow fever to work. Now that it is known that yellow fever is caused by a virus, vaccines are used to eliminate the spread of the disease.

These pioneering epidemiology success stories showed the world that epidemics require an interaction between three things: the host, the person who becomes sick or, in the case of bullets, the victim; the agent, the cause of sickness or the bullet; and the environment, the setting in which the sickness occurs or in the case of bullets, violent behavior. Interrupt this epidemiological triad and you reduce or eliminate disease and injury.

How might this knowledge apply to the control of bullet-related injury and death? Again, we're talking about something different from gun control. There is a precedent. In the middle of this century it was recognized that epidemiology could be applied to automobile death and injury. From a governmental perspective, this hypothesis was first adopted in 1959, late in the administration of Gov. Averell Harriman in New York State. In the 1960 Presidential campaign I drafted a statement on the subject which was released by Senator John F. Kennedy as part of a general response to enquiries from the American Automobile Association. Then Senator Kennedy stated:

Traffic accidents constitute one of the greatest, perhaps the greatest of the nation's public health problems. They waste as much as 2 percent of our gross national product every year and bring endless suffering. The new highways will do much to control the rise of the traffic toll, but by themselves they will not reduce it. A great deal more investigation and research is needed. Some of this has already begun in connection with the highway program. It should be extended until highway safety research takes its place as an equal of the many similar programs of health research which the federal government supports.

Experience in the 1950's and early 1960's, prior to passage of the Motor Vehicle Safety Act, showed that traffic safety enforcement campaigns designed to change human behavior did not improve traffic safety. In fact the death and injury toll mounted. I was Assistant Secretary of Labor in the mid-1960's when Congress was developing the Motor Vehicle Safety Act, and I was called to testify.

It was clear to me and others that motor vehicle injuries and deaths could not be limited by regulating driver behavior. Nonetheless, we had an epidemic on our hands and we needed to do something about it. My friend William Haddon, the first Administrator of the National Highway Traffic Safety Administration, recognized that automobile fatalities were caused by a second collision. In the first collision the automobile strikes some object. When energy is transferred to the interior of the car, a second collision occurs as the driver and occupants strike the steering wheel, dashboard, and other structures in the passenger compartment. The second collision is the agent of injury to the host, the car's occupant. Efforts to make automobiles crashworthy follow examples used to control infectious disease epidemics. Reduce or eliminate the agent of injury. Seat belts, padded dashboards, and air bags are all specifically designed to reduce, if not eliminate, injury caused by the agent of automobile injuries, energy transfer to the human body during the second collision. In fact, we've done nothing revolutionary. All of the technology used to date to make cars crashworthy, including air bags, was developed prior to 1970.

Experience shows the approach worked. Sure it could have worked better, but it worked. Had we been able to totally eliminate the agent, the second collision, the cure would have been complete. Nonetheless, by just focusing on simple, achievable remedies we reduced the traffic death and injury epidemic by 30 percent. Let's look at the facts again. Motor vehicle deaths declined in absolute terms by 13 percent from 1980 to 1990 despite significant increases in the number of drivers, vehicles, and miles driven. Driver behavior is changing too. National seat belt usage is up dramatically, 60 percent now compared to 14 percent in 1984. These efforts have resulted in some 15,000 lives saved and 100,000 injuries avoided each year.

We can apply our experience to the epidemic of murder and injury from bullets. The environment in which these deaths and injuries occur is complex. Many factors likely contribute to the rise in bullet-related injury. Here is an important similarity with the situation we faced 25 years ago regarding automobile safety. We simply cannot do much to change the environment, violent behavior, in which gun-related injury occurs, nor do we know how. We can, however, do something about the agent causing the injury—bullets. Ban them! At least the rounds used disproportionately to cause death and injury; that is, .25 caliber, .32 caliber, and 9-millimeter bullets. These three rounds compose 13 percent of licensed guns in New York City, yet they are involved in one-third of all homicides. They aren't used for sport or hunting.

They are used for violence. On December 17, 1992, Patrick Daly, principal of Public School 15 in New York was shot and killed as he searched for a missing student in the crime ridden Red Hook housing project. The murder weapon—a 9-millimeter gun. Mr. President, if we fail to confront the fact that .25 caliber, .32 caliber, and 9-millimeter bullets are used disproportionately in crimes, innocent people like Patrick Daly will continue to die.

I have called on Congress during the past several sessions to ban these bullet calibers. If we do not succeed in banning them, then we ought, at least, to tax them heavily. This would not be the first time that Congress has banned a particular round of ammunition. In 1986, the same year this body passed the Firearms Owners Protection Act, it passed legislation banning the so-called cop-killer bullet. This round, jacketed with tungsten alloys, steel, brass, or any number of other metals, had been demonstrated to penetrate no fewer than four police flak jackets and an additional five Los Angeles County phone books at one time. In 1982, the New York Police Benevolent Association came to me and Representative Biaggi and asked us to do something about the ready availability of these bullets. The result was the Law Enforcement Officers Protection Act, which we introduced in 1982, 1983, and for the last time during the 99th Congress. In the end, with the tacit support of the National Rifle Association the measure passed the Congress and was signed by the President as Public Law 99-408 on August 28, 1986.

There are some 200 million firearms in circulation. The pistol is a simple machine, and with minimal care it remains working for centuries. However, we have only a 4-year supply of bullets. Some 2 billion cartridges are used each year. At any given time there are some 7.5 billion rounds in factory, commercial, or household inventory.

In all cases, except pistol whipping, gun-related injuries are not caused by the gun but by bullets, the agent involved in the second collision. As I've said before, would this end the problem of handgun killings? No. But it just might reduce it. A 30-percent reduction in bullet-related deaths, for instance, would save over 10,000 lives each year. And, prevent up to 50,000 wounds.

Water treatment efforts to reduce typhoid fever in the United States took about 60 years. Slow sand filters were installed in certain cities in the 1880's, and water chlorination treatment began in the 1910's. The death rate from typhoid in Albany, NY, prior to 1889 when the municipal water supply was treated by sand filtration was about 100 fatalities per 100,000 people per year. The rate dropped to about 25 typhoid deaths per year after 1889, and dropped again to about 10 typhoid deaths per year after 1915 when chlorination was introduced. By 1950, the death rate from typhoid fever had dropped to zero. It will likely take longer than 60 years to eliminate bullet-related death and injury, but we need to start with achievable measures to break the deadly interactions between people, bullets, and violent behavior.

The bills I introduce today begin the process. They begin to control the agent of disease, the bullet, through banning or taxing those rounds used disproportionately in crime—the .25-caliber, .32-caliber, and 9-millimeter rounds.

More importantly, they recognize the epidemic nature of the problem, building on the June 10, 1992 issue of the Journal of the American Medical Association which is devoted entirely to papers on the subject of violence, principally violence associated with firearms.

Mr. President, it is time to join the medics and control the epidemic of bullet-related violence. I urge my colleagues to support these bills and ask unanimous consent that their texts be printed in the RECORD in full.

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

S. 178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Violent Crime Prevention Act".

SEC. 2. Section 922(a) of title 18, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (7);

(2) striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) adding at the end thereof the following:

"(9) for any person to manufacture, transfer, or import .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the manufacture or importation of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) any manufacture or importation for testing or for experimenting authorized by the Secretary; and

"(10) for any manufacturer or importer to sell or deliver .25 or .32 caliber or 9 millimeter ammunition, except that this paragraph shall not apply to—

"(A) the sale or delivery by a manufacturer or importer of such ammunition for the use of the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof; and

"(B) the sale or delivery by a manufacturer or importer of such ammunition for testing or for experimenting authorized by the Secretary.".

SEC. 3. Section 923(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A) of destructive devices, ammunition for destructive devices, armor piercing ammunition, or .25 or .32 caliber or 9 millimeter ammunition, a fee of $1,000 per year;".

SEC. 4. Section 923(a)(1)(C) of title 18, United States Code, is amended to read as follows:

"(C) of ammunition for firearms other than destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $10 per year.".

SEC. 5. Section 923(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) If the applicant is an importer—

"(A) of destructive devices, ammunition for destructive devices, or armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $1,000 per year; or

"(B) of firearms other than destructive devices or ammunition for firearms other than destructive devices, or ammunition other than armor piercing or .25 or .32 caliber or 9 millimeter ammunition for any firearm, a fee of $50 per year.".

SEC. 6. Section 923 of title 18, United States Code, is amended by adding at the end thereof the following:

"(l) Licensed importers and licensed manufacturers shall mark all .25 and .32 caliber and 9 millimeter ammunition and packages containing such ammunition for distribution, in the manner prescribed by the Secretary by regulation.".

SEC. 7. Section 929(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", or with .25 or .32 caliber or 9 millimeter ammunition" after "possession of armor piercing ammunition"; and

(2) inserting ", or .25 or .32 caliber or 9 millimeter ammunition," after "armor-piercing handgun ammunition".

SEC. 8. This Act and the amendments made by this Act shall take effect on the first day of the first calendar month which begins more than 90 days after the date of enactment of this Act.

S. 179

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Real Cost of Ammunition Act."

SEC. 101. INCREASE IN TAX ON CERTAIN BULLETS.

(a) IN GENERAL.—Section 4181 of the Internal Revenue Code of 1986 (relating to the imposition of tax on firearms, etc.) is amended by adding at the end the following new flush sentence: "In the case of 9 millimeter, .25 or .32 caliber ammunition, the rate of tax under this section shall be 1,000 percent.".

(b) EXEMPTION FOR LAW ENFORCEMENT PURPOSES.—Section 4182 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by adding at the end the following new subsection:

"(d) LAW ENFORCEMENT.—The last sentence of section 4181 shall not apply to any sale (not otherwise exempted) to, or for the use of, the United States (or any department, agency, or instrumentality thereof) or a State or political subdivision thereof (or any department, agency, or instrumentality thereof).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1995.

By Mr. SPECTER:

S.J. Res. 4. A joint resolution proposing a constitutional amendment to authorize the President to exercise a line-item veto over individual items of appropriation; to the Committee on the Judiciary.

LINE-ITEM VETO CONSTITUTIONAL AMENDMENT

Mr. SPECTER. Mr. President, once again I introduce a proposed constitu-

tional amendment to authorize the President to veto or reduce individual items of appropriation in bills and resolutions. The line-item veto or reduction authority is a necessary step in helping to bring the chronic budget deficit under control, and I have long supported it. This proposed authority of the President to veto or reduce specific items of appropriation in large spending bills provides a realistic opportunity to rein in the deficit from which we suffer.

I believe the President now has the constitutional authority to exercise the line-item veto, and I co-signed a letter authored by Senator DOLE urging President Bush to exercise the line-item veto, but President Bush declined on the advice of his counsel. This amendment would remove all doubt.

The budget process has run amok in recent years. Most recently, the outgoing administration provided information to indicate that the deficit will continue to balloon over the next 4 years, contradicting previous information regarding the growth of the deficit. And some commentators suggested that this recent report understates the scope of the problem. A line-item veto would provide a valuable institutional check on unfettered spending and trade-off pork-barrel projects that serve not the national interest but rather private interests and must therefore be buried in lengthy appropriations bills, out of sight of all but the concerned interest groups.

Currently, the President cannot realistically control this form of congressional excess. The choice is a stark one: either the President vetoes an entire appropriations bill, putting at risk all programs funded in the bill or he swallows the relatively small percentage of pork spending in any bill to fund the large number of vital programs. The line-item veto gives the President a useful tool with which to counter this type of wasteful spending. Standing alone, the line-item veto will not solve our deficit problem, but it will help by allowing the President to stop or reduce funding should he deem the programs too expensive or unnecessary.

I believe that it is preferable to grant to the President not only the authority to veto completely individual items of appropriation, but also to grant him enhanced rescission authority. Studies in States whose governors exercise line-item veto authority suggest that while a straight line-item veto, an up or down on a specific item of appropriation, have little effect on spending and budget deficits, enhanced rescission authority does have a significant effect on spending. Therefore, my proposal contains both a veto provision and a provision to allow the President to reduce individual items of appropriation.

Many claim that the line-item veto would result in an intolerable shift of power from the Congress to the Executive and undermine the carefully crafted balance of power established by the Founding Fathers. No one is more sensitive than I am to the respective roles of the legislature and the executive and the need to retain a balance of authority between the two branches. While it is a peculiarly legislative function to decide how much money to spend on Government programs and to allocate these funds, there is no reason for a line item veto to be considered any more of an infringement on the separation of powers than the President's ability to veto bills at all. The veto power serves a crucial function in our system. As Alexander Hamilton recognized in Federalist 73, the veto provides—

> An additional security against the enaction of improper laws * * * to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of [the legislative] body.

The purpose for enacting a line-item veto fits squarely within this reasoning.

Of course, under the Constitution, Congress controls the power of the purse. The ultimate authority of the Congress to decide how to allocate and spend the Federal Government's money is protected by my proposal. Under my proposed constitutional amendment, Congress could override the President's veto or reduction of any specific item of appropriation by a simple majority vote. This overrride by simple majority, rather than by the two-thirds majority needed to override a veto of an entire bill, provides adequate protection for congressional spending authority. Any item of appropriation that cannot command the support of either the President or a simple majority of the Congress is simply bad policy and should not be approved at all. By allowing a simple majority vote to override, the proposal allows Congress to exercise its authority consistent with the general constitutional requirement that a simple majority is sufficient to enact legislation. Thus, the line-item veto is not terribly onerous to congressional prerogatives. It merely requires Congress to take a second look at particular items of spending. In this regard, it forces the entire institution to look over spending. Thus, the line-item veto as I propose it, will merely reduce the power of congressional committees and special-interest group lobbyists; it will have no significant effect on the authority of the Congress as an institution.

Mr. President, the issue of the line-item veto has been pending for several years. In the 101st Congress, the Judiciary Committee favorably reported two different versions of the line-item veto amendment, although the full Senate never considered either proposal. In the 102d Congress, no proposal was reported, but proposed statutory enhanced rescission authority was considered and rejected twice by the Senate. I hope that this year, when the political pressure of divided government has been removed, is the year in which we finally enact this worthwhile idea.

As I have said, I do not believe that, on its own, a line-item veto will cure the deficit. Together with budget reforms, and greater Executive and congressional discipline, the line-item veto offers hope. Indeed, it is this hope that induces me to introduce this proposal again. While President Reagan and President Bush both supported a line-item veto, there was little realistic chance of its adoption with a Congress controlled by Democrats. With the accession of President Clinton, who has enjoyed constitutional authority to employ a line-item veto as Governor of Arkansas and strongly supports the line-item veto in principle, I expect and hope that a Federal line-item veto can finally become part of our fundamental law and can be used as a weapon against out-of-control budget deficits.

We must do something to curb these deficits. The American people have made it clear that they will not accept government as usual. We must put the public interest first and the private interests of the groups that come begging for federal dollars must no longer enter into our consideration. The best way to thwart the power of private interests is to shed light on them, and the line-item veto will enable the President and Congress to do just that.

I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 4

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission for ratification:

"ARTICLE —

"Section 1. The President may reduce or disapprove any item of appropriation in an Act or joint resolution. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not reduced or disapproved shall become law.

"Section 2. The President shall return with his objections any item of appropriation reduced or disapproved to the House in which the Act or joint resolution containing such item originated.

"Section 3. The Congress may, in the manner prescribed under section 7 of Article I for acts disapproved by the President, reconsider any item reduced or disapproved under this article, except that only a majority of each House shall be required to approve an item

which has been disapproved or to restore an item which has been reduced by the President to the original amount contained in the Act or joint resolution.".

By Mr. SPECTER:

S.J. Res. 5. A joint resolution proposing a constitutional amendment to require a Federal balanced budget; to the Committee on the Judiciary.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. SPECTER. Mr. President, it has become commonplace for our Federal Government to run a budget deficit in every fiscal year. It has also become commonplace for Congress to consider a proposed balanced budget amendment every year. Somehow, we have no trouble garnering sufficient votes to enact these huge deficits. Thus far, however, we have been unable to put together sufficient votes to enact the balanced budget amendment. No wonder people believe the system does not work.

Congress has come close to passing a balanced budget amendment in the past. In the 97th Congress, the Senate did in fact pass such an amendment, but the House did not. In 1986, the Senate failed by one vote to pass a proposed balanced budget amendment. In the 101st Congress, the Judiciary Committee favorably reported a proposed balanced budget amendment by an 11–3 vote, but the full Senate never considered the issue. In the 102d Congress, the House came within nine votes of passing a proposed balanced budget amendment. This is not an issue that will go away, and I intend to continue to pursue it. To that end, I offer this proposed amendment to the Constitution to require a balanced budget.

The last year the Government operated at a surplus was 1969. Since then, the problem has gotten worse, culminating in the huge budget deficits of the past few years. In fiscal year 1989, the deficit was $152.5 billion. That figure ballooned to $290.2 billion for fiscal year 1992. For the current fiscal year, the Office of Management and Budget estimates that the deficit will exceed $327 billion. Recent estimates by both OMB and the Clinton transition team suggest that the deficit is only going to get worse. The national debt has soared to over $4 trillion.

This chronic deficit has an extremely deleterious effect on the economy. It sucks up capital that would otherwise be available for private investment to help the economy grow. The adverse effects of the deficit on the economy became a major campaign issue during the recent presidential election. Most recently, President Clinton's economic advisers have been hedging their bets about a stimulus package and a middle class tax cut promised by candidate Clinton because of the scope of the deficit.

I strongly believe that there is no domestic issue more important to our country in the long-term than this deficit. Given President Clinton's admiration for Thomas Jefferson, I suspect he agrees with the third President of the extreme danger of deficit spending to our republican form of government. No sharper arrow can be placed in a President's quiver to combat these chronic deficits than a balanced budget amendment. It places the sanction of our fundamental law on the need for a balance between receipts and expenditures. The President and all Members of Congress take an oath to uphold the Constitution. Requiring a balanced budget in the text of the Constitution as a legally enforceable provision will force us to curb deficit spending. As all parties in the political system have shown themselves to be unable to withstand the vicissitudes of the current political system, the answer is to change the system.

The Constitution delimits the powers of the respective branches of Government and defines the processes under which the separate branches exercise those powers. In so doing, the Constitution and the amendments to it reflect certain core values and principles and removes them from the vagaries of shifting political influences. Deficit spending puts at risk many of the balanced safeguards intended to limit factional government. It tends to make government a spoils system, a trough for feeding special interests, and little else. This threatens the republican nature of our Government as envisioned by Madison and other Framers. When the fundamental nature of our Government is at risk, a constitutional amendment is the only proper remedy. The balanced budget amendment reflects a necessary value designed to preserve the fundamental structural values reflected in the Constitution.

My proposed amendment would require the President to transmit a proposed balanced budget to Congress for its consideration. This requirement puts the initial onus on the President to propose a balanced budget. The amendment would prohibit deficit spending unless three-fifths of the whole number of both Houses of Congress provide for a specific excess of outlays over receipts. Thus, even though the amendment would permit deficit spending, it would do so only upon the approval of a super majority of both Houses, and even then the scope of the deficit would be limited to the amount specifically authorized by Congress. The provisions of the amendment could be waived by simple majority vote in any year in which a declaration of war is in effect.

Obviously, a constitutionally mandated balanced budget could require significant spending cuts and/or revenue increases. To require a balanced budget too soon would result in severe economic dislocation. Therefore, the amendment would not take effect until the third fiscal year after its ratification. In light of the period needed for ratification, I do not expect the provisions of this amendment to become operative for several years in addition to the three provided for, allowing sufficient time for the government to prepare for their application.

I have said before that political will is the best answer to the problem of our Nation's budget deficit. But we who are responsible for representing our constituents have focused on the deficit now for many years and have been unable to come up with a solution acceptable to a sufficient majority. Our political institutions have failed to resolve this problem. When an issue as fundamental to our Nation's well-being in the future as the deficit proves to be politically intractable, the answer must be to enshrine the value of balanced budget among the core values in our Constitution, to remove it from the vicissitudes of the political arena. That is what a balanced budget amendment would achieve. It is an idea whose time is overdue, and I hope that Congress will approve and send to the States for ratification a balanced budget amendment this year.

Mr. President, I ask for unanimous consent that a copy of my proposed joint resolution be printed in the RECORD.

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

S.J. RES. 5

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States and shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission for ratification:

ARTICLE —

"SECTION 1. Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that fiscal year, unless three-fifths of the whole number of both Houses of Congress by rollcall vote shall provide for a specific excess of outlays over receipts.

"SECTION 2. Prior to each fiscal year, the President shall transmit to both Houses of Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

"SECTION 3. Total receipts shall include all receipts of the United States except those derived from borrowing. Total outlays shall include all outlays of the United States except for those for repayment of debt principal.

"SECTION 4. Upon request of the President, the Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 5. The Congress shall have authority to enforce the provisions of this article by appropriate legislation.

"SECTION 6. This article shall take effect with the third fiscal year beginning after its ratification.".

By Mr. GRAMM (for himself and Mr. DOLE):

S.J. Res. 6. Joint resolution to provide for a balanced budget constitutional amendment; to the Committee on the Judiciary.

By Mr. GRAMM (for himself, Mr. LOTT, Mr. COVERDELL, Mr. PACKWOOD, Mr. MCCAIN, Mr. BOND, Mr. KEMPTHORNE, Mr. GORTON, Mr. GRASSLEY, Mr. DANFORTH, Mr. HELMS, Mr. MCCONNELL, Mr. LUGAR, and Mr. SMITH):

S.J. Res. 7. Joint resolution to provide for a balanced budget constitutional amendment; to the Committee on the Judiciary.

BALANCED BUDGET CONSTITUTIONAL AMENDMENTS

• Mr. GRAMM. Mr. President, I ask unanimous consent that the joint resolutions regarding the balanced budget I introduced earlier today be printed in the RECORD.

There being no objection, the joint resolutions were ordered to be printed in the RECORD, as follows:

S.J. RES. 6

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several states within seven years after its submission to the states for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, Congress shall adopt a statement of receipts and outlays for such fiscal year in which total outlays are not greater than total receipts. Congress may amend such statement provided revised outlays are not greater than revised receipts. Congress may provide in such statement for a specific excess of outlays over receipts by a vote directed solely to that subject in which three-fifths of the whole number of each House agree to such excess. Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to the first section of this Article shall not increase by a rate greater than the rate of increase in national income in the second prior fiscal year, unless a three-fifths majority of the whole number of each House of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. Prior to each fiscal year, the President shall transmit to Congress a proposed statement of receipts and outlays for such fiscal year consistent with the provisions of this Article.

"SECTION 4. Congress may waive the provisions of this Article for any fiscal year in which a declaration of war is in effect.

"SECTION 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for the repayment of debt principal.

"SECTION 6. The amount of Federal public debt as of the first day of the second fiscal year beginning after the ratification of this Article shall become a permanent limit on such debt and there shall be no increase in such amount unless three-fifths of the whole number of each House of Congress shall have passed a bill approving such increase and such bill has become law.

"SECTION 7. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 8. This Article shall take effect for the fiscal year 1999 or for the second fiscal year beginning after its ratification, whichever is later.".

S.J. RES. 7

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 8. This article shall take effect beginning with fiscal year 1999 or with the second fiscal year beginning after its ratification, whichever is later.".•

• Mr. DANFORTH. Mr. President, I rise today to announce my cosponsorship of the balanced budget amendment to the Constitution. I do so out of a feeling of frustration at the willingness of our government to operate, year after year, in deficit. During the 1950's, the Federal deficit averaged less than 1 percent of GNP. By the 1970's the average was 2.3 percent. In the 1980's it doubled to 4.1 percent. Last year—fiscal year 1992—the deficit was expected to reach 6.3 percent of GNP. Our Government and our Nation are becoming addicted to running our Government in deficit.

Many say that endless deficits are not necessarily dangerous. As long as the percentage of GNP remains stable, the thinking is that the deficits are not always problematic. Yet, as the previous statistics demonstrate, the percentage of GNP is not stable. It is ever growing. In addition, the endless accumulation of annual deficits reduce long run growth because they consume private savings which would otherwise be used for investment. With a tax system already heavily biased against savings and in favor of consumption, we simply cannot afford to eat up the resources necessary for healthy, long-term investment. In addition, the growth of the national debt is responsible in part for the increase in public interest payments, growing from an average of 7.3 percent of Federal outlays in the 1950's to 13.8 percent in 1992. Payment on interest of course eats up possible resources which could be spent on other, more productive uses.

Thus, we need a huge red light. We need to be told to stop. Legislative fixes have failed us in this regard. We need something larger and more powerful than simply a statute. Thus, to me, this attempt to pass a constitutional amendment is symbolic. It is symbolic of our willingness to say that deficit reduction is an important issue. This amendment is certainly better than the status quo, where we seem addicted to the narcotic of spending more than we take in.

This Nation cherishes and takes seriously amendments to our Constitution. The willingness to pass an amendment of this sort will signal our seriousness in grabbing hold of this serious problem.

Yet, I must admit that I support the balanced budget amendment with one condition and with one observation. The condition is that it is my understanding that this amendment does not put the judicial branch of Government into the business of deciding levels of taxation or appropriations. It is fundamental to the tradition of this country that the courts not get into the legislative functions of taxing and spending. It is my understanding, and my staff has been told, that a section has been added to this amendment specifically to take care of this concern. Specifically, the amendment says, "The Congress shall enforce and implement this article by appropriate legislation." I must say that I wish that the amendment would say expressly on its face that nothing in the amendment empowers the courts to tax or spend. In cosponsoring this amendment, I want

to reserve the right at the appropriate time to offer an amendment to say just that.

My observation is that this amendment does not give us the courage necessary to make the hard choices needed to balance the budget. This amendment states that the Constitution requires us to do so, but to implement that constitutional mandate, we in Congress must be willing to step up to the plate. Last June, I introduced a sense of the Senate resolution that called on the Presidential candidates to discuss the issue of deficit reduction and take it seriously. Thirty-two Members of the Senate opposed it because the resolution said the following: "The existing reckless Federal fiscal policy cannot be addressed in a meaningful way without including consideration of restraining entitlements and increasing taxes." This seems self-evident to me, yet even mention of the need for these steps causes politicians to quake in their boots.

Passage of this amendment will not automatically give the House and the Senate courage. We must provide that. But passage of this amendment will show the seriousness of this issue and the serious need to address it. We will have a constitutional responsibility to deal with it.

One issue I have not yet resolved is whether there is a need for more flexibility in applying this amendment; I mean just that. I do not mean to hamstring the Federal Government for necessary expenditures in extraordinary times. Accordingly, I will continue to review, and ask my staff to prepare, provisions that will allow government to respond to business cycles and operating emergencies within the context of the amendment. But, I do believe that these exceptions must be narrowly drawn, and if we choose to exercise this flexibility, we must vote for it explicitly in the face of a mandate to achieve a balanced budget.

With those conditions and observations, I proudly join as a cosponsor of this constitutional amendment.●

By Mr. THURMOND (for himself, Mr. DECONCINI, and Mr. SIMPSON):

S.J. Res. 8. Joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget; to the Committee on the Judiciary.

BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to amend the U.S. Constitution to require the Federal Government to achieve and maintain a balanced budget.

This legislation is essentially the same as Senate Joint Resolution 9 which I introduced in the 102d Congress and is similar to an earlier bill in March 1986 which received 66 of 67 votes needed for Senate approval. Simply stated, this legislation calls for a Constitutional amendment requiring that outlays not exceed receipts during any fiscal year. Also, the Congress would be allowed by three-fifths vote to adopt a specific level of deficit spending. Further, the Congress could waive the amendment during time of war. Finally, the amendment would also require that any bill to increase taxes be approved by a majority of the whole number of both Houses.

It is clear that the budget deficit is a top priority with the American people. Additionally, this legislation would be a key step to reduce and ultimately eliminate the Federal deficit. The interest and attention which this problem has attracted speaks volumes as to the need for solutions to our Nation's runaway fiscal policy.

Our Constitution has been amended only 27 times in over 200 years. Amendment to the supreme law of our land is a serious endeavor which should only be reserved to protect the fundamental rights of our citizens or to ensure the survival of our system of government.

Mr. President, I believe that the very survival of our system of government is presently being jeopardized by an irrational and irresponsible pattern of spending which has become firmly entrenched in Federal fiscal policy over the last half-century. As a result, this fiscal policy has gone a long way toward seriously threatening the liberties and opportunities of our present and future citizens.

The Federal debt is over $4 trillion. Per capita, the Federal debt is over $16,000. This means that it would cost every man, woman, and child in America $16,000 each to pay off the public debt.

The Federal deficit for fiscal year 1992 was $290.2 billion. The Office of Management and Budget projected the deficit for fiscal year 1993 to be $341 billion. In order to solve the deficit problem, congressional spending must be addressed.

I have believed for many years that the way to reverse the misguided direction of the fiscal government is by amending the Constitution to mandate, except in extraordinary circumstances, balanced Federal budgets. I know many other Members of Congress join me in wanting to establish balanced budgets as a fiscal norm, rather than a fiscal anomaly.

Those who oppose a balanced budget constitutional amendment and opt instead for self-imposed congressional restraint must face the fact that this restraint has not been forthcoming. Importantly, the Congress has only balanced the Federal budget one time in the last 30 years. Meanwhile the level of annual budget deficits has grown enormously over this period of time. Continued deficit spending by the Federal Government will undoubtedly lead the Nation into more periods of economic stagnation and decline. The tax burdens which today's deficits will place on future generations of American workers is staggering. We must reverse the fiscal course of the Federal Government and a constitutional amendment is the only effective way to accomplish it. It is time for Congress to understand the simple fact that a government cannot survive by continuing to spend more money than it takes in.

Mr. President, the balanced budget amendment proposal has the support of many of our colleagues in the Congress, a Congress which holds diverse views on many issues. However, supporters of a balanced budget amendment share an unyielding commitment to restoring sanity to a spending process which is out of control and hurling our Nation headlong toward economic disaster.

I urge my colleagues to support this proposal so we may submit this important constitutional amendment to the States for ratification.

I ask unanimous consent that the text of the amendment be printed in the RECORD.

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

S.J. RES. 8

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE—

"SECTION 1. Total outlays of the United States for any fiscal year shall not exceed total receipts to the United States for that year, unless three-fifths of the whole number of both Houses of Congress shall provide for a specific excess of outlays over receipts.

"SECTION 2. Any bill for raising taxes shall become law only if approved by a majority of the whole number of both Houses of Congress by rollcall vote.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing. Total outlays shall include all outlays of the United States except for those for repayment of debt principal.

"SECTION 5. This article shall take effect beginning with fiscal year 1998 or with the second fiscal year beginning after the ratification, whichever is later.".

By Mr. THURMOND (for himself and Mr. SIMPSON):

S.J. Res. 9. Joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO VOLUNTARY SCHOOL PRAYER

Mr. THURMOND. Mr. President, today, I am introducing the voluntary school prayer constitutional amendment. This bill is identical to Senate Joint Resolution 73 which I introduced in the 98th Congress at the request of the President and reintroduced in the 99th, 100th, 101st, and 102d Congresses.

This proposal has received strong support from our colleagues on both sides of the aisle and is of vital importance to our Nation. It would restore the right to pray voluntarily in public schools—a right which was freely exercised under our Constitution until the 1960's, when the Supreme Court ruled to the contrary.

Also, in 1985, the Supreme Court ruled an Alabama statute unconstitutional which authorized teachers in public schools to provide "a period of silence * * * for meditation or voluntary prayer" at the beginning of each school day. As I stated when that opinion was issued and repeat again, the Supreme Court has too broadly interpreted the establishment clause of the first amendment and, in doing so, has incorrectly infringed on the rights of those children—and their parents—who wish to observe a moment of silence for religious or other purposes.

Until the Supreme Court ruled in the Engel and Abington School District decisions, the establishment clause of the first amendment was generally understood to prohibit the Federal Government from officially approving, or holding in special favor, any particular religious faith or denomination. In crafting that clause, our Founding Fathers sought to prevent what has originally caused many colonial Americans to emigrate to this country—an official, State religion. At the same time, they sought, through the free exercise clause, to guarantee to all Americans the freedom to worship God without government interference or restraint. In their wisdom, they recognized that true religious liberty precludes the Government from both forcing and preventing worship.

As Supreme Court Justice William Douglas once stated: "We are a religious people whose institutions presuppose a Supreme Being." Nearly every President since George Washington has proclaimed a day of public prayer. Moreover, we, as a nation, continue to recognize the Deity in our Pledge of Allegiance by affirming that we are a nation "under God." Our currency is inscribed with the motto, "In God We Trust". In this body, we open the Senate and begin our workday with the comfort and stimulus of voluntary group prayers; such a practice has been recently upheld as constitutional by the Supreme Court. It is absurd that the opportunity for the same beneficial experience is denied to the boys and girls who attend public schools. This situation simply does not comport with the intentions of the Framers of the Constitution and is, in fact, antithetical to the rights of our youngest citizens to freely exercise their respective religions. It should be changed, without further delay.

The Congress should swiftly pass this resolution and send it to the States for ratification. This amendment to the Constitution would clarify that it does not prohibit vocal, voluntary prayer in the public school and other public institutions. It emphatically states that no person may be required to participate in any prayer. The Government would be precluded from drafting school prayers. This well-crafted amendment enjoys the support of an overwhelming number of Americans. During the 98th Congress, we were only 11 votes short of the 67 necessary for approval in the Senate.

I strongly urge my colleagues to support prompt consideration and approval of this bill during this Congress and ask unanimous consent that it be printed in the RECORD.

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

S.J. RES. 9

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress:

"ARTICLE —

"Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer. Neither the United States nor any State shall compose the words of any prayer to be said in public schools.".

By Mr. HOLLINGS:

S.J. Res. 10. Joint resolution proposing an amendment to the Constitution relative to contributions and expenditures intended to affect congressional and Presidential elections; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT

Mr. HOLLINGS. Mr. President, in his inaugural speech yesterday, President Clinton issued a historic challenge to Congress. He said, "Let us resolve to reform our politics, so that power and privilege no longer shut down the voice of the people." To take up that challenge, the first order of business of the 103d Congress must be fundamental reform of our campaign finance laws.

Let us also resolve not to repeat the mistakes of the past efforts at campaign finance reform, which bogged down in partisanship as Democrats and Republicans each tried to gore the other's sacred cows. Let us cut directly at the root of the problem with a simple, straightforward, nonpartisan solution: a constitutional amendment empowering Congress and the States to set simple limits on the amount of money spent in campaigns for public office.

As Prof. Gerald G. Ashdown has written in the New England Law Review, amending the Constitution to allow Congress to regulate campaign expenditures is "the most theoretically attractive of the approaches [to reform] since, from a broad free speech perspective, the decision in Buckley is misguided and has worsened the campaign finance atmosphere." Adds Professor Ashdown: "If Congress could constitutionally limit the campaign expenditures of individuals, candidates, and committees, along with contributions, most of the troubles * * * would be eliminated."

Right to the point, in its landmark 1976 ruling in Buckley versus Valeo, the Supreme Court mistakenly equated a candidate's right to spend unlimited sums of money with his right to free speech. In the face of spirited dissents, the Court drew a bizarre distinction between campaign spending and campaign giving. For first amendment reasons, the Court struck down limits on campaign spending. But it upheld limits on campaign contributions on the grounds that "the governmental interest in preventing corruption and the appearance of corruption" outweighs considerations of free speech.

I have never been able to fathom why that same test—"the governmental interest in preventing corruption and the appearance of corruption"—does not overwhelmingly justify limits on campaign spending. However, it seems to me that the Court committed a far graver error by striking down spending limits as a threat to free speech. The fact is, spending limits in Federal campaigns would act to restore the free speech that has been eroded by Buckley versus Valeo.

After all, as a practical reality, what Buckley says is: Yes, if you have personal wealth, then you have access to television, you have freedom of speech. But if you do not have personal wealth, then you are denied access to television. Instead of freedom of speech, you have only the freedom to shut up.

So let us be done with this phony charge that spending limits are somehow an attack on freedom of speech. As Justice Byron White points out, clear as a bell, in his dissent, both contribution limits and spending limits "are neutral as to the content of speech and are not motivated by fear of the consequences of the political speech of particular candidates or of political speech in general."

Mr. President, every Senator realizes that television advertising is the name of the game in modern American politics. In warfare, if you control the air, you control the battlefield. In politics,

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if you control the airwaves, you control the tenor and focus of a campaign.

Probably 80 percent of campaign communications take place through the medium of television. And most of that TV airtime comes at a dear price. In South Carolina, you're talking some $2,400 for 30 seconds of prime time advertising. In New York City, you're talking more than $30,000 for the same 30 seconds.

The hard fact of life for a candidate is that if you're not on TV, you're not truly in the race. Wealthy challengers as well as incumbents flush with money go directly to the TV studio. Those without personal wealth are sidetracked to the time-comsuming pursuit of cash.

Buckley versus Valeo created a double bind. It upheld restrictions on campaign contributions, but struck down restrictions on how much candidates with deep pockets can spend. The Court ignored the practical reality that if my opponent has only $50,000 to spend in a race and I have $1 million, then I can effectively deprive him of freedom of speech. By failing to respond to my advertising, my cash-poor opponent will appear unwilling to speak up in his own defense.

Justice Thurgood Marshall zeroed in on this disparity in his dissent to Buckley versus Valeo. By striking down the limit on what a candidate can spend, Justice Marshall said, "It would appear to follow that the candidate with a substantial personal fortune at his disposal is off to a significant head start."

Indeed, Justice Marshall went further: He argued that by upholding the limitations on contributions but striking down limits on overall spending, the Court put an additional premium on a candidate's personal wealth.

Justice Marshall was dead right. Our urgent task is to right the injustice of Buckley versus Valeo by empowering Congress to place caps on Federal campaign spending. We are all painfully aware of the uncontrolled escalation of campaign spending. The average cost of a winning Senate race was $1.2 million in 1980, rising to $2.1 million in 1984, and skyrocketing to $3.1 million in 1986, $3.7 million in 1988, and up, up, and away. To raise that kind of money, the average Senator must raise money at a rate of nearly $12,000 a week every week of his or her 6-year term. Overall spending in congressional races increased from $403 million in 1990 to $504 million in 1992—nearly a 20-percent increase in 2 years' time.

This obsession with money distracts us from the people's business. At worst, it corrupts and degrades the entire political process. Fundraisers used to be arranged so they didn't conflict with the Senate schedule; nowadays, the Senate schedule is regularly shifted to accommodate fundraisers.

I have run for statewide office 16 times in South Carolina. You establish a certain campaign routine, say, shaking hands at a mill shift in Greer, visiting the big country store outside of Belton, and so on. Over the years, they look for you and expect you to come around. They say, "Here he comes again. It must be election time." But in recent years, those mill visits and dropping by the country store have become a casualty of the system. There is very little time for them. I'm out chasing dollars.

During my 1986 reelection campaign, I found myself raising money to get on TV to raise money to get on TV to raise money to get on TV. It's a vicious cycle. The rule was, if you had money, I had the time to meet with you.

After the election, I held a series of town meetings across the State. Friends asked, "Why are you doing these town meetings? You just got elected. You've got 6 years." To which I answered, "I'm doing it because it's my first chance to really get out and meet with the people who elected me. I didn't get much of a chance during the campaign. I was too busy raising bucks." I had a similar experience in 1992.

I remember Senator Richard Russell saying: "They give you a 6-year term in this U.S. Senate: 2 years to be a statesman, the next 2 years to be a politician, and the last 2 years to be a demagogue." Regrettably, we are no longer afforded even 2 years as statesmen. We proceed straight to demagoguery right after the election because of the imperatives of raising money.

My proposed constitutional amendment would change all this. It would empower Congress to impose reasonable spending limits on Federal campaigns. For instance, we could impose a limit of, say, $700,000 per Senate candidate in a small State like South Carolina—a far cry from the millions spent by my opponent and me in 1992. And bear in mind that direct expenditures account for only a portion of total spending. For instance, my 1992 opponent's direct expenditures were supplemented by hundreds of thousands of dollars in expenditures by independent organizations and by the State and local Republican Party. When you total up spending from all sources, my challenger and I spent roughly the same amount in 1992.

And incidentally, Mr. President, let's be done with the canard that spending limits would be a boon to incumbents, who supposedly already have name recognition and standing with the public and therefore begin with a built-in advantage over any challengers. Nonsense. I hardly need to remind my Senate colleagues of the high rate of electoral mortality in the upper Chamber. And as to the alleged invulnerability of incumbents in the House, I would simply note that more than 25 percent of the House membership was replaced in the 1992 election alone.

I can tell you from experience that any advantages of incumbency are more than counterbalanced by the obvious disadvantages of incumbency, specifically the disadvantage of defending hundreds of controversial votes in Congress.

I also agree with University of Virginia political scientist Larry Sabato, who has suggested a doctrine of sufficiency with regard to campaign spending. Professor Sabato puts it this way: "While challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages."

Moreover, Mr. President, I submit that once we have overall spending limits, it will matter little whether a candidate gets money from industry groups, or from PAC's, or from individuals. It is still a reasonable—sufficient to use Professor Sabato's term—amount any way you cut it. Spending will be under control, and we will be able to account for every dollar coming in and every dollar going out.

On the issue of PAC's, Mr. President, let me say that I have never believed that PAC's per se are an evil in the current system. On the contrary, PAC's are a very healthy instrumentality of politics. PAC's have brought people into the political process: nurses, educators, small business people, senior citizens, unionists, you name it. They permit people of modest means and zero individual influence to band together with others of mutual interest knowing that their contribution is heard and known.

For years we have encouraged these people to get involved, to participate. Yet now that they are participating, we turn around and say, "Oh, no, your influence is corrupting, your money is tainted." This is wrong. The evil to be corrected is not the abundance of participation but the superabundance of money. The culprit is runaway campaign spending.

To a distressing degree, elections are determined not in the political marketplace but in the financial marketplace. Our elections are supposed to be contests of ideas, but too often they degenerate into megadollar derbies, paper chases through the board rooms of corporations and special interests.

I have been amused by the junior Senator from Kentucky's contention that we spend too little in our Federal campaigns. He has edified the Senate and elevated the debate by propounding his eloquent "Kibbles 'n' Bits" defense; that is, the point that America spends more on cat food than it does on Federal campaigns. I submit that this fact speaks more to the number of overfed cats in our Nation than to the number of underfunded candidates. Moreover, to raise the "Kibbles 'n' Bits" banner is, in my opinion, one more unfortunate example of vulgar,

marketplace values run amok. Federal offices are not like cat food; they should not be up for sale.

Mr. President, I repeat, campaign spending must be brought under control. The constitutional amendment I have proposed would permit Congress to impose fair, responsible, workable limits on Federal campaign expenditures.

Such a reform would have four important impacts. One, it would end the mindless pursuit of ever-fatter campaign war chests. Two, it would free candidates from their current obsession with fundraising and allow them to focus more on issues and ideas; once elected to office, we wouldn't have to spend 20 percent of our time raising money to keep our seats. Three, it would curb the influence of special interests. And four, it would create a more level playing field for our Federal campaigns—a competitive environment where personal wealth does not give candidates an insurmountable advantage.

Finally, Mr. President, a word about the advantages of the amend-the-Constitution approach that I propose. Recent history amply demonstrates the practicality and viability of this constitutional route. Certainly, it is no coincidence that all five of the most recent amendments to the Constitution have dealt with Federal election issues. In elections, the process drives and shapes the end result. Election laws can skew election results, whether you're talking about a poll tax depriving minorities of their right to vote, or the absence of campaign spending limits giving an unfair advantage to wealthy candidates. These are profound issues which go to the heart of our democracy, and it is entirely appropriate that they be addressed through amendment of the Constitution.

And let's not be distracted by the argument that the amend-the-Constitution approach will take too long. Take too long? We have been dithering on this campaign finance issue since early 1970, and we haven't advanced the ball a single yard. It has been 20 years now, and no legislative solution has done the job.

The last five constitutional amendments took an average of 17 months to be adopted. There is no reason why we cannot pass this joint resolution, submit it to the States for a vote, and ratify the amendment in time for it to govern the 1994 election. Indeed, the amend-the-Constitution approach could prove more expeditious than the alternative legislative approach. Bear in mind that the various public financing bills that have been proposed would all be vulnerable to a Presidential veto. In contrast, this joint resolution, once passed by the Congress, goes directly to the States for ratification. Once ratified, it becomes the law of the land, and is not subject to veto.

And, by the way, I reject the argument that—if we were to pass and ratify this amendment—Democrats and Republicans would be unable to hammer out a mutually acceptable formula of campaign-expenditure limits. A Democratic Congress and Republican President did exactly that in 1974: we set reasonable, bipartisan limits, by law. We did it in 1974, and we can certainly do it again.

Mr. President, this joint resolution will address the campaign finance mess directly, decisively, and with finality. The Supreme Court has chosen to ignore the overwhelming importance of media advertising in today's campaigns. In Buckley versus Valeo, it prescribed a bogus "if you have the money you can talk" version of free speech. In its place, I urge passage of this joint resolution, the freedom of speech in political campaigns amendment. Let us ensure equal freedom of expression for all who seek Federal office.

By Mr. SARBANES (for himself, Mr. GLENN, Mr. D'AMATO, Mr. KENNEDY, Mr. DASCHLE, Mr. DORGAN, Mr. HOLLINGS, Ms. MIKULSKI, Mr. HATCH, and Mr. STEVENS):

S.J. Res. 11. Joint resolution to designate May 3, 1993, through May 9, 1993, as "Public Service Recognition Week"; to the Committee on the Judiciary.

PUBLIC SERVICE RECOGNITION DAY

Mr. SARBANES. Mr. President, I rise today to introduce a resolution designating the week of May 3-9, 1993, as "Public Service Recognition Week." I have introduced similar resolutions in previous Congresses to honor the public servants who so diligently and faithfully serve our Nation at the State, local, and Federal level.

The 9 million city and county workers, 4 million State employees, and 5 million Federal civilian and military employees who serve the public perform some of our Nation's most critical and important tasks. These are the men and women who defend our Nation and educate our children. They keep our food and drinking water safe and come to our aid should fire, flood, or other disasters strike our homes and communities. They work to find new treatments for cancer and AIDS, and to develop new technologies to improve and enhance our lives.

Their collective mission is integral to preserving our health, safety, and standard of living, yet public servants are rarely recognized for their efforts unless there is a disruption in the level of service to which the public is accustomed. Consequently, theirs is a thankless job; and one which they have had to perform under increasingly adverse conditions.

Today, government at every level is bound by severe fiscal constraints. The recent recession, and continued weak economic performance, have exacerbated budgetary pressures and forced governments to cut back or eliminate basic services. States and municipalities have been particularly hard hit and forced to lay off thousands of employees. Those who have not been laid off are asked to provide the same services with fewer available resources. In fact, the fiscal crisis has been such that last Congress, I introduced legislation to provide emergency grants and loans to State and local governments to assist them in meeting urgent public needs.

I regret some in government have seized upon public employees' vulnerability in these tough economic times and attacked and denigrated them publicly. For more than a decade, public employees, especially at the Federal level, have confronted budget cuts which if not aimed at their very livelihood, targeted their pay or pensions or health benefits. Yet, despite what has been a hostile political and economic climate, public employees continue to perform their duties in an effective and efficient manner. In fact, a Congressional Budget Office [CBO] study found that for most of the last decade, government productivity has grown at a rate nearly twice that of the private sector.

Yesterday, the Nation embraced a new President and with him hopes for positive and dramatic change. It is my own hope that this change will encompass the relationship between those we elect to lead our country and the millions whose duty it is to carry out this mission every day, thereby enabling a new relationship and partnership to be born—one that is positive, cooperative, and necessarily more productive.

As we eagerly seek to engage the major challenges before us—the problems afflicting our economy, our health care system, and the safety of our streets—we must remember the millions of public servants who quietly attend to the people's work in Social Security and employment offices, in VA hospitals and health clinics, and in fire halls and police stations across our 50 States. As John F. Kennedy so succinctly put it in 1961, it is they who "conduct our generation's most important business, the public's business."

Mr. President, perhaps more than in any year I have served in the Congress, it is important this year to tell the millions who so dutifully serve our Nation that their contributions and commitment do not go unnoticed. By setting aside a week as "Public Service Recognition Week", we make a small but meaningful statement to public servants throughout the land—that their work, so often unrecognized, is vital and important and that we as individuals and as a nation depend on it each and every day. I am most pleased to introduce this resolution on this special and historic day, and I urge my colleagues to join me in working for its swift passage.

By Mr. DECONCINI (for himself and Mr. EXON):

S.J. Res. 12. Joint resolution proposing an amendment to limit congressional terms; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT TO LIMIT CONGRESSIONAL TERMS

Mr. DECONCINI. Mr. President, I rise today with my distinguished colleague Senator EXON to introduce legislation to limit the terms of office of Members of Congress. Since 1977, when I first came to the U.S. Senate, I have introduced legislation to limit the tenure of Members of Congress. I believe such legislation is necessary to restore the fundamental principles of representative government.

My legislation will limit Senators to two 6-year terms and Representatives to six 2-year terms, limiting all Members to 12 years in office. Terms being served by standing Members of Congress would not count against the limitation. Thus, all current Members will be eligible for the full number of terms allowed under the amendment.

The idea for term limits is not new. It was first raised by our Founding Fathers during the Constitutional Convention in 1787 which laid it aside as entering too much into detail. Support for term limits has come from a bipartisan list of leaders including Abraham Lincoln, Harry Truman, Dwight D. Eisenhower, and John F. Kennedy.

After Franklin Roosevelt served an unprecedented four terms as President, many Members of Congress and the public were concerned about what they saw as the possible beginning of a new monarchy. This fear was resolved with the passage of the 22d amendment in 1951, limiting Presidents to two terms. This amendment, however, did nothing about the problem of Representatives and Senators turning their elected terms into nearly indefinite stays in office.

Term limits are needed to reinject democracy into the political process. I believe they will assure a consistent influx of new Members bringing new ideas and innovative plans. A Congress invigorated by frequent infusions of new blood would be more responsive, more democratic and more focused on solving the problems facing this country. It would assure a consistent and systematic means of renewal and rotation of Members and would allow more citizens the opportunity to serve in Congress.

Term limits also would guard against the effects of the seniority system, which places considerable power in the hands of Members solely based on their years of service. Currently, Members of Congress who have served the longest are rewarded by committee assignments and chairmanships, from which they can provide special benefits to home State interests. The average tenure of a committee chairman in the House is 26 years, and in the Senate 20 years.

Limiting congressional terms would enhance competition for Members and increase political opportunities for minorities and women. It may also give Congress the political courage needed to take stands on controversial issues, like our budget deficit.

Public support for term limits is strong. State initiatives to limit terms passed in all 14 States where it was placed on the ballot. Some 21 million people in these States voted to place limits on the tenure of Federal office holders. Furthermore, a Gallup Poll commissioned in 1991 revealed that 70 percent of the American people support term limits for Members of Congress.

Despite these efforts on the State level to limit terms, a constitutional amendment is needed. The constitutionality of the State initiatives is questionable and is unlikely to be resolved for at least 2 years. In addition, I believe all States should be subject to the same limits. States complying with a limit on terms would be at a great disadvantage under the current congressional seniority system.

Obviously term limits alone are not the answer to all the problems our Government currently faces. However, growing voter apathy is undoubtedly tied to the public's feeling of being shut out of the workings of their Government. Term limitations, enacted in conjunction with campaign finance reform, would be an important step toward restoring public confidence in the Federal Government, rather than government being the target of their ridicule and scorn.

Mr. EXON. Mr. President, I am pleased today to join Senator DENNIS DECONCINI, as I have during the last two Congresses, as an original cosponsor of a constitutional amendment to impose term limits on Federal officials.

My longstanding support for Federal term limits has now been supplemented by a sense of urgency. Fifteen States now have term limits for Federal officials. Fourteen of the fifteen States just passed them in November and Colorado passed its version in 1990. All 15 States call for 12-year limits on U.S. Senators. Regarding terms for U.S. House Members in these 15 States, their limits vary from 6 to 12 years.

The legislation being introduced today calls for 12-year terms for each of these two offices. We believe this is the best approach and a workable compromise.

My sense of urgency stems from the need for fairness through uniformity for the States as they are represented in the House and Senate. Over time, States which have instituted term limits on their own will be at a severe disadvantage with respect to States which do not have such restrictions on their Senators and Congressmen. Furthermore, only 23 States have the initiative process. Until we get some fairness and uniformity for all States, we are headed for a train wreck.

Mr. President, the voters of my own State of Nebraska spoke loud and clear for term limits in November by a vote of 68 to 32 percent. Despite my opposition to unilateral action by individual States on this issue, I nevertheless pledged the very next day to redouble my efforts for Federal term limits across the board. My action today is the first step in fulfilling that pledge.

There is great controversy regarding the constitutionality of States imposing term limits on their own Members of Congress. I am certain that the courts will resolve this question in due course. However, regardless of how the courts eventually rule, this constitutional amendment needs to be passed by Congress and moved forward to the States for ratification.

I look forward to working with Senator DECONCINI and moving aggressively to pass this important legislation.

By Mr. THURMOND:

S.J. Res. 13. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT

Mr. THURMOND. Mr. President, today I am introducing a proposed amendment to the Constitution which would require Federal judges and certain other officers of the United States to forfeit their offices upon conviction of a felony.

I believe that the citizens of the United States will agree that those who have been convicted of felonies should not be allowed to continue to occupy positions of trust and responsibility in our Government. Nevertheless, under current constitutional law it is possible for certain officers of the United States to continue to receive a salary even after being convicted of a felony. It they are unwilling to resign, the only method which may be used to remove them from the Federal payroll is impeachment, a process which can occupy a great deal of valuable time and resources of the Congress.

Currently, the Congress has the power to impeach officers of the Government who have committed treason, bribery, or other high crimes and misdemeanors. However, when a court has found an official guilty of a serious crime, it should not be necessary for Congress to then essentially re-try the official before he or she can be removed from the Federal payroll.

The constitutional amendment which I am introducing will provide that any officer of the United States who is appointed by the President and confirmed by the Senate, upon conviction of a felony and exhaustion of all direct appeals, shall be removed from office and

shall lose all salary and benefits arising from service in such office.

Mr. President, I urge my colleagues to carefully consider this proposal and ask that it be printed in the RECORD at the conclusion of my remarks.

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

S.J. RES. 13

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment of the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the State for ratification:

"ARTICLE—

"Any officer of the United States appointed by the President with the advice and consent of the Senate, upon conviction of a felony, shall forfeit office and all prerogatives, benefits, or compensation thereof.".

By Mr. THURMOND:

S.J. Res. 14. Joint resolution to designate the month of May 1993 as "National Foster Care Month"; to the Committee on the Judiciary.

NATIONAL FOSTER CARE MONTH

Mr. THURMOND. Mr. President, I am pleased to introduce today a Senate joint resolution which would designate May of 1993 as "National Foster Care Month."

It is acknowledged that a family environment with loving and caring parents is the ideal situation for children. However, in the United States there are hundreds of thousands of foster children who, through no fault of their own, have been deprived of this normal home relationship involving love, shelter and other needs that are the basic necessities of all children. Foster parents volunteer their time, energy, and material resources 24 hours a day, 7 days a week, to help enable these children to develop into mature, responsible, and productive adults.

Our Nation's foster parents have a long and proud tradition of reaching out to those children who need them most. We need to publicly recognize these efforts and call attention to the vital needs of all foster children in the United States. Acknowledgment of the valuable contributions of foster care parents will provide for greater public awareness of and community support for these Americans.

Mr. President, I urge my colleagues to join me in supporting this resolution.

I ask unanimous consent that the text of this resolution be printed at the end of my remarks.

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

S.J. RES. 14

Whereas there are more than 100,000 licensed foster families in the United States who temporarily provide guidance, emotional support, food, shelter, and nurture to children who cannot remain in their own home;

Whereas foster parents devotedly and unselfishly open their home and family life to children in need;

Whereas foster parents are a vital part in permanency planning to protect the best interests of a foster child;

Whereas foster parents work cooperatively with human service agencies and biological parents to strengthen family life;

Whereas foster parents must have the commitment of the national, State and local communities in terms of funding, support, and training; and

Whereas the National Foster Parent Association holds its annual training conference during the month of May 1993: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1993, is designated as "National Foster Care Month". The President is requested to issue a proclamation calling on the people of the United States to observe such month with appropriate ceremonies and activities.

By Mr. THURMOND (for himself and Mr. SIMPSON):

S.J. Res. 15. Joint resolution proposing an amendment to the Constitution of the United States to allow the President to veto items of appropriation; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO LINE-ITEM VETO

Mr. THURMOND. Mr. President, I rise today to introduce a proposed constitutional amendment which would give authority to the President to disapprove specific items of appropriation on any act of joint resolution submitted to him. This authority is commonly referred to as line-item veto.

Too often during debate on the budget, the discussion focuses on ways to enhance revenues. The Congress must address runaway spending if we are truly going to establish a sound fiscal policy for this Nation.

The Federal debt exceeds $4 trillion and payment of interest on the debt is the second largest item in the budget. The budget deficit for fiscal year 1992 was over $290 billion. The Office of Management and Budget projects the deficit for fiscal year 1993 to possibly reach $341 billion. We must take strong, disciplinary action to ensure fiscal responsibility.

The Congress regularly enacts appropriations measures, totaling billions and billions of dollars. Too often there are items tucked away in these bills that represent millions of dollars and they would have very little chance of passing on their own merit. Yet, the President has no discretion to weed out these unnecessary expenditures and must approve or disapprove the bill in its entirety.

Presidential authority for line-item veto is a badly needed fiscal tool which would provide a valuable means to reduce and restrain excessive appropriations.

Forty-three Governors currently have, in one form or another, the power to reduce or eliminate items or provisions in appropriation measures. Surely, the President should have the same discretionary authority that 43 Governors now have to check unbridled spending.

It is my hope that this Congress will swiftly approve line-item veto and send a clear message to the American people that we are making a serious effort to set our Nation's fiscal house in order.

I urge my colleagues to support this proposal and our efforts to make it part of our Constitution.

Mr. President, I ask unanimous consent that this proposal be printed in the RECORD following my remarks.

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

S.J. RES. 15

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission to the States for ratification:

"ARTICLE—

"The President may disapprove any item of appropriation in any Act or joint resolution. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not disapproved shall become law. The President shall return with his objections any item of appropriation disapproved to the House in which the Act or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of article I for Acts disapproved by the President, reconsider any item of appropriation disapproved under this article.".

By Mr. PELL:

S.J. Res. 17. Joint resolution proposing an amendment to the Constitution of the United States relative to the commencement of the terms of the office of President, Vice President, and Members of Congress; to the Committee on the Judiciary.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO COMMENCEMENT OF TERMS

Mr. PELL. Mr. President, today, January 21, 1993, the day after the 52d inauguration of the President of the United States, has finally arrived. It seems like an eternity since last November when the American public chose Bill Clinton to be our 42d President. Since that time, we have committed troops to a country halfway across the globe, the economy has taken a different course, we have engaged once again in military operations in the Persian Gulf, and rather than being hard at work on legislative proposals, we are just getting them introduced. We have been in a holding pattern since early October when the final push

prior to the election began. While some time is necessary for the transfer of power and the changing of the guard, the amount of time we take to do so is too long and unnecessary.

To address this, I am introducing once again a constitutional amendment which would shorten the Presidential transition period. This amendment would change the Presidential inauguration date from January 20 to December 10 and the congressional swearing-in date to December 1, necessary because of the need of Congress to verify the results of the electoral college. By doing so, we will accelerate the changeover and thereby permit quicker action on the voters' mandate delivered in the election, create a more sensible budgetmaking process, and greatly lessen the opportunity for exploitation by foreign countries of the uncertainty which currently surrounds our protracted transition of power.

The current inauguration date was set in 1933, when it was determined that advances in election result verification and travel permitted moving it up from March 4, the date set by our Founding Fathers when travel and the conduct of elections were a much less easy affair. It also became evident that the delay unnecessarily prevented the newly elected President Roosevelt from promptly implementing programs to deal with the Depression.

In a similar manner, there is no reason not to advance the inauguration date today. Election results are now known within hours of the closing of the polls and travel to Washington from the most distant parts of the country can be completed in a day. No mechanical impediment today exists to the prompt installation of our elected officials.

But the current policy is more than simply outdated for functional reasons: It presents substantial potential for harm. Domestically, it delays the consideration and implementation of new programs mandated by the election. It presents an opportunity for hostile rulemaking by agency officials who will soon be leaving their posts. Worst of all, it results in the absurdity of having the budget for the next fiscal year prepared by the outgoing administration while the incoming administration will face a 2-week deadline to amend it to include their policy prerogatives. A shorter transition would address these problems.

Internationally, foreign governments are unsure about who speaks for the United States and may be able to take advantage of the muddled chain of command in Washington. I believe that a clear example of such has been played out during this transition with the mischief that is being carried out in the Middle East by Saddam Hussein. Fortunately, the United States and the international community have been able to respond in a cohesive fashion to the Iraqi violations of the U.N. terms which ended the Persian Gulf conflict. It has also been abundantly evident, however, that while waiting for the Clinton administration to take over, there existed a potential state of policy limbo and possible confusion in the mind of an adversary as to who had the final word in dealing with this situation. Such an awkward situation is unnecessary. By shortening the transition period, we would greatly reduce the potential for this kind of mischief.

For these reasons and more, the time has come to shorten the Presidential transition. I submit for the RECORD an article I wrote on this proposal which appeared in the Los Angeles Times on December 15 last year. I also include a copy of an editorial written by Arthur Schlesinger which appeared in the Wall Street Journal on December 3, 1992, and an article from the January 18, 1993, issue of Investor's Business Daily which references this proposal. I also include a story from the Washington Post in which President Bush makes the obvious and straightforward point that "the interregnum is too long, too ungenerous and too long."

It is my hope that as the Senate contemplates proposals to reform our political process and make it more responsive to the people, action will be taken on this amendment and we will end this outdated and unnecessary practice.

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

[From the Los Angeles Times, Dec. 15, 1992]

WE VOTE, THEN WE WAIT—MUCH TOO LONG

(By Claiborne Pell)

Dec. 10 should have been Inauguration Day.

If it had been, President Clinton would have his Cabinet in place, his budget team would be at work on next year's budget and the new Congress would be sworn in and ready to work on legislation proposed by our new President. The federal government would then be poised to carry out the election mandate delivered by voters in early November.

Instead, it has been more than a month since election Day and action in Washington has come to a halt while the transition between the Bush and Clinton administrations grinds on with press conferences, introductory White House visits, Cabinet appointment speculation, policy summits and, with the exception of the situation in Somalia, a time-out called in American dealings in world affairs.

The simple fact is that the length of our current transition period is by no means required for the operation of our system of government, yet it presents a constant potential for trouble in both domestic and world affairs.

The current inauguration date, Jan. 20, was moved from March 4 in 1933 by the 20th Amendment to the Constitution. Times continue to change, and there is no reason not to have the inauguration on Dec. 10. Beyond being an outdated functional policy, keeping our government in limbo for 2½ months presents substantial potential for harm:

It delays immediate work on new programs mandated by the election and it presents an opportunity for hostile rulemaking by agency officials who will soon be stepping down from their posts.

It results in the absurd procedure of having the outgoing administration prepare the budget for the next fiscal year only to have it amended within two weeks by the incoming administration.

It creates uncertainty internationally because foreign governments are unsure about who speaks for the country and can take advantage of the muddled chain of command in Washington.

In this election in particular, a clear mandate for change and for immediate action on our nation's ills was given by the voters on Election Day. They asked for this change after listening to, and often enduring, an intense, year-long discussion of the issues and the candidates' prospective solutions.

Having made their choice, voters are entitled to have their will carried out speedily by the officials they have chosen. But our current 10-week transition period thwarts any speedy action on the Election Day mandate.

The question, is why not change the schedule of events? There has been significant clamor over the past few years to make our government more responsive to the people. Here is one common-sense proposal that will cost nothing and will contribute substantially to governmental responsiveness and efficiency.

[From the Washington Post, Nov. 18, 1992]

BUSH FINDS TRANSITION AN "UNGENEROUS" TIME

If the Constitution allowed abdication, President Bush would probably hand over the Oval Office to Bill Clinton today and be done with it, so sour is he already on the lifestyle of a figurehead president.

"I've concluded that the interregnum is too long, too ungenerous and too long," Bush said Monday night of the transition he has endured for only two of its scheduled 10 weeks, "but we are determined to finish this."

The problem is, there is not much to finish.

Having endured the vice presidency for eight years, Bush has had experience in having no real job. According to White House aides, he accepts it. He just does not much like what one aide called "the endless endings with no startings."

White House press secretary Marlin Fitzwater said yesterday much of what makes up "the normal life of the presidency" is already gone, leaving Bush with "desk work. It's not the most exciting duty on earth."

Much of what the public sees of the presidency—pictures of meetings with foreign leaders; the opening of Cabinet meetings; meeting with business, social or religious leaders—is not occurring. "You really drop all the ceremonial things," Fitzwater said, because most of the groups, organizations and leaders want to meet with the incoming, not the outgoing, president.

Another big chunk of the presidency is policy debates, and with little policy to be made, there are few debates.

"We all kind of wish the transition lasted two days rather than two months," Fitzwater said. "But we all recognize that he [Clinton] needs this time to assemble his team and prepare" and that federal government business, from regulatory actions to date-sensitive actions required by law or custom must go on.

The Office of Management and Budget is preparing a 100-page budget summary, rather than the full fiscal budget normally required, whose main utility will be to give the Democrats baseline numbers from which to launch their economic and fiscal programs. The Council of Economic Advisers is preparing its required report on the economy; the Council on Environmental Quality is preparing its report.

Bush is considering some sort of public summing up but has not decided what it should be. Presidents have used their final say for memorable speeches (Dwight D. Eisenhower's address on the military-industrial complex) or written reports on their presidencies (Jimmy Carter). Bush has not made up his mind what to do or how, but it most likely would center on the Cold War's end and the safer world his grandchildren have inherited.

Bush touched on that Monday night, when he crossed the street to the Blair House to receive a diplomatic award. The White House announced the event was closed to the press, but a United Press International reporter got permission from the sponsors to attend and recorded the president in a moment of salute to how governmental power is transferred.

"I think that when the history books are written, it will be seen that we made dramatic strides toward world peace and toward improving relations in so many parts of the world," Bush said. "And that is the great satisfaction that I have as I draw to a close, with two months left that are laborious."

The campaign, Bush said, is over, and he contended it was no rougher than campaigns in this century have been. "The gloves came off and we went at it hard and that's the way I like it, the way it ought to be, and if The Washington Post doesn't like it, too damn bad," he said.

The gears of government "are beginning to shift" to Clinton, he said, "as they should." This smooth transition is something Americans take for granted, he said, but they should recognize as "special . . . the stability that comes from one administration handing off the torch to the other."

The next ceremonial step of that handoff will occur today in what is still Bush's White House. The president, with hundreds of reporters and photographers gathered in the Rose Garden to record the event, will emerge from the Oval Office to walk down to the driveway to greet President-elect Clinton and take him to the gleaming white colonnade alongside the Oval Office.

The white-columned setting that faces the Rose Garden has been the scene of much Bush history, meetings with Mikhail Gorbachev and Boris Yeltsin, handshakes with Mother Teresa and rock stars, greetings of leaders from small nations and from winning sports teams. They all have posed with Bush on the colonnade and so too will Clinton today. And then the two will go alone, without aides, into the Oval Office.

[From the Wall Street Journal, Dec. 3, 1992]

SHORTEN THE PRESIDENTIAL TRANSITION

(By Arthur Schlesinger, Jr.)

"I've concluded," President Bush said the other day, "that the interregnum is too long." He is right, and maybe it is time to do something about it. The present transition is not only too long; it is also too elaborate and too expensive and, in certain circumstances, too risky. Do we really need 11 weeks to carry out the shift from one president to the next?

Actually, until 60 years ago, the transition lasted four months. This was reasonable enough in the days before the railroad and the airplane. It took time and trouble then for legislators to get to Washington. But there remained the void between the old administration and the new, that ambiguous time when one authority slowly fades away and another awaits anointment. Could the government really afford those four months of paralysis every four years?

Most of the time in earlier days, it could. But in 1916 the election fell in the midst of World War I. President Woodrow Wilson feared the international consequences of executive impotence and prepared a contingency plan in case he lost (as in fact he nearly did).

'THE GRAVEST DANGERS'

If the Republican candidate, Charles Evans Hughes, won, Mr. Wilson said, "During those four months I would be without such moral backing from our nation as would be necessary to steady and control our relations with other governments . . . and yet the accredited spokesman would be without legal authority to speak for the nation. Such a situation would be fraught with the gravest dangers." If he lost, President Wilson said, he would therefore appoint Mr. Hughes to be secretary of state; then Mr. Wilson and his vice president would resign, and Mr. Hughes, under the succession law of the time, would become president without delay.

The interregnum between the defeat of Herbert Hoover and the accession of Franklin D. Rossevelt came at the bottom of the Depression in another time of emergency. By then people were conscious of the dangers of floating in the void, and that great Nebraska senator, George W. Norris, finally persuaded the nation to accept the 20th Amendment, which moved Inauguration Day back to Jan. 20 from March 4 and cut the interval of floating to 10 or 11 weeks.

The 20th Amendment was an important step in the modernization of the presidency. But did it go far enough? No other democracy suffers through a protracted twilight period when one administration painfully expires, the next waits impatiently to take over and the nation and the world wonder anxiously who's in charge. "Two weeks into the transition, with another nine to go," writes the Economist, "Washington is in danger of losing its tenuous grip on reality."

In Britain a prime minister who has lost an election moves out of 10 Downing Street in a couple of days and the successor moves right in. "The only operation to which I can compare the Whitehall drill for a change in government," wrote R.H.S. Crossman, the Labor minister and student of the British Constitution, "is the hospital drill for removing a corpse from the ward and replacing it with a new patient." All other democracies that I know about transfer power with similar expedition. In Washington, however, the corpse lies in state for 2½ months while the successors quarrel over the inheritance.

Still worse, the process by which power is transferred in the U.S. has been inflated into a formidable and costly operation. Under that mischievous statute, the Presidential Transition Act of 1963, the Reagan transition in 1980–81 hired 1,500 people and occupied a 10-story office building. What could those 1,500 people have done? Mr. Clinton will receive $3.5 million for his transition, and reports are that the transition staff doesn't consider this enough and plans to collect more funds from the private sector—not a very good idea.

This bureaucratic orgy baffles those of us who remember that for nearly two centuries presidents managed to succeed each other without making a Cecil B. DeMille production of it. As late as the 1960 transition, John Kennedy set up one small group headed by Clark Clifford and Richard Neustadt to consider government organization, another small group headed by Sargent Shriver to recruit personnel, and a number of expert task forces to deal with substantive questions in major areas of decision. The transition from Eisenhower to Kennedy took place with speed and efficiency, and it cost the taxpayer precisely nothing.

Life is surely not all that more complicated today. Nor can one believe that swarms of eager beavers roaming around Washington, promoting themselves, body checking competitors and turning out reports that no one will read, will increase either speed or efficiency. I am glad to see that Prof. Neustadt, the inadvertent cause of the Presidential Transition Act, confesses responsibility in the New York Times and throws himself on the mercy of the court. The first step in restoring rationality to the transition would be the repeal of that troublemaking law. For, if people are given $3.5 million to spend, they will find ways to spend it.

The second step would be to take a hard look at the constitutional amendment, long since proposed by Sens. Claiborne Pell and Charles Mathias, moving the inauguration date back to Nov. 20 from Jan. 20. This amendment would reduce the postelection interval of national paralysis. It would eliminate the need for the lame-duck president to submit a pointless budget that his successor is bound to discard. It would prevent departing administrations from making agreements and issuing executive orders designed to thwart or embarrass the new crowd. It would relieve Washington of the depressing sight of an administration that is dead but not permitted down.

Maybe Nov. 20 does not leave enough time for the president-elect to rest up the campaign, for election passions to and for final decisions to be made. Maybe the second week of December, by that time most new cabinet members are seen anyway, would be a better date for inauguration. But let us further mode the presidency by bringing it up to speed of the electronic age.

THE GREAT OBJECTION

The great objection is that the chance would not leave an incoming administration enough time for calm consideration of policies and appointments. The British situation, it is pointed out, is different because the opposition already has an election manifesto and a "shadow government," because cabinet nominees are of known quantities selected from members of Parliament and because political appointees hold fewer top jobs—and public servants more—than in the U.S.

But a new president should certainly have his policies pretty well in hand by the time of the election. As for recruitment of John Macy Jr., former chairman of the Civil Service Commission and a respected expert on public administration, testified before the Senate Judiciary Committee some years ago in favor of the Pell-Mathias approach, made it clear that he did not regard the appointments problem a very strong argument against shortening time interregnum.

For that matter, why would it not be a good idea for presidential candidates to be forced to think before the election about the programs they intend to present to Congress and the people they might want to bring into their administration? The discipline of advance planning would be a salutary reminder

for those who occupy the White House that winning the election is only the prelude to governing the Nation.

THE PRESIDENT'S LONG GOODBYE—IS 2½ MONTHS TOO LONG OF A TRANSITION PERIOD?

(By Paul Sperry)

The White House interregnum—the long transition period between U.S. presidencies—has been both a blessing and a curse for President-elect Clinton.

On the one hand, he has had time to conveniently alter his campaign's economic blueprint, including tabling plans for fiscal pump-priming and tax breaks, to adjust to new indications of economic strength.

And he has had a chance to review—and reverse—his position on allowing asylum to Haitian refugees.

But, outside of good economic news, other recent developments have proven less advantageous as well as potentially dangerous.

And it's this precarious downside that has some analysts calling for a truncated version of the 2½ month transition period. President Bush also has called for a shorter transition.

"The current transition is not only too long (but) in certain circumstances, too risky," Pulitzer-winning historian Arthur Schlesinger said recently.

Like a kicker going in cold to decide a close football game, Clinton will immediately inherit an incendiary situation in the Persian Gulf from the outgoing president.

Instead of having his hand on the throttle, Clinton has watched from the back seat. He has received second-hand intelligence about the renewed conflict with Iraq: The outgoing president's security advisers have informed the incoming president's appointed security advisers who, in turn, have informed Clinton.

The seeming split in command has created the appearance of two governments.

After U.S. forces struck targets in southern Iraq on Wednesday, Americans watched back-to-back press conferences. One was held in Washington and one in Little Rock, Ark. One was handled by a spokesman for the president, the other by a spokesman for the president-elect.

The White House asserts that Clinton has been duly apprised of decisions as they have unfolded. Bush, in fact, has spoken directly to Clinton.

But Bush is still the one calling the shots.

In a few days, he'll be handing over the controls to a new president who, though competent, has no hands-on experience in national security matters.

Some defense analysts expressed less concern about Clinton's nerve than about the public's apparent perception of duality in government.

"I've been a little troubled by talk of there being two administrations," said John Luddy, a defense policy expert at the Washington-based Heritage Foundation.

Nonetheless, Clinton's foreign policy team will be installed in the throes of an unresolved, volatile conflict—one over which Clinton had no role in shaping. Clinton will quickly get a heavy dose of realpolitik, whether he's ready or not.

But Luddy says that if Iraqi leader Saddam Hussein tried to take advantage of a perceived period of impotence or disunity in the U.S. government, "it hasn't worked."

"He shows a real lack of understanding of our system," he added. "The Clinton team was briefed extensively. I'm not sure there's a systemic problem."

David Ochmanek, a Rand Corp. defense analyst, agrees, adding that Clinton has said he will support Bush's policy and will probably err on the side of being hawkish.

"I don't see a potential for a policy problem developing in the hand-off," he said.

DANGEROUS WINDOW?

But others blame the long interregnum for giving dictators like Saddam the opportunity to miscalculate U.S. weakness. At more than 11 weeks, it leaves a window wide open for such unexpectedly dangerous developments.

The kind of nerve-racking transition happening now is rare.

The lame-duck period has, for the most part, historically lived up to its name. Presidents usually bow out quietly, without enacting much new domestic policy. Engaging a foreign enemy in fresh military combat is doubly rare.

White House spokesman Marlin Fitzwater, upon answering reporters' questions Wednesday, said the current chain of events was unprecedented.

In fact, President Nixon inherited an unfinished war from President Johnson in 1968.

But, unlike Clinton, Nixon had prior involvement in foreign policy decisions, as vice president under President Eisenhower in the 1950s.

The issue of the U.S. interregnum has been debated since World War I, when President Wilson feared the international ramifications of a potential changing of the guard. The controversy blew over when Wilson won re-election.

But the 1932 election, at the nadir of the Great Depression, brought the controversy to a head. The then four-month float between presidencies was deemed too long * * *

First, he backpedaled on his promise to kickstart what he thought to be a moribund economy with the fiscal stimulus plan that included spending on new highways, a high-speed rail and a national computer network.

Recent robust gains in chief economic indicators, combined with negative reaction from inflation-sensitive markets, prompted Clinton to rethink his plans.

Then, the Bush administration's report this month of a larger-than-expected federal deficit gave Clinton reason to pull back his celebrated campaign promise of a tax break for the middle class.

He said the deficit is now projected as "$50 billion bigger five years from now than it was thought to be in August and over $100 billion bigger than it was thought to be in the spring when I put together" the Clinton campaign booklet "Putting People First," which proposes the tax cut.

Moreover, his appointed economic staff now favors a hike in the federal gas tax to help offset the deficit.

Last, Clinton has had a sudden change of heart regarding Haitian refugees.

When the Constitution was written in the 18th Century, transportation and communication were so slow that it would have been almost impossible for officials elected in November to reach the capital in shorter time. But, within decades, rail and other new technologies made such a large cushion obsolete.

So, Congress proposed the 20th Amendment, which moved the president's inaugural day to Jan. 20 from March 4. The "lame duck" amendment was ratified in 1933.

But many today think the interval cut didn't go far enough. The advent of electronic media and jet travel calls for a new review, they argue.

In 1981, Sen. Claiborne Pell, D-R.I., and former Sen. Charles Mathias, R-Md., first introduced a bill moving the inauguration date back to Nov. 20 from Jan. 20. A revised bill, moving the date back to Dec. 10 instead, will be reintroduced this week, an aide to Pell said.

"Do we really need 11 weeks to carry out the shift from one president to the next?" asked Schlesinger, a professor at City University of New York.

Bush would answer that with an emphatic "no."

"I've concluded" the visibly weary and sad president said in late November, "that the interregnum is too long."

This White House interim, which combines a Middle East flare-up with a Washington outsider who has no military experience, has enlivened the debate.

"All I can say is, I'm glad they moved it (the inaugural date) up from March," said Richard Brody, a Stanford University political analyst.

At the same time, Brody adds, there are benefits to the existing system.

Yes, he says, some domestic appointments could be sped up, but the new president needs that protracted period to set up a new power base—particularly if the incumbent party is defeated.

The British system moves its defeated prime minister out of 10 Downing Street within days of the election. However, the Parliament maintains a "shadow government" that smooths the transition.

Clinton has tapped—some would say milked—a tacit advantage of the long interregnum policy revision.

Over the roughly 75 days since forcibly returning to that country those fleeing to the U.S. He said it was cold-hearted and sent the wrong message to suffering foreigners.

But now he supports the policy, agreeing that it would place a strain on southern Florida's infrastructure.

At the same time, the long transition has allowed Clinton time to test the political waters, political analysts say it may not be to his advantage in the long run.

"There is an advantage to it, but all the public is seeing is the atmospherics of his policy changes," Brody said. "Middle-class tax cut today. Haitians tomorrow. And something else the next day."

He added, "The press already has the idea that this guy waffles."

While Clinton "revisits" his campaign promises, he may have to revisit his whole promise to focus on domestic issues.

Bush's decree that the U.S. and its allies will no longer issue warnings to Saddam to answer future provocations puts Clinton in the eye of the storm Wednesday.

"I don't think this is the type of world he or his advisers thought they'd inherit," Luddy said. "He will be considerably distracted by world events as soon as he takes office."

LAME DUCKS

1993: Bush-Clinton—Pell-Mathias bill, revised to move the inauguration date to Dec. 10, will be reintroduced.

During transition, Bush orders air strikes on Iraq in response to U.N. violations. Clinton is briefed.

1981: Carter-Reagan—Pell-Mathias bill first introduced. Bill would move inauguration day to Nov. 20.

1968: Johnson-Nixon—Concern over changing party command during Vietnam War a campaign issue.

1933: Hoover-FDR—"Lame Duck" Amendment cut interregnum from four months to 10 weeks.

By Mr. COATS:

S.J. Res. 18. Joint resolution proposing an amendment to the Constitution

of the United States to limit the terms of office for Members of Congress; to the Committee on the Judiciary.

CONGRESSIONAL TERM LIMITS

Mr. COATS. Mr. President, I rise today to reintroduce legislation I believe will go a long way toward reforming the Congress and restoring the American people's trust in their institutions of government.

In recent years, the Senate Select Committee on Ethics has become known as the graveyard of investigations. It should be clear to all of us, as it is to the American people, that Congress is incapable of policing itself. Only a nonpartisan outsider can enforce the ethical and legal standards that Americans expect.

For this reason, I am reintroducing legislation to abolish the Ethics Committee and establish an independent commission with authority to appoint outside counsel to review alleged violations of Senate ethics rules. This legislation will end congressional self-policing and provide the Senate with the same kind of scrutiny applied to the executive branch.

Americans not only want their representatives to be more accountable to the law, they want them to be more accountable to the people. The instrument many have chosen to reach this end is term limits. This is another area where Congress must reform itself if it is to deserve public trust.

The overwhelming passage of term-limit initiatives in the 14 States in which they were on the ballot in November is a clear indication of a growing national movement. Indeed, Americans favor limiting the terms of their elected officials by a margin of 2 to 1.

Today, I am reintroducing my bill proposing a constitutional amendment to limit Representatives to six full terms and Senators to two full terms in office. This is a limit. But I believe it would be a source of liberation—the liberation of a Congress that could concentrate on policy, not the demands of a career or the opinions of special interests.

In the aftermath of the recent election, one thing is clear—Americans demand change in the way that Congress does business. That change, to be meaningful, must transform the way Congress polices itself and the way it views the terms and objects of its service. If the Congress wants to recover lost credibility, I believe these two measures are essential.

I ask unanimous consent that the joint resolution be printed in the RECORD.

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

S.J. RES. 18

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission by the Congress:

"ARTICLE—

"SECTION 1. No person may serve any portion of a term as Representative if, taking into account only service on or after the date on which this section takes effect, at the completion of that term the person would have served as a Representative for more than six full terms (not including any part of a partial term to which the person may have been elected or appointed).

"SECTION 2. No person may serve any portion of a term as Senator if, taking into account only service on or after the date on which this section takes effect, at the completion of that term the person would have served as a Senator for more than two full terms (not including any part of a partial term to which the person may have been elected or appointed).

"SECTION 3. This article shall take effect at noon of the first January 3 that occurs more than one year after the date of adoption of this article and on which terms of Representatives begin.".

By Mr. AKAKA (for himself and Mr. INOUYE):

S.J. Res. 19. A joint resolution to acknowledge the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii, and to offer an apology to native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii; to the Select Committee on Indian Affairs.

THE 100TH ANNIVERSARY OF THE OVERTHROW OF THE KINGDOM OF HAWAII

• Mr. AKAKA. Mr. President, with President Bill Clinton's inauguration yesterday, America embarked on a new beginning filled with hope for its future. For native Hawaiians this is a time of mournful remembrance, however, as this week marks the 100th anniversary of the January 17, 1893, overthrow of the Kingdom of Hawaii's last ruling monarch—Queen Liliuokalani.

The resolution I reintroduce today acknowledges the centennial of the 1893 overthrow, and offers an official apology on behalf of the United States for its complicity in this event. But most importantly, it promotes reconciliation efforts between the United States and the native Hawaiian people.

While this resolution passed the Senate and received broad support from the House during the 102d Congress, it did not reach the House floor before adjournment. Consequently, I am reintroducing this resolution today to continue educating my colleagues on this important event in Hawaii's history which has had a profound impact on my kindred people.

The deprivation of Hawaiian sovereignty which began a century ago has had devastating effects on the health, culture, and society of native Hawaiians, with consequences that are evident throughout the islands today.

Long neglected by the United States, native Hawaiians have literally fallen in the cracks when it comes to Federal policy toward native Americans. Yet history will show that native Hawaiians are indeed descendants of the aboriginal people who, prior to the arrival of the first Westerners in 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

History will show that the Kingdom of Hawaii was a highly organized, civilized, and sovereign nation from the unification of the Hawaiian Islands under King Kamehameha I in 1810 until the overthrow of its last monarch, Queen Liliuokalani, in 1893. History will show that for close to 70 years, between 1826 and 1893, the United States recognized the independence of the Kingdom of Hawaii and extended full and complete diplomatic recognition to the Hawaiian Government. History will show that without the active support and intervention by U.S. diplomatic and military representatives, the overthrow of Queen Liliuokalani on January 17, 1893, would have failed for lack of popular support and insufficient arms. In his message to Congress regarding these events, President Grover Cleveland called the overthrow an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, and acknowledged that by such acts the government of a peaceful and friendly nation was overthrown. The acts of villainy that occurred a century ago have never been remedied, and no official apology has ever been made by the United States to the native Hawaiian people.

The resolution I reintroduce today simply seeks to provide the foundation for improved relations between the Federal Government and the native Hawaiian people. With the centennial of the 1893 overthrow, and the inauguration of a new President who promises new hope for native Hawaiians and all Americans, we have at hand an opportunity for reconciliation.•

SENATE CONCURRENT RESOLUTION 4—AUTHORIZING THE PRINTING OF "SENATORS OF THE UNITED STATES: A HISTORICAL BIOGRAPHY

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 4

Whereas informed research on the history and operations of the United States Congress depends on full access to existing scholarly studies of its former members, as well as to their published papers and other writings; and

Whereas no recent compilation of these significant research resources presently exists: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book enti-

tled "Senators of the United States: A Historical Bibliography" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed 5,000 copies for the use of the Office of the Secretary of the Senate.

SENATE CONCURRENT RESOLUTION 5—AUTHORIZING THE PRINTING OF "GUIDE TO RESEARCH COLLECTIONS OF FORMER UNITED STATES SENATORS"

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 5

Whereas informed research on the United States Congress depends heavily on access to the office files, personal papers, oral history interview transcripts, and associated memorabilia of its former members;

Whereas the Senate in 1983 and the House of Representatives in 1988 have published well-received guides to these materials; and

Whereas thousands of new entries have been added to the Senate's 1983 edition and supplies of this award-winning reference guide have been exhausted: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Guide to Research Collections of Former United States Senators" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed 5,000 additional copies for the use of the Office of the Secretary of the Senate.

SENATE CONCURRENT RESOLUTION 6—AUTHORIZING THE PRINTING OF "SENATE ELECTION, EXPULSION, AND CENSURE CASES"

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 6

Whereas the United States Constitution, in Article I, section 5, provides that "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members" and that "Each House may * * * punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member";

Whereas the Senate has sought faithfully to exercise these constitutional requirements of self-discipline through its more than two-hundred-year history;

Whereas the Senate, beginning in 1885, has periodically published compilations of its election, expulsion, and censure cases for the guidance of members and the American people; and

Whereas the most recent edition is now twenty years out of date: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Senate Election, Expulsion, and Censure Cases" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed with suitable binding 3,000 copies for the use of the Senate, to be allocated as determined by the Secretary of the Senate.

SENATE CONCURRENT RESOLUTION 7—RELATIVE TO IMPACT STATEMENTS ON LEGISLATION

Mr. WALLOP submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 7

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that each committee of the Congress that reports legislation that requires employers to provide new employee benefits shall secure an objective analysis of the impact of the legislation on employment and international competitiveness and include an analysis of the impact in the report of the committee on the legislation.

SENATE RESOLUTION 11—RELATIVE TO BOSNIA-HERCEGOVINA

Mr. DECONCINI (for himself, Mr. D'AMATO, Mr. LIEBERMAN, Mr. DOLE, Mr. LUGAR, and Mr. PRESSLER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 11

Whereas Bosnia-Hercegovina is a sovereign and independent state, a member of the United Nations, and a participating State of the Conference on Security and Cooperation in Europe;

Whereas the leaders of Bosnia-Hercegovina have committed themselves to practice tolerance and to live together in peace with neighboring states in keeping with the Charter of the United Nations and to promote human rights and democracy pursuant to the Helsinki Final Act;

Whereas the people of Bosnia-Hercegovina have been and remain the target of armed aggression by Serbia and Serbian-backed forces;

Whereas the loss of life and human suffering in Bosnia-Hercegovina has reached an unprecedented scale in post-World War II Europe;

Whereas the war and "ethnic cleansing" in Bosnia-Hercegovina has uprooted more than 1.5 million people, contributing to the largest refugee problem in Europe since World War II;

Whereas the people of Bosnia-Hercegovina have been subjected to organized, systematic, and premeditated war crimes and genocide, including willful killings, rape, forced impregnation, abuse of civilians in detention centers, deliberate attacks on non-combatants, "ethnic cleansing" through forcible expulsion and deportation of civilians, and torture of prisoners;

Whereas the United Nations Security Council has reaffirmed that persons who commit or order the commission of grave breaches of the Geneva Conventions are individually responsible in respect to such breaches;

Whereas the International Committee of the Red Cross and other international humanitarian organizations have not been granted unimpeded and continuous access to all camps, prisons and detention centers in Bosnia-Hercegovina as called for by the United Nations Security Council;

Whereas efforts by United Nations humanitarian organizations and others to secure the effective and unimpeded delivery of humanitarian supplies to all victims of the war in Bosnia-Hercegovina have been repeatedly blocked;

Whereas numerous diplomatic efforts to achieve a peaceful solution to the war in Bosnia-Hercegovina have failed to bring about a cessation of hostilities;

Whereas the United Nations Security Council has demanded that neighboring states respect the territorial integrity of Bosnia-Hercegovina;

Whereas irregular forces have failed to disband, disarm, or place their weapons under effective international monitoring;

Whereas Article 51 of the Charter of the United Nations provides for the right of individual and collective self-defense if an armed attack occurs against a member state;

Whereas Bosnia-Hercegovina's right to defend itself against attack by well armed forces has been thwarted by the existing international arms embargo;

Whereas incursions of the airspace of Bosnia-Hercegovina by hostile military aircraft continue to occur in violation of the establishment of a "no-fly" zone by the United Nations Security Council;

Whereas United Nations Security Council resolutions on a "no-fly" zone, the transfer of all heavy weapons to international control, the delivery of humanitarian assistance, and access to all camps, prisons and detention centers in Bosnia-Hercegovina have not been fully implemented or enforced: Now, therefore, be it

Resolved, That the United States should act, without delay, to uphold Bosnia-Hercegovina's right to self-defense as provided for under Article 51 of the Charter of the United Nations and to seek the immediate lifting of the international arms embargo as it applies to that country, thus enabling Bosnia-Hercegovina to obtain defensive weapons: Be it further

Resolved, That the United States should assemble a multinational coalition to—

(1) immediately enforce the existing UN "no-fly" zone over the territory of Bosnia-Hercegovina, including through the use of military air force, if required;

(2) ensure that irregular forces in Bosnia-Hercegovina either withdraw, or be subject to the authority of the Government of Bosnia-Hercegovina, or be disbanded and disarmed with their weapons placed under effective international monitoring. In the event that such steps are not taken by irregular forces immediately, every effort, including the use of military air force, should be made to neutralize heavy arms in the hands of such forces;

(3) ensure the immediate, effective and unimpeded delivery of humanitarian aid to all civilian populations in Bosnia-Hercegovina, in keeping with international commitments, including through the use of military force, if required;

(4) ensure unimpeded access to all camps, prisons and detention centers in Bosnia-Hercegovina by the International Committee of the Red Cross and other international humanitarian organizations and facilitate the release of all detainees from such facilities: Be it further

Resolved, That the United States should—

(1) seek an increase in the number of refugees from Bosnia-Hercegovinia permitted to enter the U.S. and other European countries; and

(2) work to ensure that those responsible for war crimes and crimes against humanity in Bosnia-Hercegovina are held accountable by an international criminal tribunal.

Mr. DECONCINI. Mr. President, is there anyone among us who has looked into the eyes of a Bosnian recently released from a Serbian concentration camp and not choked in horror at the depth of the human tragedy which we and the rest of the world are allowing to continue in Bosnia-Hercegovina today? Listen to the personal accounts of men and women who have been victimized during the course of the war there and you quickly recognize the haunting patterns of genocide.

I traveled to Macedonia and Croatia recently with Representative FRANK MCCLOSKEY where we met with refugees from Bosnia-Hercegovina, including recently released detainees. Their stories document organized, systematic, and premeditated war crimes perpetrated against innocent civilians, including children.

The reports recall willful killings, rape, forced impregnation, abuse of civilians in detention centers, deliberate attacks on noncombatants, ethnic cleansing through forcible expulsion and mass killings, and torture of prisoners. The accounts sound frighteningly familiar, harkening back to the darkest days of Nazi Germany. "War turned into genocide" is the how Bosnian President Alija Izetbegovic recently described the armed aggression and human suffering inflicted on the people of his country.

The bold cries "never again" made in the past have today muted a policy of appeasement which has become grotesque in its hypocrisy.

Elie Wiesel, himself a camp survivor, in accepting the Nobel Peace Prize, said "Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented." He continued "Wherever men or women are persecuted because of their race, religion, or political views, that place must—at the moment—become the center of the universe."

Some may take comfort in expressions of outrage, indignation, and disgust. But the horrors of Bosnia have gone on for too long now to make these nothing more than meaningless words. Our diplomatic negotiations have become simply an exercise in more words. And, words without action equal silence. Our silence can now only add further to the torment of those who once believed in world humanity but now know the horrible reality of our complicity in the living hell they are being subjected to.

For our statements betray how much we do know. We cannot claim ignorance. We cannot take refuge behind pleas of ignorance this time.

Our failure to act upon our words and commitments equals the type of neutrality which, Wiesel reminds us, helps the oppressors. As if this were not bad enough, we now hear expressions of thanks to an accused war criminal. Thanks for what?

The world community has looked for every excuse not to act decisively. It has engaged in an endless series of talks which we all pray will bring peace but which we know in our hearts are only helping the aggressor unless and until we back up our negotiating rhetoric with force instead of more meaningless words. President Izetbegovic decrying the fact that the world "has done very little, or nothing, close to nothing" to come to his country's aid said "we cannot endure much longer."

While it is too late to save those who have perished, it is not too late to act—to back up our words with action.

The resolution which I introduce today along with Senators D'AMATO, LIEBERMAN, DOLE, and LUGAR is a call to action. It is an attempt to address the most pressing concerns. It is based, in large part, upon elements of resolutions already adopted by the U.N. Security Council and the General Assembly. Resolutions which have not been fully implemented or enforced.

As former Secretary of State George Shultz recently remarked, "resolutions without follow-through are empty threats, and nobody takes them seriously."

Our resolution provides for that much needed followthrough:

The immediate lifting of the international arms embargo as it applies to Bosnia-Hercegovina in keeping with that country's right to self-defense as provided for under article 51 of the charter of the United Nations.

It calls upon the United States to assemble a multinational coalition for the following purposes:

Enforcement of the existing U.N. no-fly zone over the territory of Bosnia-Hercegovina including through the use of military air force, if required.

Ensure that irregular forces in Bosnia-Hercegovina either withdraw, or be subject to the authority of the Government of Bosnia-Hercegovina, or be disbanded and disarmed with their weapons placed under effective international monitoring. In the event that such steps are not taken by irregular forces immediately, every effort, including the use of military air force, should be made to neutralize heavy arms in the hands of such forces.

The immediate, effective, and unimpeded delivery of humanitarian aid to all civilian populations in Bosnia-Hercegovina, in keeping with international commitments including through the use of military force, if required.

Unimpeded access to all camps, prisons, and detention centers in Bosnia-Hercegovina by the International Committee of the Red Cross and other international humanitarian organizations, facilitating the release of all detainees from such facilities.

In addition, it calls upon the United States to:

Seek an increase in the number of refugees from Bosnia-Hercegovina permitted to enter the United States and other European countries.

Work to ensure that those responsible for war crimes and crimes against humanity in Bosnia-Hercegovina are held accountable by an international criminal tribunal.

I urge my colleagues to answer this call to action and lend their support to this resolution.

If we will not act then let us remain truly silent. For more words will only add to the pain, will only add to the suffering. Let history be the judge if we choose to remain neutral, choose to remain silent.

Thank you, Mr. President.

Mr. President, I send to the desk the resolution and ask for its proper referral.

Mr. DOLE. Mr. President, will the Senator from Arizona yield?

Mr. DECONCINI. Yes.

Mr. DOLE. Mr. President, I congratulate the Senator from Arizona for his statement, one I concur in fully. I believe the RECORD will reflect I am a sponsor of the resolution.

Mr. DECONCINI. The Senator is correct.

Mr. DOLE. I thank the Senator for his leadership.

The PRESIDENT pro tempore. The resolution will be received and appropriately referred.

Mr. PRESSLER. Mr. President, I am pleased to join with the Senator from New York and the Senator from Arizona to introduce a resolution, which calls upon the United States and the world community to take decisive action in Bosnia-Hercegovina.

For the past 9 months, we have been witnesses to the greatest systematic violation of basic human rights in more than a generation. Despite worldwide pledges that the atrocities of the holocaust or the Armenian genocide will stand alone and never be repeated, the people of Bosnia-Hercegovina now share a tragic kinship with the survivors of this century's darkest chapters.

The facts are staggering. Wanton killing, rape, violent abuse in deten-

tion centers, attacks on innocent Bosnians, torture of prisoners, and of course ethnic cleansing, which is the forced expulsion of civilians from their homelands. The violence has claimed the lives of more than 200,000 citizens. Ethnic cleansing has uprooted more than 1.5 million people, creating a refugee problem of biblical proportions. There appears to be no limit to the degree of violence—the senseless genocide—imposed by Serbia and Serbian-backed forces.

Over the past month, the United Nations has worked diligently to seek a peace agreement among the warring factions. Just yesterday, Bosnian Serbs agreed to a peace plan offered by former Secretary of State Cyrus Vance, and former British Foreign Secretary, Lord Owen. On the surface, the Serbs approval of the peace plan can be seen as a victory for the people of Bosnia—it represents a movement away from the Serbs' desire to carve a separate, Serb state within the boundaries of Bosnia-Hercegovina.

However, Mr. President, let there be no misunderstanding. Approval of the peace agreement does not end the need for stronger international pressure against the Serbs. There is no ceasefire. Sarajevo is still plagued by sounds of gunfire. Hundreds of thousands of Bosnian Moslems remain displaced from their homelands. Maps of the 10 provinces under the plan have still to be drawn and agreed to by the participants.

At best, we have a commitment to peace. Peace itself remains far off on the horizon.

A strong commitment by the United States and our allies—in concert with the United Nations—to stand with the people of Bosnia is essential if the quest for peace is to remain on track. Furthermore, any peace that is achieved does not mean we let pass the atrocities instigated by Serbian leaders. Peace must not cement tyrannical gains, or reward aggression. Peace must not dismantle rights to self-determination. Peace must not pardon war crimes. Peace is no substitute for justice. They stand hand in hand.

The United States Senate has stood strongly in support of a greater multinational presence to restore order in Bosnia, achieve a peace, and punish the tyrants. Last year, 74 Members of this body approved a resolution I cosponsored, which called for decisive action by the President and the United Nations. I stand here today to urge my colleagues to renew the commitment made last year.

The resolution we are introducing today calls for strong steps to put a stop to Serb aggression. Specifically, it calls for the immediate lifting of the arms embargo as it applies to Bosnia-Hercegovina. It calls for the United States to assemble a multinational coalition to enforce the existing no-fly zone; transfer heavy arms in Bosnia to U.N. control; coordinate the delivery of humanitarian aid; and gain access to detention centers for international relief organizations, such as the Red Cross. It calls on the United States to seek an increase in the number of Bosnian refugees permitted to enter the United States and Europe.

Finally, our resolution calls on this Nation to work to ensure that war criminals are held accountable by an international war crimes tribunal. This last point is absolutely necessary. The United Nations was created in part to uphold international justice. There have been a number of efforts to establish procedural rules and guidelines for an international war crimes tribunal, but they have been unsuccessful. The tragedy in the former Yugoslavia should renew our efforts to establish an international justice system. Recently, I wrote an article that appeared in the Christian Science Monitor that calls for the creation of a war crimes tribunal modeled after the tribunal established in Nuremburg. I ask unanimous consent that a copy of this article appear in the RECORD at the conclusion of my remarks.

Mr. President, this resolution is no more than a statement of resolve. The ball is in our new President's court. The question of whether real peace will be achieved—one that recognizes the political and human rights of all citizens and ethnic groups within the former Yugoslavia—rests largely with the President. By passing this resolution, we can send a message that the Senate stands behind him in the difficult decisions that face him.

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

[From the Christian Science Monitor]

JUSTICE MUST BE DEMANDED FOR "ETHNIC CLEANSING" CRIMES

(By Larry Pressler)

It is hard to recall a time when headlines did not proclaim, virtually on a daily basis, some new war atrocity in the former Yugoslavia. The situation has received extensive debate in the United States Congress, the United Nations, and in other forums, and added "ethnic cleansing" to our vocabulary.

But more questions than answers have resulted from this worldwide deliberation. How long will the war continue? How many more will die or be forced from their homes? Will the newly imposed maritime blockage against Serbia help Bosnians? Will the killing and purging spill over from Bosnia into Kosova, making ethnic Albanians (90 percent of the population of Kosova) the next target of Serbian-backed ethnic cleansing?

One vitally important question has not received much attention: Will those guilty of war crimes in the former Yugoslavia eventually be punished? It is not too early to consider this question. An affirmative answer by a unified world community might bring the atrocities to an end. The Bosnian government estimates that more than 40,000 individuals are dead or missing and more than 2 million have been driven from their homes—the greatest tide of refugees in Europe since World War II. Atrocities are reported on both sides, but Serbian atrocities appear to far outweigh those committed by Muslims and Croats.

We must send a strong message that these actions will not go unpunished. On Aug. 11, 1992, the US Senate endorsed such a message by a 74-22 vote. During Senate debate on the resolution, I referred to this as a "defining moment" in US foreign policy. How we handle this situation will tell the world much about America's role in the post-cold-war world.

Among its provisions, the resolution on the former Yugoslavia called for the convening of a war crimes tribunal. On Oct. 6, the UN Security Council adopted Resolution 780, requesting the secretary-general to establish a commission of experts to analyze war crimes information submitted by countries and human rights organizations. The commission also would conduct its own investigations into alleged violations of the Geneva Conventions and other violations of international humanitarian law committed in the former Yugoslavia. The resolution allows the UN secretary-general to recommend "further appropriate steps."

What are further appropriate steps? Perhaps the most famous instance in which individuals were held responsible for war crimes was the Nuremberg Trials. On Aug. 8, 1945, the Allied Powers London Agreement was signed, creating an International Military Tribunal.

The UN General Assembly adopted Resolution 95(1) on Dec. 11, 1946, noting the agreement and annexed charter establishing the tribunal and affirming "the principles of international law recognized by the Charter of the Nuremberg Tribunal and the judgment of the Tribunal." Later, the UN's International Law Commission would formulate seven principles of international war crimes law which evolved from the Nuremberg experience.

Unfortunately, while work has continued in this area over the years, a comprehensive regulation of crimes against peace, war crimes, and crimes against humanity has not yet evolved. This does not mean that the work of the newly created UN Commission of Experts will be in vain. The world can still use the UN to pass judgment on the criminals of the former Yugoslavia.

Another avenue open to a world community seeking justice in the former Yugoslavia may be the Convention on the Prevention and Punishment of the Crime of Genocide. The Genocide Convention was first adopted in 1948. Yugoslavia is a signatory to the convention and thus bound by its provisions. The convention defines genocide as the intentional destruction of any national, ethnic, racial, or religious group, in whole or in part, by killing its members, causing them serious physical or mental harm, imposing conditions of life calculated to bring about their physical destruction, imposing measures intended to prevent births, or transferring children from one group to another.

The convention renders punishable the actual commission of any of these acts, as well as conspiracy, incitement, attempt, and complicity in connection with any of them.

How is the convention enforced? The main sanction lies in the undertaking of its parties to enact legislation to implement the convention. Each party is then responsible for providing for the punishment of offenders by national courts of the state within the territory on which the genocide has been committed. However, it is possible for accused individuals to be tried by an international tribunal agreed to by the parties.

Few are yet willing to call what is happening in the former Yugoslavia "genocide" as it is historically understood. However, if the UN Commission of Experts verifies reports of ethnic cleansing and of torture, starvation, and execution in detention camps, it is hard to imagine how such activities would not fall within the scope of activities punishable under the Genocide Convention. In the end, justice must be served for the crimes being committed in the former Yugoslavia.

Mr. D'AMATO. Mr. President, I rise today to join my colleagues, Senators DECONCINI, DOLE, LUGAR, and LIEBERMAN, in submitting a resolution calling for a number of United States actions designed to alleviate the suffering of the Bosnian people and hopefully show the Serbs the futility of further war.

Since April 1992, Serbia has waged a war of annihilation against Bosnia. Before that, it attacked Croatia. Now, menacingly it threatens Kosova. Serbia is unwilling to stop its wars of aggression and stop the killing. Because Serbia will not stop, my colleagues and I are introducing a resolution that urges the following steps: The lifting of the United Nations arms embargo on Bosnia; the enforcement of the no-fly zone over that nation; the use of air power to neutralize the heavy guns of the Serbian forces; the use of force, if necessary to deliver humanitarian supplies; unimpeded access to the Serbian detention camps and prisons; an increase in the number of Bosnian refugees admitted to the United States and European countries; and the convening of a war crimes tribunal to punish all those guilty of the horrible crimes of which we have seen evidence.

Each of these steps are necessary to deter the Serbs from continuing the ethnic cleansing and mass rape that has been the central part of their wars against their neighbors. While they have ravaged Croatia and Bosnia, they must not be allowed to continue or expand their conquests. They must understand that there will be a price for their violence. Their aggression must not go unchecked.

In this light, the Serbs must not be allowed to take their killing machine on the road south into Kosova. Serbia threateningly hovers over Kosova, to make good on its claim of absolute sovereignty over the land—a land that is not theirs. Their acts of harassment, arbitrary arrests, and job dismissals are unjustified acts of occupation. As bad as they are, however, ethnic cleansing in Kosova would be totally unpermissible and should be met with force.

Action must be taken, and I commend my colleagues for putting forth this important resolution. I urge others to join us in trying to stop the bloodshed in Bosnia.

SENATE RESOLUTION 12—RELATIVE TO GATT NEGOTIATIONS

Mr. PRESSLER (for himself, Mr. HEFLIN, and Mr. WALLOP) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 12

Whereas in 1986, negotiations on an international agreement to reform the General Agreement on Tariffs and Trade (hereafter in this resolution referred to as "GATT") began in Punta del Este, Uruguay, with a targeted conclusion date of December 1990;

Whereas the United States and other major agricultural exporting nations insisted from the start on significant reductions in the subsidy programs operated by the European Community under its Common Agricultural Policy;

Whereas in December 1990, after the European Community decided against reducing the subsidy programs of its Common Agricultural Policy, no international agricultural subsidy reduction agreement was reached;

Whereas in November 1991, the European Community indicated some willingness to reduce its export subsidies during the GATT negotiations;

Whereas in November 1992, the European Community agreed to certain reductions in its export subsidies;

Whereas American agriculture has a long tradition of supporting international efforts to achieve more open markets and fairer rules governing world agricultural trade;

Whereas the support of United States farmers and ranchers for multilateral and other trade negotiations depends on the success of the Uruguay Round GATT negotiations in achieving agricultural subsidy reductions in the European Community; and

Whereas any agreement under the GATT that is not supported by American farmers and ranchers would not be acceptable to the Congress: Now, therefore, be it

Resolved, That it is the sense of the Senate that any agreement regarding proposed changes to the GATT must—

(1) achieve the elimination or substantial reduction of export subsidies as a means of disposing of agricultural surpluses in the world market;

(2) achieve new and expanded foreign market opportunities for United States farm products;

(3) ensure the European Community does not offset possible reductions in its agricultural export subsidies by adopting programs, such as variable levies or tariffs, which have the effect of substantially limiting United States agricultural exports to the European Community;

(4) not limit the United States ability to exercise its rights under the GATT to eliminate unfair trade barriers in the future; and

(5) achieve a sound agreement governing sanitary and phytosanitary regulations.

Mr. PRESSLER. Mr. President, during the 102d Congress I introduced a resolution to establish U.S. Senate policy that meaningful reforms with respect to agricultural subsidies must be achieved in the GATT negotiations. Today, I join several of my colleagues in reintroducing that resolution.

By meaningful, we mean that any new GATT Agreement must ensure fair trade opportunities for American farmers and ranchers. Growth in exports is the key to a better future for U.S. agriculture. We must expand world market opportunities for U.S. farmers and ranchers.

A new agreement also would shape significantly the future economic growth of the world's developing and lesser developed countries. The concessions afforded those countries could determine their future economic growth and potential for development. This could be significant for the United States, since 40 percent of U.S. agricultural trade is with the world's developing and lesser developed countries. Some of the largest consumers of U.S. farm products once were economically less-developed countries.

Mr. President, the Uruguay round of GATT negotiations to establish new trading rules in agriculture have been focused on three areas: Internal support, market access, and export competition. The arduous negotiations of the past 6 years have resulted in certain agreements being reached, and now the talks are entering their final stretch. If we are to have a successful conclusion to the Uruguay round, the United States must continue to insist that measurable improvements be made in each of these areas.

The Uruguay round originally was scheduled to be concluded in December 1990. At that time, the United States was calling on the European Community [EC] to reduce its domestic agricultural subsidies by 75 percent and its export subsidies by 90 percent over a 10-year period. This demand marked a retreat from the original U.S. position of total elimination of all agricultural subsidies. Still, the EC balked and walked away from the negotiations.

In December 1991, efforts again were made to reach a consensus agreement. Though the United States continued to insist on its modified position, discussion centered on a 36-percent reduction in export subsidies and a 20-percent reduction in domestic subsidies over a 6-year period. Expectations were high and many believed that a breakthrough was near. I was concerned that the United States might back down on some demands simply to reach a new agreement. Fortunately, that did not occur.

Mr. President, at that time, I wrote the President and the U.S. Trade Representative urging them not to back down from our demands that Europe cease to practice agricultural protectionism. No consensus was reached, and GATT Director General Arthur Dunkel proposed a draft final agreement embracing a 36-percent reduction in export subsidies and 20-percent reduction in domestic subsidies over a 6-year period. The so-called Dunkel proposal is now the center of negotiations on agricultural trade in the Uruguay round.

The recent threat of United States retaliation to counter the European Community's GATT-illegal oilseed re-

gime forced some movement on the part of the European Community. The agreements made in November 1992 offered renewed hope for concluding the talks. However, since November, concerns over market access in the European Community for United States agricultural products have been raised. In fact, close examination of the agreements reached to date could actually result in fewer agriculture exports to the EC. Mr. President, this cannot be allowed to happen. I will oppose any GATT rules that hurt American farmers and ranchers.

According to industry sources, elimination of EC agricultural supports, such as variable levies and export subsidies, could boost U.S. farm exports in all markets between $4 and $5 billion, while at the same time reduce U.S. imports about $2 billion. Among key commodities, U.S. grain exports could rise about $1.8 billion, with imports dropping $22 million. Meat and egg exports could increase $1.3 billion, while imports could fall almost $2.4 billion.

Mr. President, the effect of such gains would be substantial. Every billion dollars' worth of agricultural exports means 26,000 new jobs here in the United States

Allowing the EC to continue its protectionist agricultural subsidy programs means that South Dakota farmers and ranchers would continue to face unfair foreign competition. Every farmer and rancher in South Dakota knows that higher grain, dairy, and meat prices depend on better access to foreign markets. EC export subsidies deprive our farmers and ranchers of billions of dollars in foreign sales.

A new GATT Agreement that meaningfully addresses the problem of EC agricultural subsidies would increase the U.S. share of world export markets in grains and meats. Such an agreement likely would result in little change in Government supports and higher market prices for most U.S. commodities. World prices for most agricultural commodities likely would be higher than under a continuation of current policy. Reducing export subsidies and import barriers would increase world demand. U.S. taxpayers, and U.S. grain, oilseed, and livestock producers, would benefit from meaningful GATT reforms.

Mr. President, the Dunkel proposal submitted in December 1991 does not go far enough. U.S. farmers and ranchers currently are forced to compete on an uneven playing field. It would remain uneven under the Dunkel proposal. Therefore, our negotiators must work to level this playing field by insisting on further concessions from the EC.

The drama of the negotiation process will continue and any final agreement probably will be reached in an 11th-hour deal. Unless a significant reduction in agricultural subsidies—at both the export and domestic levels—is achieved, the Uruguay round of GATT negotiations will be doomed to failure.

SENATE RESOLUTION 13—REFORM OF THE RULES OF THE SENATE

Mrs. KASSEBAUM (for herself, Mr. INOUYE, Mr. DASCHLE, Mr. DODD, Mr. LUGAR, Mr. MCCAIN, Mr. PELL, Mr. GORTON, Mr. SIMON, Mr. COHEN, and Mr. NUNN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 13

Resolved, That rule XXV of the Standing Rules of the Senate is amended to read as follows:

"STANDING COMMITTEES

"1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

"(a)(1) **Committee on National Priorities,** to which committee shall be referred all concurrent resolutions on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to committee under titles III and IV of that Act, and messages, petitions, memorials, and other matters relating thereto.

"(2) Such committee shall have the duty—

"(A) to report the matters required to be reported by committee under titles III and IV of the Congressional Budget Act of 1974;

"(B) to make continuing studies of the effect on budget outlays of relevant existing and proposed legislation and to report the results of such studies to the Senate on a recurring basis;

"(C) to request and evaluate continuing studies of tax expenditures, to devise methods of coordinating tax expenditures, policies, and programs with direct budget outlays, and to report the results of such studies to the Senate on a recurring basis; and

"(D) to review, on a continuing basis, the conduct by the Congressional Budget Office of its functions and duties.

"(b)(1) **Committee on Agricultural Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Agricultural economics and research.

"2. Agricultural extension services and experiment stations.

"3. Agricultural production, marketing, and stabilization of prices.

"4. Agriculture and agricultural commodities.

"5. Animal industry and diseases.

"6. Crop insurance and soil conservation.

"7. Farm credit and farm security.

"8. Food from fresh waters.

"9. Inspection of livestock, meat, and agricultural products.

"10. Pests and pesticides.

"11. Plant industry, soils, and agricultural engineering.

"12. Rural development, rural electrification, and watersheds.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (b)(1), except as provided in subparagraph (a).

"(c)(1) **Committee on Defense Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Aeronautical and space activities peculiar to or primarily associated with the development of weapons systems or military operations.

"2. Common defense.

"3. Department of Defense, the Department of the Army, the Department of the Navy, and the Department of the Air Force, generally.

"4. Maintenance and operation of the Panama Canal, including administration, sanitation, and government of the Canal Zone.

"5. Military research and development.

"6. National security aspects of nuclear energy.

"7. Naval petroleum reserves, except those in Alaska.

"8. Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces, including overseas education of civilian and military dependents.

"9. Selective Service system.

"10. Strategic and critical materials necessary for the common defense.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (c)(1), except as provided in subparagraph (a).

"(d)(1) **Committee on Commercial Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Coast Guard.

"2. Coastal zone management.

"3. Communications.

"4. Construction and maintenance of highways, and highway safety.

"5. Inland waterways, except construction.

"6. Interstate commerce.

"7. Marine and ocean navigation, safety, and transportation, including navigational aspects of deepwater ports.

"8. Marine fisheries.

"9. Merchant marine and navigation.

"10. Nonmilitary aeronautical and space sciences.

"11. Oceans, weather, and atmospheric activities.

"12. Regulation of consumer products and services, including testing related to toxic substances, other than pesticides.

"13. Regulation of interstate common carriers, including railroads, buses, trucks, vessels, pipelines, and civil aviation.

"14. Science, engineering, and technology research and development and policy.

"15. Sports.

"16. Standards and measurement.

"17. Transportation.

"18. Transportation and commerce aspects of Outer Continental Shelf lands.

"19. Regional economic development.

"20. Financial aid to commerce and industry.

"21. Public works, bridges, and dams.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (d)(1), except as provided in subparagraph (a).

"(e)(1) **Committee on Economic Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Bonded debt of the United States, except as provided in the Congressional Budget Act of 1974.

"2. Deposits of public moneys.

"3. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.

"4. Revenue measures relating to the insular possessions.

"5. Banks, banking, and financial institutions.

"6. Deposit insurance.

"7. Federal monetary policy, including the Federal Reserve System.

"8. Issuance and redemption of notes.

"9. Money and credit, including currency and coinage.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (e)(1), except as provided in subparagraph (a).

"(f)(1) **Committee on Energy Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Coal production, distribution, and utilization.

"2. Energy policy.

"3. Energy regulation and conservation.

"4. Energy-related aspects of deepwater ports.

"5. Energy research and development.

"6. Extraction of minerals from oceans and Outer Continental Shelf lands.

"7. Hydroelectric power, irrigation, and reclamation.

"8. Mining education and research.

"9. Mining, mineral lands, mining claims, and mineral conservation.

"10. Naval petroleum reserves in Alaska.

"11. Nonmilitary development of nuclear energy.

"12. Oil and gas production and distribution.

"13. Solar energy systems.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (f)(1), except as provided in subparagraph (a).

"(g)(1) **Committee on Environmental Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Air pollution.

"2. Environmental aspects of Outer Continental Shelf lands.

"3. Environmental effects of toxic substances, other than pesticides.

"4. Environmental policy.

"5. Environmental research and development.

"6. Fisheries and wildlife.

"7. Flood control and improvements of rivers and harbors, including environmental aspects of deepwater ports.

"8. Noise pollution.

"9. Nonmilitary environmental regulation and control of nuclear energy.

"10. Ocean dumping.

"11. Solid waste disposal and recycling.

"12. Water pollution.

"13. Water resources.

"14. Forestry, and forest reserves and wilderness areas.

"15. National parks, recreation areas, wild and scenic rivers, historical sites, military parks and battlefields, and on the public domain, preservation of prehistoric ruins and objects of interest.

"16. Public lands and forests, including farming and grazing thereon, and mineral extraction therefrom.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (g)(1), except as provided in subparagraph (a).

"(h)(1) **Committee on Foreign Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Acquisition of land and buildings for embassies and legations in foreign countries.

"2. Boundaries of the United States.

"3. Diplomatic service.

"4. Foreign economic, military, technical, and humanitarian assistance.

"5. Foreign loans.

"6. International activities of the American Red Cross and the International Committee of the Red Cross.

"7. International aspects of nuclear energy, including nuclear transfer policy.

"8. International conferences and congresses.

"9. International law as it relates to foreign policy.

"10. International Monetary Fund and other international organizations established primarily for international monetary purposes.

"11. Intervention abroad and declarations of war.

"12. Measures to foster commercial intercourse with foreign nations and to safeguard American business interests abroad.

"13. Trusteeships of the United States, including territorial possessions of the United States.

"14. Oceans and international environmental and scientific affairs as they relate to foreign policy.

"15. Protection of United States citizens abroad and expatriation.

"16. Relations of the United States with foreign nations generally.

"17. Treaties and executive agreements.

"18. United Nations and its affiliated organizations.

"19. World Bank group, the regional development banks, and other international organizations established primarily for development assistance programs.

"20. Foreign trade promotion, export, and export controls.

"21. Interoceanic canals generally, unless otherwise provided.

"22. Customs and ports of entry and delivery.

"23. Reciprocal trade agreements.

"24. Tariffs and import quotas, and matters related thereto.

"25. Organization and management of United States nuclear export policy.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (h)(1), except as provided in subparagraph (a).

"(i)(1) **Committee on Governmental Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Archives of the United States.

"2. Budget and accounting measures, except as provided in the Congressional Budget Act of 1974.

"3. Census and collection of statistics, including economic and social statistics.

"4. Congressional organizations, except for any part of the matter that amends the rules of order of the Senate.

"5. Federal Civil Service.

"6. Government information.

"7. Intergovernmental relations.

"8. Municipal affairs of the District of Columbia.

"9. Organization and reorganization of the executive branch of the Government.

"10. Postal Service.

"11. Status of officers of the United States, including their classification, compensation, and benefits.

"12. Renegotiation of governmental contracts.

"13. Public buildings and improved grounds of the United States generally, including Federal buildings in the District of Columbia.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (i)(1), except as provided in subparagraph (a).

"(j)(1) **Committee on Judicial Policy,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Apportionment of Representatives.

"2. Bankruptcy, mutiny, espionage, and counterfeiting.

"3. Civil liberties.

"4. Constitutional amendments.

"5. Federal courts and judges.

"6. Holidays and celebrations.

"7. Immigration and naturalization.

"8. Interstate compacts generally.

"9. Judicial proceedings, civil and criminal, generally.

"10. Local courts in the territories and possessions.

"11. Measures relating to claims against the United States.

"12. National penitentiaries.

"13. Patent Office.

"14. Patents, copyrights, and trademarks.

"15. Protection of trade and commerce against unlawful restraints and monopolies.

"16. Revisions and codification of the statutes of the United States.

"17. State and territorial boundary lines.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (j)(1), except as provided in subparagraph (a).

"(k)(1) **Committee on Social Policy,** to which committee shall be referred all pro-

posed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Measures relating to education, labor, health, and public welfare.

"2. Arts and humanities.

"3. Biomedical research and development.

"4. Child labor.

"5. Domestic activities of the American Red Cross.

"6. Equal employment opportunity.

"7. Gallaudet College, Howard University, and Saint Elizabeth's Hospital.

"8. Handicapped individuals.

"9. Labor standards.

"10. Mediation and arbitration of labor disputes.

"11. Occupational safety and health, including the welfare of miners.

"12. Private pension plans.

"13. Public health.

"14. Railroad retirement program.

"15. Regulation of foreign laborers.

"16. Student loans.

"17. Wages and hours of labor.

"18. Food stamp programs.

"19. Human nutrition.

"20. School nutrition programs.

"21. Public housing.

"22. Nursing homes including construction.

"23. National social security.

"24. Public health programs, including health programs under the Social Security Act.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (k)(1), except as provided in subparagraph (a).

"(l)(1) **Committee on Native American Programs,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to Native Americans generally, and Native American Programs.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of government programs, projects, or activities relating primarily to the subjects specified in paragraph (l)(1), except as provided in subparagraph (a).

"(m)(1) **Committee on Senior American Programs,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to senior Americans generally, and to the Older Americans Act.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (m)(1), except as provided in subparagraph (a).

"(n)(1) **Committee on Veteran American Programs,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Compensation of veterans.

"2. Life insurance issued by the Government on account of service in the Armed Forces.

"3. National cemeteries.

"4. Pensions of all wars of the United States, general and special.

"5. Readjustment of servicemen to civilian life.

"6. Soldiers and sailors civil relief.

"7. Veterans' hospitals, medical care and treatment of veterans.

"8. Veterans' measures generally.

"9. Vocational rehabilitation and education of veterans.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (n)(1), except as provided in subparagraph (a).

"(o)(1) **Committee on Entrepreneurial American Programs,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the Small Business Administration.

"(2) Any proposed legislation reported by such committee which relates to matters other than the functions of the Small Business Administration shall, at the request of any standing committee having jurisdiction over the subject matter extraneous to the functions of the Small Business Administration, be considered and reported by such standing committee prior to its consideration by the Senate; and likewise measures reported by other committees directly relating to the Small Business Administration shall, at the request of the Committee on Entrepreneurial American Programs for its consideration of any portions of the measure dealing with the Small Business Administration, be considered and reported by this committee prior to its consideration by the Senate.

"(3) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraphs (o)(1) and (o)(2), except as provided in subparagraph (a).

"(p)(1) **Committee on Senate Rules,** to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

"1. Administration of the Senate office buildings and the Senate wing of the Capitol, including the assignment of office space.

"2. Congressional organization relative to rules and procedures, and Senate rules and regulations, including floor and gallery rules.

"3. Corrupt practices.

"4. Credentials and qualifications of members of the Senate, contested elections, and acceptance of incompatible offices.

"5. Federal elections generally, including the election of the President, Vice President, and members of Congress.

"6. Government Printing Office, and the printing and correction of the Congressional Record, as well as those matters provided under rule XI.

"7. Meetings of the Congress and attendance of the members.

"8. Payments of money out of the contingent fund of the Senate or creating a charge upon the same (except that any resolution relating to substantive matter within the jurisdiction of any other standing committee of the Senate shall first be referred to such committee).

"9. Presidential succession.

"10. Purchase of books and manuscripts and erection of monuments to the memory of individuals.

"11. Senate Library and statuary, art, and pictures in the Capitol and Senate office buildings.

"12. Services to the Senate, including the Senate restaurant.

"13. United States Capitol and congressional office buildings, the Library of Congress, the Smithsonian Institution (and the incorporation of similar institutions), and the Botanic Gardens.

"(2) There shall also be referred to such committee all proposed legislation, messages, petitions, memorials, and other matters relating to the appropriation, or to the rescission of the appropriation, of revenue for the support of Government programs, projects, or activities relating primarily to the subjects specified in paragraph (p)(1), except as provided in subparagraph (a).

"2. (a) Except as otherwise provided by paragraph 4 of this rule, the Leadership Committee, known as the Committee on National Priorities, shall consist of not less than 28 Senators nor more than 33 Senators.

"(b) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of not more than the number of Senators set forth in the following table on the line on which the name of that committee appears:

"LEGISLATIVE POLICY COMMITTEES

"Committee:	Members
Agricultural Policy	17
Defense Policy	17
Commercial Policy	17
Economic Policy	17
Energy Policy	17
Environmental Policy	17
Foreign Policy	17
Governmental Policy	17
Judicial Policy	17
Social Policy	17

"(c) Except as otherwise provided by paragraph 4 of this rule, each of the following standing committees shall consist of not more than the number of Senators set forth in the following table on the line on which the name of that committee appears:

"LEGISLATIVE PROGRAM COMMITTEES

"Committee:	Members
Native American Programs	9
Veteran American Programs	11
Senior American Programs	19
Entrepreneurial American Programs	19

"(d) Except as otherwise provided by paragraph 4 of this rule, each of the following committees and standing committees shall consist of the number of Senators set forth in the following table on the line on which the name of that committee appears:

"ADMINISTRATIVE COMMITTEES

"Committee:	Members
Senate Rules	15
Senate Ethics	6
Senate Intelligence	15

"3. (a) Notwithstanding the provisions of paragraph 4, and except as otherwise provided by this paragraph—

"(1) each Senator shall serve on no more than two committees listed in subparagraph 2(b).

"(2) each Senator serving as either a chairman or a ranking member of any committee listed in subparagraph 2(b) shall serve on the committee listed in subparagraph 2(a).

"(3) each Senator serving as either a chairman or a ranking member of any committee

listed in subparagraph 2(c) shall also serve on the committee listed in subparagraph 2(a).

"(4) in addition to those Senators serving on the committee listed in subparagraph 2(a) by virtue of their serving as chairman or ranking member of a committee listed in subparagraph 2(b), not more than 5 Senators shall be appointed by the majority leader of the Senate to serve on the committee listed in subparagraph 2(a) for the purpose of making the overall balance of majority and minority members on the committee the same as the relative balance between the majority and minority members of the Senate.

"(5) service by a Senator on any committee listed in subparagraph 2(c) shall not limit the ability of such Senator to serve on any other committee or standing committee.

"(b) By agreement entered into by the majority leader and the minority leader, the membership of one or more standing committees may be increased temporarily from time to time by such number or numbers as may be required to accord to the majority party a majority of the membership of all standing committees. Members of the majority party in such numbers as may be required for that purpose may serve as members of three standing committees listed in subparagraph 2(b). No such temporary increase in the membership of any standing committee under this subparagraph shall be continued in effect after the need therefore has ended. No standing committee may be increased in membership under this subparagraph by more than two members in excess of the number prescribed for that committee by paragraph 2(b).

"(c) No Senator shall serve at any one time as chairman of more than one subcommittee of each standing committee of the Senate.

"4. Notwithstanding any provision of rule XXIV of the Standing Rules of the Senate, the appointment of committees or standing committees as prescribed by this title shall be on the basis of each Senator's continuous service in the Senate, except that such appointment shall be in accordance with the following limitations:

"(a) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Agriculture, Nutrition, and Forestry or who were serving on the Subcommittee on Agriculture, Rural Development, and Related Agencies of the Committee on Appropriations may serve on the Committee on Agricultural Policy.

"(b) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Armed Services or who were serving on the Subcommittee on Defense or the Subcommittee on Military Construction of the Committee on Appropriations may serve on the Committee on Defense Policy.

"(c) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Commerce, Science, and Transportation or who were serving on the Subcommittee on Transportation and Related Agencies of the Committee on Appropriations may serve on the Committee on Commercial Policy.

"(d) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Finance or the Committee on Banking, Housing and Urban Affairs may serve on the Committee on Economic Policy.

"(e) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Energy and Natural Resources or who were serving on the Subcommittee on Energy and Water Development of the Committee on Appropriations, may serve on the Committee on Energy Policy.

"(f) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Environment and Public Works or who were serving on the Subcommittee on Interior and Related Agencies of the Committee on Appropriations may serve on the Committee on Environmental Policy.

"(g) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Foreign Relations or who were serving on the Subcommittee on Foreign Operations of the Committee on Appropriations may serve on the Committee on Foreign Policy.

"(h) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Governmental Affairs or who were serving on the Subcommittee on Treasury, Postal Service, and General Government or the Subcommittee on the District of Columbia or on the Subcommittee on HUD-Independent Agencies of the Committee on Appropriations may serve on the Committee on Governmental Policy.

"(i) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on the Judiciary or who were serving on the Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies of the Committee on Appropriations may serve on the Committee on Judicial Policy.

"(j) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Labor and Human Resources or who were serving on the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations, may serve on the Committee on Social Policy.

"(k) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Rules and Administration or who were serving on the Subcommittee on Legislative Branch of the Committee on Appropriations may serve on the Committee on Senate Policy.

"(l) Only those Senators who on the day preceding the effective date of this title were serving as members of the Select Committee on Indian Affairs may serve on the Committee on Native American Programs.

"(m) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Veterans' Affairs may serve on the Committee on Veteran Programs.

"(n) Only those Senators who on the day preceding the effective date of this title were serving as members of the Special Committee on Aging may serve on the Committee on Senior American Programs.

"(o) Only those Senators who on the day preceding the effective date of this title were serving as members of the Committee on Small Business may serve on the Committee on Senior American Programs.

"5. Upon the effective date of this title, the Select Committee on Ethics shall become the Committee on Senate Ethics, and the Select Committee on Intelligence shall become the Committee on Intelligence Oversight. However, the membership, functions, and duties of such committees shall remain unchanged.".

SEC. 2. Paragraphs 1, 2, 3, 4, 6, and 7 of rule XVI of the Standing Rules of the Senate are repealed, and paragraphs 5 and 8 are renumbered as paragraphs "1" and "2", respectively.

SEC. 3. Subparagraph (b) of paragraph 4 of rule XVII of the Standing Rules of the Senate is amended by striking out "(except the Committee on Appropriations)".

SEC. 4. Rule XXVI of the Standing Rules of the Senate is amended—

(a) by striking out "(except the Committee on Appropriations)" in each instance where it appears,

(b) by striking out "(except the Committee on Appropriations and the Committee on the Budget)" in each instance where it appears, and inserting in lieu thereof the following "(except the Committee on National Priorities)",

(c) by striking out "The prohibition contained in the preceding sentence shall not apply to the Committee on Appropriations or the Committee on the Budget." in subparagraph 5(a) and inserting in lieu thereof "The prohibition contained in the preceding sentence shall not apply to the Committee on National Priorities.",

(d) by striking out the last sentence of subparagraph 10(b), and

(e) by striking out "(except those by the Committee on Appropriations)" in subparagraph 11(b).

SEC. 5. The provisions of this resolution shall take effect on the first day of the first Congress following the date of enactment.

Mrs. KASSEBAUM. Mr. President, I am sending forward to the desk this afternoon legislation on behalf of myself and Senators INOUYE, DASCHLE, DODD, LUGAR, MCCAIN, PELL, GORTON, SIMON, COHEN, and NUNN.

Yesterday, during President Clinton's inaugural address, he spoke to change. And I think I have just the right remedy that will help us address that, particularly here in the U.S. Senate.

The Republic certainly spoke to its frustration about the process of government in the fall election. And because of that, I am sure reform will be a popular topic in this Congress.

But we must choose our reforms carefully and judge them not by their popularity, but by their benefit to this institution and to the role it plays in the constitutional system. I believe we should focus intently on one goal: to make Members of this body strictly accountable for our choices. We should begin at the most basic level, because tinkering will squander our mandate with little benefit.

For those reasons, this bipartisan group of Senators is introducing—reintroducing, I should say—this fundamental reform that I long have believed essential to strengthening the accountability in this Chamber. We have proposed this far-reaching reform at the budget and appropriations process and committee system in each of the past three Congresses.

So, Mr. President, as you can tell, it has taken a while to get it off the ground. But hope springs eternal here, and I believe this may be just the right opportunity to seize the moment. This

year, we believe that the national political climate has underscored the merits and the timeliness of these ideas.

Just briefly, Mr. President, this legislation recognizes or reorganizes the budget and appropriations process and reduces overlapping committee jurisdictions.

Today, the budget cycle begins with the Budget Committee, exerting de facto control over policy priorities in the Senate by drafting and enforcing the budget resolution. The cycle ends with the Appropriations Committee resetting the priorities within the budget parameters. Sandwiched in the middle are the policy committees, whose chairmen and ranking members, despite their policy expertise, have little direct voice in setting overall national priorities. We select leaders, but deny them the power to lead.

Mr. President, without going through all—because of time limitations—of the delineating of this legislation, I do hope, because we have a special commission now in both the House and the Senate delegated to address reform in this the 103d Congress, that this can be something that can provide some parameters and some guidelines for serious discussion.

I think we harbor no illusions that this legislation is perfect. Our intent is to start the debate, and we welcome any proposals our colleagues may have. But we do firmly believe this: The most worthwhile reforms will not be cosmetic, but will seek to improve the Senate's basic work of setting public priorities and allocating public money to achieve them.

If we make ourselves more accountable in that process, I suspect many related problems will resolve themselves.

I ask unanimous consent, Mr. President, that a summary of the bill's provisions be included at this point in the RECORD.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

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

SENATE COMMITTEE AND PROCEDURAL REFORM

PURPOSE

To revise the Senate committee structure to give leaders of standing committees more influence in setting overall national priorities and to consolidate authorizing and appropriating responsibilities. Also to reduce overlapping committee jurisdictions and bolster the accountability of Senators and committees for fiscal decisions.

A leadership committee will establish national policy priorities. Restructured legislative committees, known as either policy committees or program committees, will be responsible for implementing policy priorities. Each legislative committee will be responsible for authorizations and appropriations for programs, projects, and activities within its jurisdiction.

LEADERSHIP COMMITTEE

The Committee on National Properties

Like the current Committee on the Budget, the Committee on National Priorities (leadership committee) will establish overall policy direction for the Senate by setting spending priorities for legislative committees through its jurisdiction over the Budget Act and its responsibility for reporting and enforcing annual budget resolutions.

In contrast to the existing structure, chairmen and ranking minority members of legislative committees will serve on the Committee on National Priorities and will, therefore, have direct influence in setting policy priorities and spending levels for the Senate legislative agenda. Broad policy decisions will flow from the leadership level to the legislative level, where they will be transformed into legislative programs.

LEGISLATIVE COMMITTEES

Legislative committees would be of two types: legislative policy committees and legislative program committees.

A. Legislative Policy Committees

Legislative policy committees would have legislative, oversight, and appropriations responsibilities for substantive areas of national policy and for national programs of importance to the Senate. These committees would perform both the authorization and appropriations functions for programs within their jurisdiction. Their exercise of the appropriations function, however, must conform to the national policy decisions of the leadership committee. Legislative policy committees would be:

Committee on Agricultural Policy

The jurisdiction of the Committee on Agricultural Policy would include all existing responsibilities of the Committee on Agriculture, except those relating to nutrition and forest lands.

Those eligible for initial membership on the committee would include current members of the Committee on Agriculture and current members of the Subcommittee on Agriculture, Rural Development, and Related Agencies of the Committee on Appropriations.

Committee on Commercial Policy

The jurisdiction of the Committee on Commercial Policy would include all existing responsibilities of the Committee on Commerce, Science, and Transportation except those relating to interoceanic canals. It also would have responsibility for highway programs and for regional economic development.

Those eligible for initial membership on the committee would include current members of the Committee on Commerce, Science, and Transportation and the Subcommittee on Transportation and Related Agencies of the Committee on Appropriations.

Committee on Defense Policy

The jurisdiction of the Committee on Defense Policy would include all existing responsibilities of the Committee on Armed Services.

Those eligible for initial membership on the committee would include current members of the Committee on Armed Services and the Subcommittee on Defense and on Military Construction of the Committee on Appropriations.

Committee on Economic Policy

The jurisdiction of the Committee on Economic Policy would include all areas relating to revenue and bonded debt currently under the jurisdiction of the Committee on Finance and all areas relating to banking, monetary policy, coinage, and the Federal Reserve currently under the jurisdiction of the Committee on Banking, Housing, and Urban Affairs.

Those eligible for initial membership on the committee would include current members of the Committee on Finance, the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Budget.

Committee on Energy Policy

The jurisdiction of the Committee on Energy Policy would include all current responsibilities of the Committee on Energy and Natural Resources except those relating to national parks, wilderness lands, historical lands in general, public lands, and territorial possessions of the United States.

Those eligible for initial membership on the committee would include current members of the Committee on Energy and Natural Resources and the Subcommittee on Energy and Water Development of the Committee on Appropriations.

Committee on Environmental Policy

The jurisdiction of the Committee on Environmental Policy would include current Committee on the Environment areas of jurisdiction except those relating to highways, public buildings, public works, and regional economic development. In addition, the committee would have responsibility for forest lands, public lands, national parks, and historical and scenic areas.

Those eligible for initial membership on the committee would include current members of the Committee on the Environment and the Subcommittee on Interior and Related Agencies of the Committee on Appropriations.

Committee on Foreign Policy

The jurisdiction of the Committee on Foreign Policy would include all current areas of responsibility of the Committee on Foreign Relations plus responsibility for foreign trade, including reciprocal trade agreements, export promotion and export controls, interoceanic canals, territorial possessions and trusteeships of the United States, and U.S. nuclear export policy.

Those eligible for initial membership on the committee would include current members of the Committee on Foreign Relations and the Subcommittee on Foreign Operations of the Committee on Appropriations.

Committee on Governmental Policy

The jurisdiction of the Committee on Governmental Policy would include all areas currently under the jurisdiction of the Committee on Governmental Affairs, plus responsibility for renegotiation of government contracts, public buildings, and improved grounds of the United States.

Those eligible for initial membership on the committee would include current members of the Committee on Governmental Affairs, plus members of the Subcommittee on Treasury, Postal Service, and General Government of the Committee on Appropriations.

Committee on Judicial Policy

The jurisdiction of the Committee on Judicial Policy would include all current responsibilities of the Committee on the Judiciary.

Those eligible for initial membership on the committee would include current members of the Committee on the Judiciary and the Subcommittee on Commerce, State, Justice, and Related Agencies of the Committee on Appropriations.

Committee on Social Policy

The jurisdiction of the Committee on Social Policy would include all current respon-

sibilities of the Committee on Labor and Human Resources except the discretionary spending programs under the Older Americans Act, plus responsibility for nutrition programs, including school nutrition and food stamp programs, public and private housing, Social Security and railroad retirement, and health programs under the Social Security Act.

Those eligible for initial membership on the committee would include current members of the Committee on Labor and Human Resources and the Subcommittee on Labor, Health and Human Services, Education, and Related Agencies of the Committee on Appropriations.

B. Legislative Program Committees

Legislative program committees would have legislative, oversight, and appropriations responsibilities for specific program areas of national concern. These committees would perform both the authorization and appropriations functions for programs within their jurisdiction. Their exercise of the appropriations function, however, must conform to the national program decisions of the leadership committee. Legislative program committees would be:

Committee on Native American Programs

The jurisdiction of the Committee on Native American Programs would include all existing responsibilities of the Select Committee on Indian Affairs. The committee would become a standing committee.

The initial membership on the committee would be composed of all current members of the Select Committee on Indian Affairs.

Committee on Veteran American Programs

The jurisdiction of the Committee on Veteran American Programs would include all existing responsibilities of the Committee on Veterans Affairs.

The initial membership of the committee would be composed of all current members of the Committee on Veterans Affairs.

Committee on Senior American Programs

The jurisdiction of the Committee on Senior American Programs would include all existing responsibilities of the Special Committee on Aging, plus legislative responsibility for all discretionary spending programs under the Older Americans Act. The committee would become a standing committee.

The initial membership of the committee would be composed of all current members of the Special Committee on Aging.

Committee on Entrepreneurial American Programs

The jurisdiction of the Committee on Entrepreneurial American Programs would include all existing responsibilities of the Committee on Small Business.

The initial membership of the committee would be composed of all current members of the Committee on Small Business.

ADMINISTRATION COMMITTEES

Administrative committees have basically nonlegislative functions. The chairmen and ranking members of administrative committees would not serve on the leadership committee—unless such service should happen to be as an at-large member.

Committee on Senate Rules

Serves the same function as the Committee on Rules and Administration, with members drawn from that committee.

Committee on Senate Ethics

Serves the same function as the Committee on Ethics, with members drawn from that committee.

Committee on Intelligence

Serves the same function as the Committee on Intelligence, with members drawn from that committee.

COMMITTEE CHAIRMEN

Chairman and ranking-member status would be based on seniority, as would the integration of the entire membership of each new committee. Those selected to chair legislative committees would, consistent with provisions of the rules of the Senate allowing for election of committee chairmen, be the senior-ranking chairman and ranking member of the merged committees and subcommittees forming each new committee.

COMMITTEE ASSIGNMENTS

Leadership Committee

All chairmen and ranking members of legislative policy committees and legislative program committees would automatically be accorded membership on the leadership committee. In addition, a specified number of members of the Senate at large would be appointed to the committee to bring party balance on the committee to correspond with party balance in the Senate.

Legislative Policy Committees

Committee assignments would be based on prior committee service with members allowed to select the committees on which they desire to serve, subject to the limitations below and to the maximum committee membership limitation of 17 senators for each legislative policy committee.

Legislative Program Committees

Committee assignments would be based on prior committee service with the membership of predecessor committees transferring in total to each new legislative program committee.

COMMITTEE MEMBERSHIP LIMITATIONS

Members could serve on no more than two legislative policy committees. Service on either a legislative program committee or an administrative committee would not limit a member's ability to serve on any other committee.

SENATE RESOLUTION 14—APPOINTING THE CHAIRMAN OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS AND THE CHAIRMAN OF THE COMMITTEE ON FINANCE

Mr. MITCHELL submitted the following concurrent resolution; which was considered and agreed to:

S. RES. 14

Resolved, That the Senator from Montana, Max Baucus, be and he is hereby, appointed chairman of the Committee on Environment and Public Works; and

That the Senator from New York, Daniel Patrick Moynihan, be and he is hereby, appointed chairman of the Committee on Finance.

SENATE RESOLUTION 15—MAKING AN APPOINTMENT TO THE COMMITTEE ON FINANCE

Mr. MITCHELL submitted the following concurrent resolution; which was considered and agreed to:

S. RES. 15

Resolved, That the Senator from North Dakota, Mr. Conrad, be appointed to the Committee on Finance in lieu of his appointment to the Committee on Energy and Natural Resources.

SENATE RESOLUTION 16—MAKING AN APPOINTMENT TO THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION AND THE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL submitted the following concurrent resolution; which was considered and agreed to:

S. RES. 16

Resolved, That the Senator from Texas, Mr. Krueger, is hereby appointed to serve as a member of the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources.

SENATE RESOLUTION 17—AMENDING THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following concurrent resolution; which was considered and agreed to:

S. RES. 17

Resolved, That paragraph 4 of rule XXV of the Standing Rules of the Senate as amended, is amended by inserting "(A)" after "(h)(1)" and by inserting the following new paragraph thereafter:

"(B) A Senator who during the One Hundred and Third Congress serves on the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Agriculture, Nutrition and Forestry, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.".

SENATE RESOLUTION 18—AMENDING THE STANDING RULES OF THE SENATE

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 18

Resolved, That paragraph 3 of rule XXV of the Standing Rules of the Senate is amended for the One Hundred and Third Congress as follows:

(a) In subparagraph (a) strike "19" after "Small Business" and insert in lieu thereof "21", and

(b) In subparagraph (c) strike "10" after "Indian Affairs" and insert in lieu thereof "18".

SEC. 2 Notwithstanding the provisions S. Res. 400, the Committee on Intelligence shall have 17 members solely for the duration of the One Hundred and Third Congress."

SENATE RESOLUTION 19—MAKING MAJORITY PARTY APPOINTMENTS TO SENATE COMMITTEES

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 19

Resolved, That the following shall constitute the majority party's membership on

the committees for the One Hundred and Third Congress, or until their successors are chosen:

Committee on the Budget: Mr. Sasser (Chairman), Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Conrad, Mr. Dodd, Mr. Sarbanes, Mrs. Boxer, and Mrs. Murray.

Committee on Rules and Administration: Mr. Ford (Chairman), Mr. Pell, Mr. Byrd, Mr. Inouye, Mr. DeConcini, Mr. Moynihan, Mr. Dodd, Mrs. Feinstein, and Mr. Mathews.

Committee on Small Business: Mr. Bumpers (Chairman), Mr. Nunn, Mr. Levin, Mr. Harkin, Mr. Kerry of Massachusetts, Mr. Lieberman, Mr. Wellstone, Mr. Wofford, Mr. Heflin, Mr. Lautenberg, Mr. Kohl, and Ms. Moseley-Braun.

Committee on Veterans' Affairs: Mr. Rockefeller (Chairman), Mr. DeConcini, Mr. Mitchell, Mr. Graham, Mr. Akaka, Mr. Daschle, and Mr. Campbell.

Special Committee on Aging: Mr. Pryor (Chairman), Mr. Glenn, Mr. Bradley, Mr. Johnston, Mr. Breaux, Mr. Shelby, Mr. Reid, Mr. Graham, Mr. Kohl, Mr. Feingold, and Mr. Krueger.

SENATE RESOLUTION 20—REAPPOINTING THE DEPUTY SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 20

Resolved, That the reappointment of Kenneth U. Benjamin, Jr. to be Deputy Senate Legal Counsel, made by the President pro tempore of the Senate this day, shall be effective January 3, 1993, and the term of service of the appointee shall expire at the end of the One Hundred and Fourth Congress.

SENATE RESOLUTION 21—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 21

Whereas, the parties in *Willey* v. *Riley, et al.*, No. LA 18962, pending in the Iowa district court for Linn County, seek the deposition testimony of Senator Grassley;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to requests for testimony made to them in their official capacities: Now, therefore, be it *Resolved*, That Senator Grassley is authorized to testify at a deposition in *Willey* v. *Riley, et al.*, Case No. LA 18962 (Iowa D. Ct.), except when his attendance at the Senate is necessary for the performance of his legislative duties, and except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Grassley in connection with his testimony in the case of *Willey* v. *Riley, et al.*

SENATE RESOLUTION 22—MAKING MINORITY PARTY APPOINTMENTS TO CERTAIN COMMITTEES

Mr. DOLE submitted the following resolution; which was considered and agreed to:

S. RES. 22

Resolved, that the following shall constitute the minority party's membership on the following committees for the 103d Congress, or until their successors are chosen:

Committee on the Budget: Mr. Domenici, Mr. Grassley, Mr. Nickles, Mr. Gramm, Mr. Bond, Mr. Lott, Mr. Brown, Mr. Gorton, and Mr. Gregg.

Committee on Rules and Administration: Mr. Stevens, Mr. Hatfield, Mr. Helms, Mr. Warner, Mr. Dole, Mr. McConnell, and Mr. Cochran.

Committee on Small Business: Mr. Pressler, Mr. Wallop, Mr. Bond, Mr. Burns, Mr. Mack, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett, and Mr. Chafee.

Committee on Veterans' Affairs: Mr. Murkowski, Mr. Specter, Mr. Simpson, Mr. Thurmond, and Mr. Jeffords.

Special Committee on Aging: Mr. Cohen, Mr. Pressler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. McCain, Mr. Durenberger, Mr. Craig, Mr. Burns, and Mr. Specter.

SENATE RESOLUTION 23—RELATIVE TO THE APPOINTMENT OF INDEPENDENT COUNSELS TO INVESTIGATE ETHICS VIOLATIONS IN THE SENATE

Mr. COATS submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 23

Resolved,

SECTION 1. INDEPENDENT ETHICS COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Independent Ethics Commission of the Senate (referred to as the "Ethics Commission").

(b) MEMBERSHIP.—(1) The Ethics Commission shall be comprised of 8 members appointed in accordance with paragraph (2).

(2) The majority leader and the minority leader shall each appoint to the Commission at the beginning of a Congress—

(A) 1 member who is a retired judge of a Federal or State court;

(B) 1 member who is a former member of the Senate; and

(C) 2 members who are private citizens and are not employees of the United States.

(c) TERMS.—(1)(A) A member of the Commission shall serve a term of 2 years and may be reappointed for 2 additional terms.

(2) In the case of the death or resignation of a member of the Commission a successor shall be appointed in the same manner as the member was appointed to serve until the end of the term of that member.

(d) REMOVAL.—A member of the Commission may be removed only by resolution of the Senate.

(e) DUTIES.—It shall be the duty of the Commission to—

(1) receive requests for review of an allegation described in section 2(b);

(2) make such informal preliminary inquiries in response to such a request as the Commission deems to be appropriate;

(3) if, as a result of those inquiries, the Commission determines that a full investigation is not warranted, submit a report pursuant to section 2(e); and

(4) if, as a result of those inquiries, the Commission determines that a full investigation is warranted, appoint an independent counsel pursuant to section 3.

(f) COMPENSATION OF MEMBERS.—(1) Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(g) STAFF.—(1) The Commission may, without regard to the civil service laws and regulations, appoint, and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform its duties.

(2) The Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(3) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(5) Except at a time when additional personnel are needed to assist the Commission in its review of a particular request for review under section 2, the total number of staff personnel employed by or detailed to the Commission under this subsection shall not exceed 5.

(h) INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

SEC. 2. REVIEW OF ALLEGATIONS OF IMPROPER MISCONDUCT AND VIOLATIONS OF LAW.

(a) DEFINITIONS.—As used in this section, the term "officer or employee of the Senate" means—

(1) an elected officer of the Senate who is not a member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any member of the Senate;

(3) the Legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

(b) REQUEST FOR REVIEW.—Any person may present to the Commission a request to review and to consider the propriety of appointing an independent counsel to investigate an allegation of—

(1) improper conduct that may reflect upon the Senate;

(2) a violation of law;

(3) a violation of the Senate Code of Official Conduct (rules XXXIV, XXXV, XXXVII, XXXVIII, XXXIX, XL, XLI, and XLII of the Standing Rules of the Senate); or

(4) a violation of a rule or regulation of the Senate,

relating to the conduct of a person in the performance of his or her duties as a member, officer, or employee of the Senate.

(c) SWORN STATEMENT.—A request for review under subsection (b) shall be accompanied by a sworn statement, made under penalty of perjury under the laws of the United States, of facts within the personal knowledge of the person making the statement alleging improper conduct or a violation described in subsection (b).

(d) PUBLIC DISCLOSURE.—(1) The contents of a request for review and sworn statement submitted under subsections (b) and (c), all proceedings of the Commission, and all facts that come to the knowledge of the Commission during its inquiries shall be made available to the public except as provided in paragraph (2).

(2) The Commission may withhold information from public disclosure if the Commission, in its sole discretion, determines that the public interest in disclosure is outweighed by—

(A) harm that may be caused to the reputation of a person; or

(B) prejudice that may be caused to the rights of a person.

(e) DETERMINATION NOT TO APPOINT INDEPENDENT COUNSEL.—(1) If, after making preliminary inquiries, the Commission determines not to appoint an independent counsel pursuant to section 3, the Commission shall submit to the members of the Senate a report that—

(A) states findings of fact made as a result of the inquiries;

(B) states any conclusions that may be drawn with respect to whether there is substantial credible evidence that improper conduct or a violation of law may have occurred; and

(C) states its reasons for concluding that further investigation is not warranted.

(2) After submission of a report under paragraph (1), no action may be taken in the Senate to impose a sanction on a person who was the subject of the Commission's inquiries on the basis of any conduct that was alleged in the request for review and sworn statement.

(3) If the Commission determines that any part of a sworn statement presented to it under subsection (c) may have been a false statement made knowingly and willfully, the Commission may refer the matter to the Attorney General for prosecution.

SEC. 3. INDEPENDENT COUNSEL.

(a) APPOINTMENT.—(1) If, after making preliminary inquiries, the Commission determines that—

(A) there is substantial credible evidence that improper conduct or a violation described in section 2(b) may have occurred; and

(B) in view of the seriousness of the allegation and other relevant considerations, a full investigation of the alleged misconduct or violation is warranted,

the Commission shall appoint an independent counsel to conduct an investigation.

(2)(A) The Commission shall appoint as independent counsel a person who has appropriate experience and who undertakes to conduct the investigation in a prompt, responsible, and cost-effective manner and to serve to the extent necessary to complete the investigation.

(B) The Commission may not appoint as independent counsel a person who holds any office of profit or trust under the United States.

(b) COMPENSATION.—An independent counsel shall receive compensation at the per diem rate equal to the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) SCOPE OF INVESTIGATION.—(1) At the time that the Commission appoints an independent counsel, the Commission shall describe with specificity in the appointment the subject matter with respect to which the investigation shall be conducted.

(2) The Commission may enlarge the subject matter with respect to which an investigation shall be conducted—

(A) at the recommendation of the independent counsel, based on facts that come to the knowledge of the independent counsel during an investigation; or

(B) in response to a request for review and sworn statement alleging new facts that is presented to the Commission by any person prior to the conclusion of an investigation.

(d) GENERAL AUTHORITIES.—(1) An independent counsel may—

(A) make such expenditures;

(B) hold such hearings;

(C) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, documents, or other records of any kind;

(D) administer such oaths;

(E) take such testimony orally or by deposition; and

(F) employ and fix the compensation of such assistant counsel, investigators, technical assistants, consultants, and clerical staff as the independent counsel deems advisable.

(2) An independent counsel may procure the temporary services (not in excess of 1 year) or intermittent services of consultants by contract as independent contractors or by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation that may be paid to a regular employee of the Committee on Rules and Administration.

(e) USE OF SERVICES, FACILITIES, INFORMATION, AND EMPLOYEES.—(1) With the consent of the department or agency concerned, an independent counsel may—

(A) use the services, facilities, and information of any department or agency of the United States; and

(B) employ on a reimbursable basis or otherwise the services of such personnel of such a department or agency as the independent counsel deems advisable.

(2) With the consent of the committee, subcommittee, or office concerned, an independent counsel may use the services, facilities, and information of any committee, subcommittee, or office of the Senate when the independent counsel determines that to do so is necessary and appropriate.

(f) OPPORTUNITY TO BE HEARD.—An independent counsel shall provide a person that is the subject of an investigation notice of the investigation and a full opportunity to respond orally and in writing and submit evidence in response to allegations made concerning the person.

(g) REPORT AND RECOMMENDATION.—(1) At the conclusion of an investigation, an independent counsel shall submit to the members of the Senate a report that—

(A) states findings of fact made in the investigation;

(B) states any conclusions that may be drawn with respect to whether improper conduct or a violation of law has occurred; and

(C) recommends an appropriate sanction for any improper conduct or violation of law that is found to have occurred.

(2) A sanction recommended by an independent counsel in a report under paragraph (1) may include—

(A) in the case of improper conduct or a violation of law by a Member of the Senate, censure, expulsion, or recommendation to the appropriate party conference regarding the Member's seniority or position of responsibility; and

(B) in the case of improper conduct or a violation of law by an officer or employee of the Senate, suspension or dismissal from employment by the Senate.

(3) At any time at which an independent counsel finds facts that give reason to believe that a violation of law has occurred, the independent counsel shall report those facts to the appropriate Federal or State law enforcement authorities.

(h) SENATE ACTION.—After a report is submitted under subsection (g), any member of the Senate may introduce a resolution proposing that the Senate adopt the report of the independent counsel with or without modification and impose an appropriate sanction.

(i) PAYMENT OF EXPENSES.—Expenses of the Commission and compensation and expenses of an independent counsel shall be paid out of the contingent fund of the Senate.

SEC. 4. TRANSFER OF FUNCTIONS TO THE COMMITTEE ON RULES AND ADMINISTRATION.

(a) AMENDMENT OF RULE XXV.—Paragraph 1(n) of rule XXV of the Standing Rules of the Senate is amended—

(1) by striking "and" at the end of clause (2)(A);

(2) by striking the period at the end of clause (2)(B) and inserting "; and";

(3) by adding at the end of clause (2) the following new subclauses:

"(C) administer the reporting requirements of title I of the Ethics in Government Act of 1978 (5 U.S.C. App.);

"(D) recommend to the Senate, by report or resolution, such additional rules or regulations as the committee determines to be necessary or desirable to ensure proper standards of conduct by members, officers, and employees of the Senate in the performance of their duties and the discharge of their responsibilities;

"(E) issue interpretative rulings explaining and clarifying the application of any law, the

Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction;

"(F) render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion;

"(G) in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion;

"(H) perform the functions assigned to the Select Committee on Standards and Conduct of the Senate in section 6 of Public Law 93-191 (2 U.S.C. 502); and

"(I) be deemed to be an 'employing agency' under section 7342(a)(6)(B) in place of the Select Committee on Ethics."; and

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

"(3)(A) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, a person who relies on any provision or finding of an advisory opinion rendered under clause (2)(F) or (G) and who acts in good faith in accordance with the provisions and findings of such an advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

"(B) An advisory opinion rendered under clause (2)(F) or (G) may be relied on by—

"(i) any person involved in the specific transaction or activity with respect to which the advisory opinion is rendered if the request for the advisory opinion included a complete and accurate statement of the specific factual situation; and

"(ii) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which the advisory opinion is rendered.

"(C) An advisory opinion rendered under clause (2)(F) or (G) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. Before rendering an advisory opinion the committee shall, to the extent practicable, provide any interested party with an opportunity to transmit written comments to the committee with respect to the request for such advisory opinion. The advisory opinions issued by the committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

"(D) A brief description of a waiver granted under section 102(a)(2)(B) of title I of Ethics in Government Act of 1978 (5 U.S.C. App.) or paragraph 1 of rule XXXV shall be made available upon request in the committee office with appropriate deletions to assure the privacy of the person concerned.

"(4)(A) The responsibilities of the Committee on Rules and Administration under clause (3)(C), (D), (E), (F), (G), (H), and (I) and under the Senate Code of Official Conduct shall be administered by a Subcommittee on Ethics comprised of an equal number of members of the major political parties.

"(B) A determination made or action taken by the Subcommittee on Ethics may be modified by—

"(i) the Committee on Rules and Administration by a vote of the majority of the members of each of the major political parties; or

"(ii) resolution of the Senate.".

(b) AMENDMENT OF SENATE CODE OF OFFICIAL CONDUCT.—Rules XXXV, XXXVII, and XLI of the Standing Rules of the Senate are amended—

(1) by striking "Select Committee on Ethics" each place it appears and inserting "Committee on Rules and Administration"; and

(2) by striking "Select Committee" each place it appears and inserting "Committee on Rules and Administration".

SEC. 5. ABOLISHMENT OF SELECT COMMITTEE ON ETHICS.

Effective on the date that the initial 8 members of the Commission take office, the following resolutions are repealed:

(1) Senate Resolution 338, 88th Cong., 2d Sess., 100 Cong. Rec. 16939 (1964).

(2) Senate Resolution 223, 96th Cong., 1st Sess., 125 Cong. Rec. 22471 (1979).

(3) Senate Resolution 290, 96th Cong., 1st Sess., 125 Cong. Rec. 33623 (1979).

(4) Senate Resolution 425, 97th Cong., 2d Sess., 128 Cong. Rec. 20820 (1982).

SENATE RESOLUTION 24—PROSECUTION FOR CRIMES AGAINST HUMANITY IN BOSNIA-HERCEGOVINA

Mr. DANFORTH (for himself and Mrs. KASSEBAUM) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 24

Whereas mass rapes of Bosnian women at the hands of the Serbs is now taking place in the former Yugoslavia;

Whereas the United Nations Security Council cited "massive, organized and systematic detention and rape" when it unanimously voted to condemn "atrocities committed against women, particularly Muslim women, in Bosnia and Herzegovina" on December 18, 1992;

Whereas this behavior comports with the Serbian policy of "ethnic cleansing", the most sadistic and genocidal violence to infect Europe since World War II;

Whereas rape, humiliation, starvation and murder have been inflicted on Muslim girls as young as seven years old;

Whereas the press reports the existence of Serbian "rape camps" in Bosnia with up to 100 prisoners;

Whereas the Nuremberg International Military Tribunal (IMT) held that, for purposes of international criminal law, the individual is a subject of international law;

Whereas the IMT also held that "international law imposes duties and liabilities upon individuals as well as upon states. . . .";

Whereas the 1907 Hague regulations, the 1929 Geneva Convention, and the Genocide Convention establish crimes against humanity as punishable international crimes whether or not committed in execution of a crime against peace or a war crime; and

Whereas the 1949 Geneva Conventions and subsequent protocols designate certain aggravated breaches as universal and extraditable offenses within the criminal jurisdiction of each contracting party: Now, therefore, be it

Resolved, That the Senate hereby—

(1) declares its desire that criminal proceedings, under the principle of universality, be brought against all persons suspected of responsibility for war crimes and crimes against humanity, including mass rape, in Bosnia; and

(2) calls on all parties to the applicable international conventions—

(A) to identify alleged offenders of crimes against humanity, including mass rape, in Bosnia; and

(B)(i) to submit such offenders for prosecution before its own courts; or

(ii) to extradite them to another contracting party or an international tribunal, if the requesting party has jurisdiction and sufficient grounds for prosecution.

• Mr. DANFORTH. Mr. President, war in the Balkans has involved some of the most sadistic and genocidal violence to infect Europe since World War II. Now the press reports a new crime against humanity: the perpetration of mass rapes of Muslim women. Some are as young as 7 years old.

The U.N. Security Council voted to condemn "atrocities committed against women, particularly Muslim women in Bosnia and Herzegovina" on December 18, 1992.

The Senate must also go on record condemning this new and grotesque dimension to the policy of ethnic cleansing.

The Senate should declare its desire that criminal proceedings be brought against all persons suspected of responsibility for war crimes against humanity, including mass rape in Bosnia.

It is time for all parties to commit to the identification of alleged offenders of crimes against humanity, including mass rape, in Bosnia and to agree to prosecute them or extradite them to those willing and able to do so.

I have therefore introduced, on behalf of myself and Senator KASSEBAUM a resolution urging criminal prosecution of persons committing such crimes. I hope it will be acted upon expeditiously by the Senate.•

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on Oversight of the Insurance Industry: Blue Cross-Blue Shield—National Capital Area.

These hearings will take place on Tuesday, January 26 at 11 a.m. and Wednesday, January 27 at 9 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact John Sopko of the subcommittee staff at 224-3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Commit-

tee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on January 21, 1993, at 10 a.m. on pending committee business.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate Thursday, January 21, 1993, at 9:45 a.m. to conduct the committee's organizational meeting which is to be immediately followed by a hearing on the nomination of Laura Tyson to be chairperson of the Council of Economic Advisers.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 10 a.m., January 21, 1993, to consider the nomination of Bruce Babbitt for the Secretary of the Interior.

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

COMMITTEE ON THE JUDICIARY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, January 21, 1993, to continue a hearing on the nomination of Zoe Baird to be U.S. Attorney General.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, January 21 at 10 a.m. and 2 p.m. to hold a hearing on Dr. Madeleine K. Albright to be the U.S. Representative to the United Nations with the rank of Ambassador.

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

ADDITIONAL STATEMENTS

CATHOLIC RELIEF SERVICES' 50TH ANNIVERSARY

• Mr. SARBANES. Mr. President, I rise today to bring to our colleagues' notice the 50th anniversary of Catholic Relief Services, one of the world's finest and most effective organizations bringing food, medicine, education and, most of all, hope for the people of the developing world.

Founded in 1943 by the Catholic Bishops of the United States, and now maintaining its headquarters in Baltimore, Catholic Relief Services has grown to become the second largest international relief and development agency in the United States. It maintains offices in 43 of the world's poorest countries and funds projects in 31 other countries.

Moving beyond providing free food and emergency relief services, Catholic Relief Services has been in the forefront of developing strategies and methods to help attain sustainable development. Working to build the capacity of indigenous organizations, Catholic Relief Services provides funding, guidance and support to help people respond to the development needs within their own communities.

Mr. President, on Monday, January 25, the Most Reverend James A. Griffin, president and chairman, and the board of directors of Catholic Relief Services will celebrate the 50th anniversary of the founding of this outstanding organization. The principal celebrant of the Liturgy will be the Most Reverend William H. Keeler, Archbishop of Baltimore and president of the National Conference of Catholic Bishops and the U.S. Catholic Conference.

I ask that a brief history of Catholic Relief Services, whose apt motto is "Giving Hope to a World of Need," be printed in the RECORD.

The history follows:

CATHOLIC RELIEF SERVICES

Catholic Relief Services (CRS) was founded in 1943 by the Catholic Bishops of the United States to assist the poor and disadvantaged outside this country. The plight of war refugees was the first mission of the newly created organization, in those days known as War Relief Services.

By the mid-1950s, the role of CRS began to expand. The U.S. Government was beginning to allocate surplus food for distribution to the needy in the Third World, and CRS became involved in the distribution chain. Through special programs, CRS used this surplus U.S. food to expand its assistance to the poor. By the end of the 1950s, CRS had programs in 55 countries.

While working to provide immediate relief assistance in the Third World, CRS began to look for ways to assure a better future for those it served. Without hope, CRS staff knew that the lives of the poor would never improve. They would remain trapped in the cycle of poverty.

This philosophy to bring change, to provide more than just free food, became the driving force behind the agency. CRS believed that development could bring lasting solutions to the problems that had left so many of the world's poor on the brink of disaster. But finding the ways to ensure development meant taking risks, and CRS accepted the challenge.

The agency has been in the vanguard of those developing the methods to break through the barriers to sustainable development. Since this is key for CRS, the agency is working to build the capacity of indigenous organizations, particularly within the structure of the Catholic Church, to respond to the emergency and development needs within their own community.

Today, in a continuing effort to discharge its trust on behalf of the poorest of the poor, CRS expends more than $260 million annually. It is the second largest international relief and development agency in the United States, and it maintains offices in 43 of the world's poorest countries. In addition, CRS funds projects in 31 other countries.

Financial support for CRS comes from diverse sources. The largest are private individuals, groups, corporations and foundations; followed by the United States Government; international organizations; and foreign governments. Support also comes in many forms. Cash and commodities are the largest, but CRS also receives medicines and other items.

CRS is administered by a Board of Bishops selected by the U.S. Bishops, and is staffed by men and women committed to the Catholic Church's apostolate of helping those in need.•

CELEBRATING D.W. NEWCOMER'S SONS 100 YEARS OF SERVICE

• Mr. BOND. Mr. President, I rise today to offer congratulations to D.W. Newcomer's Sons as they celebrate their 100-year anniversary of service to Kansas City. There are very few businesses in Kansas City that can boast of such a high standard of service. The care and concern shown by the Newcomer's has long been a trademark.

Family owned businesses are part of the foundation of the commerce that has put the United States on top. The attention that the Newcomer's Sons shows to the citizens of Kansas City both professionally and privately has earned them a prestigious reputation. I have known the Newcomers to be one of the fine corporate citizens in Kansas City. Kansas Citians are justifiably proud of the tradition Newcomers has set. I wish D.W. Newcomer's Sons continued success for the next 100 years.•

ANNOUNCEMENT OF THE 1993 CONGRESS—BUNDESTAG STAFF EXCHANGE

• Mr. DECONCINI. Mr. President, since 1983, the United States Congress and the West German Parliament, the Bundestag, have conducted an annual exchange program in which staff members from both countries observe and learn about the workings of each other's political institutions and convey the views of members from both sides on issues of mutual concern.

This exchange program is one of several sponsored by both public and private institutions in the United States and Germany to foster better understanding of the institutions and policies of each country.

This year will mark the third exchange with a reunified Germany and a parliament consisting of members from both the East and West. Ten staff members from the United States Congress will be selected to visit Germany from April 26 to May 7. They will spend most of the time attending meetings conducted by members of the Bundestag, Bundestag party staffers, and rep-

resentatives of political, business, academic, and media institutions. They also will spend a weekend in the district of a Bundestag member.

A comparable delegation of German staff members will come to the United States in late June for a 3-week period. During the Fourth of July recess, they will attend similar meetings here in Washington and visit the districts of Members of Congress.

The Congress-Bundestag Exchange is highly regarded in Germany. Accordingly, U.S. participants should be experienced and accomplished Hill staffers so that they can contribute to the success of the exchange on each side of the Atlantic. The Bundestag sends senior staffers to the United States and a number of them take time to meet with the U.S. delegation. The United States endeavors to reciprocate.

Applicants should have a demonstrable knowledge of European events. Applicants need not be working in the field of foreign affairs, although such a background can be helpful. The composite United States delegation should exhibit a range of expertise in issues of mutual concern to Germany and the United States, such as, but not limited to trade, security, the environment, immigration, economic development, health care, and other social policy issues.

In addition, U.S. participants are expected to help plan and implement the program for the Bundestag staffers when they visit the United States.

Participants should expect to assist with the planning of topical meetings in Washington. In addition, they are expected to host one or two staff people in their Member's district over the Fourth of July, or arrange for such a visit in another Member's district.

Participants will be selected by a committee composed of U.S. Information Agency personnel and past participants of the exchange.

Senators and Representatives interested in having members of their staff apply for participation in this year's program should advise them to submit only a résumé and cover letter in which they state why they believe they are qualified, the positive contributions they will bring to the delegation, and some assurances of their ability to participate during the time stated. Applications may be sent to Bob Maynes or Bill Fessler, Officer of Senator DENNIS DECONCINI, 328 Hart Building, by Monday, February 15.●

TRIBUTE TO MIKE HALLORAN, DEDICATED HIBERNIAN

● Mr. D'AMATO. Mr. President, I rise today to honor a man who, like so many others who came to this country, gave up his homeland for an unknown prospect. Mike Halloran came to this country from Clonbur, County Galway, Ireland, in 1956.

Soon after his arrival in the United States, Mike Halloran began working for AT&T, where he continues to work after 36 years. He is married to the former Maureen Armstrong of Cloonacool, County Sligo, Ireland. They have resided in Woodlawn, NY, for 22 years, where they have raised four fine sons.

Mike Halloran has been a member of the Ancient Order of Hibernians, Bronx County Division 7, for the past 12 years. for the past 3 years, as president, he has proudly and honorably served the Ancient Order of Hibernians. He has been devoted to the betterment of mankind, which sets an example for others.

Irish immigrants have gone on to become noted artists, scientists, authors, businessmen, engineers, public officials, and regular, hard-working Americans. I am extremely proud of the contributions made by the children of Ireland and their descendants to this great country. Mike Halloran is one of many great Irish people to serve this country.

I call upon my colleagues to rise with me today and praise Mike Halloran, who has set an example for all who become involved in the community. I salute Mike Halloran and his family for their efforts and commitment to the Ancient Order of Hibernians, Bronx County Division 7.●

THE HARD CHOICE

● Mr. SIMON. Mr. President, the road to economic recovery is marked by hard choices. As a new administration arrives in Washington, one of the most difficult issues it will confront will be whether to endorse a short-term increase in deficit spending to stimulate the economy.

At last month's economic conference in Little Rock, those advocating fiscal stimulus at the expense of deficit reduction seemed to hold the upper hand. Nevertheless, as a Chicago Tribune editorial later observed, a few strong voices urged a more long-term view. For example, economist Henry Aaron of the Brookings Institute has called the deficit a "slow, wasting disease," one that little by little eats away at the economic foundation of our Nation. For Aaron, fiscal stimulus must be linked to economic discipline. As he says, "Any new Government programs should be paid for by cutting spending or raising taxes, not by borrowing."

I am heartened by recent reports that the new administration plans to press forward with a deficit reduction package. The truth of the matter is that we no longer have the luxury of continuing our profligate ways. As the Tribune editorial rightly concludes, it is time to make the difficult decision—"to concentrate on long-term problems, especially reducing the deficit."

I ask that the Chicago Tribune editorial be printed in the RECORD.

The editorial follows:

CLINTON GETS ONE CLEAR DEFICIT WARNING

Economics, someone once said, is the study of choice. Unfortunately, it doesn't spell out what to choose; it merely helps you understand the consequences of your choices.

In his two-day national economic conference, President-elect Clinton showed off his knowledge of public policy issues and got an earful of advice and recommendations from a diverse, impressive array of economists, business leaders and social activists.

If Clinton has made up his mind on the details of the economic plan he'll present to Congress next month, he didn't let on. But he was refreshingly candid in conceding that he faces difficult choices.

One of the hardest will be whether to try to simulate economic growth in the short run, even if it means increasing the federal budget deficit.

"This is a very tough call," he said. "This is the major economic policy decision we're going to have to make. What we have to decide is what to do, how much and when."

As in most of the conference of more than 320 handpicked participants, Clinton heard from sympathetic supporters, many of whom helped shape the broad outlines of the candidate's economic plan.

Economist James Tobin said he favors a $60 billion program of tax cuts and increased government spending in the first year to ensure greater job creation. Forget about reducing the deficit for two years, he said. Allan Sinai, a Wall Street economist, said he would start a stimulus program "right away," although he favors a package of just $20 billion to $30 billion so as not to roil the financial markets.

Yet there are many economists, most of whom weren't invited to Little Rock, who argue there's no need for short-term stimulus. With the economy showing increasing signs of a gradual recovery, an attempt to jump-start growth now could be damaging.

No one told Clinton he shouldn't do it, but Henry Aaron came the closest. The Brookings Institution economist advised the president-elect to wait until he had seen the number of December unemployment and fourth-quarter economic growth; then, he said, any short-term stimulus should be "small or shelved."

The top priority, Aaron correctly pointed out, should be reducing the deficit, which he labeled a "slow, wasting disease" that will reduce the nation's wealth by $2.5 trillion over the next decade if it isn't addressed. Then Aaron went further: "Any new government programs should be paid for by cutting other spending or raising taxes, not by borrowing."

If only for Aaron's comments, the summit was worth the cheerleading and puffery. Now it's up to Clinton to make the hard choice—to concentrate on long-term problems, especially reducing the deficit.●

OPPORTUNITY HOUSING PROJECT, PUTNAM COUNTY, IN

● Mr. LUGAR. Mr. President, I rise today to honor the Opportunity Housing project of Putnam County, IN, and its leader, Charles Dana Chandler.

Several years ago, community leaders in Putnam County realized that the county faced a problem of inadequate low-income housing. The primary concern was for the single-parent family with an entry level income and two or more children.

In June 1989, concerned citizens of Putnam County formed a nonprofit organization called Opportunity Housing that dedicated itself to developing 50 rental properties for low-income families in Putnam County.

With a volunteer staff and funding from local businesses, charities and individuals, the program helped to stabilize the housing of area poor, freeing up their resources for other necessities. By the close of this past year, Opportunity Housing had developed 50 safe and affordable rental units for disadvantaged families.

The Opportunity Housing Program and its leader, Mr. Chandler, are to be commended for their initiative and diligence in taking responsibility for the needs of their community. Opportunity Housing, Inc. can serve as a shining example for other communities seeking to improve housing opportunities throughout the country.●

MORTON GROVE'S SANDY AND HOLLY GAIL

● Mr. SIMON. Mr. President, I am pleased to note that two of my constituents were recently honored for their tireless efforts on behalf of State of Israel Bonds. They are Sanford "Sandy" and Holly Gail of Morton Grove, IL, a suburb of Chicago.

They were presented a special award at a State of Israel Bonds brunch held on November 8, 1992, at the Northwest Suburban Jewish Congregation [NSJC] in Morton Grove, where Sandy serves as president. Over $226,000 was raised for Israel Bonds at the brunch.

Representing Israel Bonds was Dr. Michael Bar-Zohar, a former member of the Israeli Parliament and a current member of the Israeli Labor Party Central Committee. Among his many accomplishments is a three-volume biography of David Ben-Gurion.

The Gails are active and accomplished members of their community. Sandy is a member of the board of governors of the State of Israel Bonds effort in Chicago. He is a member of Israel Bonds' Prime Minister's Club, NSJC Men's Club board and the North Suburban Synagogue council. He also serves on the Environmental Commission of the village of Morton Grove, IL. Sandy is a graduate of the University of Illinois-Urbana and a certified public accountant. He also received a juris doctor degree from Chicago's De Paul University and master of laws in taxation degree from John Marshall Law School, also located in Chicago. He is a partner in the Chicago law firm of Bell, Boyd & Lloyd.

Holly is a past president of the NSJC Sisterhood and has also served as its circle vice president and hospitality vice president. While serving as the sisterhood president, she also held the position of chairperson of the congregation's school board. She is a long-time member of the congregation's board of trustees and has served on various synagogue committees. She has a long record of leadership on behalf of State of Israel Bonds. She is a graduate of Chicago's Roosevelt University and today manages a clothing store.

Their son, Larry, 22, is a recent honors graduate of the University of Illinois-Urbana and plans to study at Hebrew University in Jerusalem in 1993 before entering law school. Their daughter, Michelle, 20, a past Israel Bonds ambassador's ball presentee, a junior at Stanford University, is currently studying at Stanford's overseas campuses in Florence, Italy and Oxford, UK.

Again, my sincerest congratulations to Sandy and Holly for their efforts on behalf of State of Israel Bonds and their Morton Grove community.●

SUPPORTING THE RIGHT OPPOSITION GROUPS IN IRAN AND IRAQ

● Mr. McCAIN. Mr. President, we have an enduring commitment to encourage democracy and human rights throughout the world. We also cannot ignore the fact that both Iraq and Iran are major potential threats to a region with 60 percent of the world's proven oil reserves, and because of that, to the world's economic stability and world peace.

At this point in time, Iraq is still dominated by a vicious dictator who has proven his lack of concern for his own people on countless occasions, who has invaded a friendly neighbor whose assistance kept his regime alive during the Iran-Iraq war, and who forced the United Nations and the United States into the first major conflict of the post-cold-war era. He is daily using force against Iraq's Shi'ite population in the south, and his military forces present a constant threat to Iraq's Kurds in the North. His regional military ambitions are not ended and he continues to struggle to preserve the capability to deploy weapons of mass destruction.

The situation in Iran is only marginally better. The replacement of Khomeini by Rafsanjani has brought a pragmatist to power and not a moderate. Iran does preserve some elements of democracy and the rule of law, and has allowed its citizens more commercial freedom than Iraq. There are some indicators that a policy of encouraging normal civilian trade and diplomatic relations could encourage these positive trends.

But, we can have no illusions. Iran has taken aggressive steps to dominate the islands in the gulf. It continues to produce chemical weapons, and develop biological and nuclear weapons. It has acquired long-range missiles from North Korea. It is seeking to rebuild modern military forces, and has bought submarines from Russia and antiship missiles from the PRC in an effort to expand its ability to threaten the flow of oil in the gulf.

Iran is still guilty of constant abuse of human rights. It does not permit many forms of legitimate political dissent. Its use of "Islamic Law" abuses Islam and the rule of law, and cannot be separated from the growing corruption of its clergy. Iran has encouraged racial and religious conflict in the Sudan. It is operating in Somalia. It is encouraging religious violence in nations like Egypt, Lebanon, and Algeria.

There is no question that we have every ethical, moral, and strategic reason to encourage Iraqi and Iranian democratic movements, to halt the arms buildup in Iraq and Iran, and to do everything we can to pressure Iraq and Iran to adopt the rule of law and protect the human rights of all their citizens.

This said, it still is not true that the "enemy of our enemy is our friend." This may be a Middle Eastern proverb, but political wisdom has scarcely proved proverbial during the history of the Middle East. We must not fall into the trap of taking sides between authoritarian movements, or confusing the loser in the violent quarrels between extremists in Iraq or Iran with the defenders of democracy and human rights.

Anyone can use the rhetoric of democracy. Anyone can hide behind the flag of human rights. Anyone can attempt to exploit our opposition to the current regimes in Iraq and Iran, and our ethical and moral beliefs. This is particularly true in two countries filled with political, ethnic, and religious turmoil and without real democratic traditions. It is particularly true because Iran is actively arming and encouraging Iraqi groups that oppose Saddam Hussein, and Saddam Hussein is actively arming Iranian groups that oppose Rafsanjani.

We must be extremely careful not to support terrorism in the name of antiterrorism, Iranian or Iraqi front groups in the name of democracy, or extremist opposition groups in the name of human rights. We must not take sides between factions, and we must not encourage violence in the name of democracy.

This is why I have written William Sessions, the Director of the FBI asking for an update of a 1987 report that I received from Senate security on the People's Mujahedin of Iran [PMOI].

This group has become a major lobbying group. It has lobbied members of this body and the House. It has lobbied the President elect and his wife. It has conducted funding raising efforts throughout the United States, and it is actively lobbying members of the Iranian-American community.

The report I have received, however, raises serious questions about the real nature of the PMOI. It indicates that

the PMOI is derived from a violent left wing group that carried out the assassination of American officers and civilians in Iran before the fall of the Shah. Similarly, a recent report by the Congressional Research Service raises similar questions about the PMOI. The State Department refuses to meet with this group because of its heritage of extremism.

I am not going to take sides in Iranian or Iraqi politics, nor do I intend to become involved in the complex infighting between Iranian groups in exile. I do believe, however, that we must not start the new Clinton administration with a new Irangate. This body must not become the tool of any political group that can accurately be charged with any of the following heritage, belief, or actions:

Attacks on American citizens, other foreigners, and Iranian citizens and officials during the time of the Shah.

Involvement in a civil war in which it took a strong anti-American and anti-Western stance, was a more extreme leftwing movement than Iran's Tudeh Communist Party, and regularly used terrorism and assassination during the struggle for power following the Shah.

Involvement in a Saddam Hussein funded and supported military movement attacking Iran during the Iran-Iraq War, and in maintaining such a military movement on Iraqi soil during and after the invasion of Kuwait.

Continuing involvement in a low level struggle of terrorism and counterterrorism with the Rafsanjani government in Iran.

Continuing to accept funds, support, bases, and arms from the Saddam Hussein government in Iraq.

Soliciting political support and funds from the Congress, American citizens, and Iranian exiles on United States soil under the guise of being a democratic coalition and human rights advocate when it remains an extreme leftist group whose secret agenda opposes American values and the security of Israel.

The only way that any or all of these charges can be resolved is for the FBI to provide an unclassified report that comprehensively addresses each of these points. Listening to Iranian political groups, however, well meaning, can only reiterate the claims, charges, and countercharges regarding the PMOI. I do not intend to become involved in such a debate, and I encourage my colleagues to avoid it.

If the FBI finds that the PMOI is innocent on all the above counts, then it deserves our support as a legitimate democratic movement. It should be free of the kind of indirect charges made by the State Department and other executive agencies, that do not provide formal charges, but indicate that it may be associated with Iraq, with violence, with attacks on Americans, and with terrorism. No group operating in American politics should be forced to live in limbo, or in a climate where U.S. officials informally criticize it, if it is innocent.

If the facts are uncertain, then the Congress, the American people, the media, and Iranian exiles in America deserve to know the truth about such uncertainties, and make their own judgments.

If the PMOI is guilty of any or all of these charges, then we must not treat it as a legitimate opposition to Iran's current government until it has fundamentally changed its character and leadership.

Mr. President, I will ask permission to include the reply I receive from the FBI in the RECORD as soon as I receive it. I now ask unanimous consent that the 1987 report I received from Senate Security, the Congressional research report on the PMOI, and several letters and newspaper articles relating to this issue be printed in the RECORD following my remarks. I also encourage members to directly contact Senate security for further data on these issues.

Mr. President, I also wish to point out that an important precedent is involved here. We must never do anything to abridge the First amendment rights of any group, foreign or domestic. We must continue the struggle for democracy and human rights. We must encourage and support every group that truly advocates freedom and the rule of law that opposes any regime that denies such progress, whether it is Iran, Iraq, or anywhere else in the world.

But, Mr. President, we cannot afford to have a situation where groups can lobby Congress and the American people in the name of democracy, human rights, freedom, and the rule of law whose true nature is very different or who have undisclosed ties to foreign governments, those who use violence, and those who use terrorism. We cannot afford to allow such groups to raise funds in the United States without the Congress and the American people knowing their true nature.

We have strong rules designed to deal with this situation by requiring Americans who lobby for foreign countries to register with the U.S. Government. At the same time, we lack a mechanism that requires the State Department and FBI to maintain a list of groups with suspect ties to foreign governments, movements with a history of attacking United States and other nationals, movements with ties to military or terrorist movements, or which covertly advocate violence, extremist ideologies, or which otherwise use the first amendment in ways that abuse the very causes they claim to defend.

This is also a case where the Executive branch cannot hide behind the need for national security. First, it is possible to summarize the results of U.S. Government investigations without disclosing sensitive sources and methods. We have seen this confirmed in countless government reports which provide such data when it is convenient to support a given policy or program.

Second, groups which really defend the causes we believe in deserve to be free of indirect charges or innuendo. We must never cloud the reputation of any group with indirect charges that cannot be answered or justified.

Third, we are already living in a postcold war era filled with groups with conflicting agendas that all use the rhetoric of the postcold war era, but many of which repackage themselves without having forsworn violence, extremism, or attacks on the things we believe in. We must be able to distinguish the true nature of foreign groups, or groups with foreign ties, if we are to support the groups that really do advocate freedom and human rights, we must know the nature of the wolves who wear freedom's flag.

Mr. President, let me conclude by asking President Clinton to examine this issue as he takes office, and to charge the Director of the FBI and his new Secretary of State with examining this issue, and either providing immediate unclassified reporting on such groups or recommendations as to what new laws may be required to deal with this issue.

Let me also urge my colleagues to be extremely careful in dealing with groups like the PMOI until the facts are known and the record is clear, and American human rights groups to pay as careful attention to foreign political organizations as they do to the abuses of foreign governments.

The material follows:

U.S. SENATE,
Washington, DC, December 15, 1992.

William S. Sessions,
Director, Federal Bureau of Investigation, Washington, DC.

DEAR MR. SESSIONS: I am concerned that the People's Mujahedin-E-Khalq is playing an active role in lobbying the U.S. Congress, and in presenting its views on Iran, under conditions where members have no way to learn the history of this organization. I am particularly concerned with its history of violence against American citizens, its role in terrorism, and its financial ties to Iraq.

Back in 1987, the FBI developed an open source review of this group which provides strong indications that the People's Mujahedin-E-Khalq is a terrorist movement that has participated in the assassination of American citizens and receives most of its funds from Iraq. I have attached a copy of the report to this letter.

I would be grateful if you could have your staff review this report, and provide me with an updated version that could be circulated to members of the Senate and House. If possible, I would like to have such an update no later than January 15, 1993, so that the report could be circulated to members of the new Congress when it comes back into session.

Sincerely,

JOHN MCCAIN,
U.S. Senator.

THE MUJAHEDIN-E-KHALQ: AN OPEN SOURCE REVIEW, DECEMBER 1, 1987

PREFACE

This synopsis of the background, evolution, structure, and ideology of the Mujahedin-E-Khalq organization incorporates information taken only from public source documents and is not provided as a detailed analytical profile of the organization. The data used within the study has been taken from scholarly books, various newspaper and magazine articles, MEK literature, and other available sources. These include:

Abrahamian, Ervand. *Iran Between Two Revolutions.* Princeton University Press, Princeton, 1982.

Chubin, Shahram. "Leftist Forces in Iran." *Problems of Communism,* July–August, 1980.

Irfani, Suroosh. *Revolutionary Islam in Iran.* Zed Books, London, 1983.

Mackenzie, Richard. "Trying to Win a Few Hearts in U.S." *Insight,* September 7, 1987, pp. 34–36.

Sick, Gary. "Terrorism: Its Political Uses and Abuses." *SAIS Review 7,* Winter–Spring 1987, pp. 11–26.

Sciolino, Elaine. "Iran's Durable Revolution." *Foreign Affairs* Spring 1983, pp. 893–920.

Zabih, Sepehr. *Iran's Revolutionary Upheaval.* Alchemy Books, San Francisco, 1979.

Zabih, Sepehr. *The Left in Contemporary Iran.* Hoover Institution Press, Stanford, 1986.

PRINCIPAL FINDINGS

Mujahedin-E-Khalq (MEK) is an Islamic, left-wing organization which became the leading opponent of the Khomeini regime in Iran by 1981. It has won increasing support from Iranians who are dissatisfied with the Shia fundamentalist policies of the Islamic Republic of Iran.

Founded in 1963 by disaffected young members of the Liberation Movement of Iran, the MEK began terrorist operations within Iran in mid-1971 with efforts to disrupt the Shah's celebration of the 2500 year anniversary of the Persian monarchy.

Although the MEK played an important role during the upheaval that brought Khomeini to power, the clerics consistently excluded them from a political role after the revolution. In mid-1980 MEK leaders responded by gradually increasing pressure against the Khomeini regime and in May 1981, launched a violent campaign to subvert the regime.

Led by Massaud Rajavi, the MEK formed a partnership with exiled Iranian president Bani Sadr, and developed the National Council of Resistance (NCR). The NCR functioned basically as a government in exile—it coordinated military operations in northwest Iran, orchestrated political and diplomatic missions, recruited new members, and solicited funding and weapons.

Currently headquartered in Baghdad, Iraq, the MEK include approximately 10,000 well-armed and highly disciplined soldiers and has shown that it can bring out crowds of over 100,000 people for demonstrations, both within Iran and abroad.

For politically expedient reasons, the MEK presently assumes various titles. Some of the most commonly used ones include: The MEK, the Organization of the Peoples Mujahedin of Iran (PMOI), The NCR, Iran Relief Fund (IRF), and the Muslim Iranian Students Society (MISS). In the same vein, the MEK has also misrepresented itself as ideologically akin to the Muslim Afghan Mujahedin freedom fighters.

I. BACKGROUND AND HISTORY

A. The MEK Before the 1979 Iranian Revolution

The founders of the MEK were disaffected young members of the Liberation Movement of Iran. The Movement grew out of various intellectual groups opposed to the Shah Pahlavi during the 1950s. It advocated peaceful means to create a new regime that would combine a constitutional monarchy with West European-style socialism. The movement's leaders hoped to reconcile religious and secular opposition groups with a program based upon Shia ideals, modern Iranian cultural values, and 20th century political and economic theories. Members included both students and clerics.

The Shah's repression of opposition demonstrations in 1963 alienated the more militant younger members, many of whom were also irritated by the personal rivalries among some of the older members. Some longstanding relationships with Movement leaders persisted, however, such as those between the militants (the future MEK leaders) and the late Ayatollah Taleqani and Mehdi Bazargan. These relationships between MEK members and clerics frequently proved fatal to many clerics while Khomeini sought to consolidate power in 1979.

The original MEK leaders appear to have been profoundly influenced by the religious fanaticism of fundamentalist Iranian clerics and the anti-Shah revolutionary groups (Fedayeen -E- Khalq, Paykar, Tudeh militants) they supported. They were also impressed by the Marxist-Leninist theories and vocabulary then popularized by international revolutionary literature.

The young militants (led by nine Tehran University graduates) formed a secret discussion group that eventually became a separate organization called the Sazeman-e Mujahedin-e Khalq-e Iran (The Organization of Crusaders of the Iranian People). Its three basic tenets were:

Islam is a dynamic and revolutionary religion that can be interpreted through Marxist dialectics.

Armed struggle is the only effective tactic in the struggle against imperialism.

Other Iranian opposition movements have failed because they have lacked an effective Marxist structure.

The Mujahedin organization slowly expanded, almost entirely in urban areas—Tehran, Isfahan, Shiraz, and Tabriz, all of which were among the home towns of the group's founding members. For the first five years the group's leadership concentrated on developing their ideology and creating the groundwork for armed opposition.

In the late 1960s, the group helped to set up a public hall in Tehran to broaden the reach of their ideas. Conservative Shia clerics located in Qum were outraged at the "revisionist" form of Islam being taught at the hall, but the more moderate clerics from the Tehran Divinity School were willing to speak there.

The Shah's security service, Sazeman Amniyat Va Etela'at Keshvar (SAVAK), investigated the hall and apparently concluded that it represented a welcome irritant to the traditional clergy, not a threat to the Shah's regime. Only in 1973, after SAVAK made the connection between Mujahedin criminal activity (bombings and assassinations) and the operation of the hall, was the hall closed down.

The hall provided a forum for Dr. Ali Shariati, the young "prophet" of Iranian socialism. The group's recruitment effort was helped significantly by its association with Shariati, whose pamphlets and taped talks were enormously popular among Iranian students.

MEK concepts were similar to, but not identical with, Shariati's. While they both espoused the creation of a classless society whose duty would be to fight "world imperialism, international Zionism, colonialism, exploitation, racism, and multinational corporations," they differed over the nature of the political leader of the society. While Shariati opined that an Islamic jurist would be the proper leader, the MEK strongly believed that such a regime should be controlled by the "aware masses." As a footnote, Shariati included the Iranian clergy as an oppressor class along with landlords and capitalists, while the MEK did not.

The MEK began its violent activities within Iran in mid-1971 with efforts to disrupt the Shah's celebration of the 2500 year anniversary of the Persian monarchy. The group's plans failed miserably. Scholarly research suggests that a captured MEK member gave information under torture which led to the arrest of about seventy of his comrades. According to a former SAVAK official, a SAVAK penetration of the group about the same time led to the arrest, imprisonment, death, and execution of many other members, including all the MEK's founding members.

A brother of one of the founding members then took over the group. It was during this period that Massaud Rajavi (the current leader of the group) became influential, according to his MEK biography, although he was imprisoned by the end of 1971. When the second MEK leader was killed in 1974, the organization fell largely under the control of three young militants whose disagreements over the importance of Marxism in MEK ideology created a degree of philosophical disharmony within the organization.

The group's new leaders—most of whom were later either killed or imprisoned by Iranian security forces—began to publish an underground newspaper called Jungal (The Jungle) in the early 1970s. During this period, the MEK profited from an order issued by the Ayatollah Khomeini, then in exile in Iraq, that called on all faithful Muslims to support the group. Khomeini then began to relay money from pious Shias to the MEK. The organization also began to receive large amounts of money from wealthy merchants—some of whom were relatives of MEK members.

By late 1973, MEK leaders had developed a deeper interest in Marxist theory and were reading extensively in Asian and Latin American revolutionary writings and also early Soviet publications. In mid-1974 the group began sending agitators to Iranian shops and factories. Some of the group's leaders then began to talk openly of the necessity of incorporating Marxist theory into MEK ideology.

MEK perpetrated bombings and assassinations, after the aborted maiden effort in 1971, resumed in 1972. The organization's targets included U.S. military advisors stationed in Iran. For example, the MEK claimed responsibility for the assassination of U.S. Air Force Brigadier General Harold Price in 1972, the assassination of U.S. Air Force Lieutenant Colonel Lewis Hawkins in 1973, the assassination of U.S. Air Force Colonel Paul Schaeffer in 1975, and the assassination of U.S. Air Force Lieutenant Colonel Jack Turner, also in 1975.

The MEK also targeted U.S. civilians associated with defense projects (five killed in 1976), and numerous Iranian security officials. The group also claimed responsibility

for the bombings of air and oil company offices in Iran. These attacks were well executed and were designed to attract increased attention to the anti-Shah opposition, frighten U.S. residents, and make SAVAK appear vulnerable.

In 1975, Massaud Rajavi (then imprisoned for anti-Shah activities) was accepted as the MEK's leader and chief idealogue. Under his reign, the group continued its full commitment to armed struggle. One prominent journalist who was in Iran at that time, wrote that "MEK publications have openly boasted of the assassinations of five U.S. servicemen in Iran during its campaign of destabilization [of the Shah's regime]. Rajavi is believed to have ordered those assassinations himself."

By early 1976, MEK losses in violent operations had become severe enough to compel the group to reconsider its tactics. The organization began to limit its violent activity and instead began to concentrate on recruiting new members. After some time (a few months), the MEK eventually decided to focus its recruitment efforts toward the student ranks.

By the beginning of 1978, the group had recuperated sufficiently. A young and dedicated new crop of members had been recruited, largely under the guise of "true Islam," an MEK invention which consisted of a theological model in which Marxist-Leninist concepts are superimposed on Islamic terminology. the MEK's new recruits (3,000 to 5,000 individuals at the onset of the revolution) provided the group with the necessary impetus which was instrumental during the 1979 Iranian Revolution.

In January, 1979, the MEK's leaders met in Tehran and drafted an eighteen-point resolution, entitled the Minimum Expectation Program (MEP). The organization's clandestine publication, Mojahed, as well as other newspapers, published the full text of the MEP. This document is significant for a number of reasons: first, it was written when MEK leaders believed that the group was destined for political power in Iran; second, it was adopted by a representative sampling of MEK members; and finally, it highlighted the group's political philosophy. More than any other document, the MEP is widely believed to be an honest effort by the MEK to put forward their program for reorganizing Iran's political system.

B. The MEK During the 1979 Iranian Revolution

By 1979, the MEK had found that it would be politically wise to "latch on" to the enormously popular Shia fundamentalist movement headed by Ayatollah Khomeini. As it turned out, the MEK proved to be an extremely valuable asset to Khomeini throughout the entire revolution.

Although the organization's appeal among the Iranian "masses" was minimal, the MEK became the "military" arm of the anti-Shah movement. Together with other opposition leftist groups (including the Fedayeen and Paykar), the MEK engaged in murder, arson, and acts of general sabotage which contributed to the weakening of the Iranian political system's capability to resist the opposition.

Most notable of the MEK's military operations during the revolution was the assault on the Farahabad military base outside Tehran. The assault on this base, which housed a headquarters element of the Iranian Air Force, eventually led to the neutralization of the entire Iranian military.

The MEK was also intimately involved in the takeover of the American Embassy in Tehran in 1979. Eyewitnesses and MEK documents indicate that the MEK led the assault on the Embassy and then pleaded with Khomeini not to engage in dialogue with the United States Government, nor release the American hostages seized during the action. In fact, congressional testimony indicates that Rajavi insisted to Khomeini that there was much more to gain by holding the hostages than by releasing them.

C. The MEK From 1979 to the Present

After the Iranian revolution, the MEK demanded to have a share in the new Iranian Government. However, Khomeini apparently feared the MEK's military power and grew distrustful of the organization. Influential Shia clerics under Ayatollah Beheshti's leadership were strongly opposed to any political participation by the group.

By the beginning of 1981, it became obvious to the MEK that Khomeini was excluding the group from any political power in the newly created Islamic Republic of Iran (a theocracy, a form of government despised by the MEK). That, and the tremendous turmoil within the newly created Islamic Republic (including clerical factionalism and the Iran-Iraq war) created a situation perceived to be favorable for the MEK to openly challenge the Khomeini regime.

In June, 1981, in a devastating miscalculation, Rajavi ordered his followers into open combat in the streets of Tehran. They were subsequently routed by Khomeini's forces. Shortly thereafter, Rajavi and his entourage fled Iran for Paris, France.

Between 1981 and 1984, and possibly with the help of Iraqi Government funds, Rajavi and exiled Iranian President Bani Sadr established, in Paris, the NCR. During this period, the NCR functioned primarily as a government in exile, coordinating military operations in Iran, orchestrating political and diplomatic missions, recruiting new members, and soliciting funding and weapons.

Rajavi did not believe that his presence in Paris would inhibit MEK activity within Iran. Indeed, MEK "military" actions in 1981 increased dramatically and grew more violent. For example, in August the MEK bombed the offices of the Prime Minister, killing both President Rajavi and Premier Bahonar. Throughout the summer and fall of 1981, Bani Sadr claimed that he had ordered the MEK to assassinate Khomeini, but that Rajavi refused because he did not want to make a martyr of him. It may be noted that while many of the Iranian political leaders who were killed by MEK operatives in 1981 traveled frequently (at least from home to their offices), Khomeini never leaves his residence.

In the spring of 1984, Rajavi and Bani Sadr became embroiled in a public dispute over whether the NCR should accept formal Iraqi Government support. In April, 1984, Bani Sadr, who was opposed to Rajavi's frequent Iraqi Government contacts, announced that he was dissolving the NCR and forming his own Iranian political opposition organization. Rajavi however, has continued to refer to the MEK as the NCR when representing the group during fund-raising and recruitment activities.

Between 1984 and 1986, the MEK expanded its recruitment and fund-raising capability. MEK cells were developed throughout Europe, the Middle East, and the United States. Referring to themselves as various Iranian opposition organizations, MEK members raised millions of dollars, recruited thousands of people (the vast majority of them being young Iranian students), began to publish a newsletter, Iran Liberation, and politically lobbied foreign governments.

The group also increased its military activities in northwest Iran, especially the region known as Kurdistan. According to international press reports, statements attributed to Iranian Government officials, and MEK literature; the military operations conducted by the MEK during this period resulted in little damage to the Iranian regime. Those operations usually originated from MEK camps on the Iraqi side of the Iran-Iraq border, and primarily consisted of "hit and run" raids on various secluded and lightly protected facilities such as frontier guard posts.

In late 1986, the French Government (under Iranian Government pressure) apparently insisted that Rajavi and his entourage leave France. At that time, the French Government was trying to improve diplomatic relations with Iran, yet Khomeini insisted that before relations could improve, France would have to extradite Rajavi to Iran. This complicated matters for the French Government because France was supporting Iraq in the Iran-Iraq war. Consequently, in lieu of extradition, the French Government made it clear to Rajavi that he was no longer welcome in France.

Whether or not Rajavi left France for that reason or because he desired to move his base of operations closer to the Iran-Iraq border (the official MEK explanation), the MEK was relocated in Iraq by the end of 1986. By 1987, MEK had established base camps on the Iran-Iraq border, conducted massive military exercises (involving up to 10,000 troops), and was conducting overnight cross border attacks on Iranian targets.

The MEK's publishing, recruitment, and fund-raising capabilities had improved dramatically by 1987. MEK support cells (representing themselves as the PMOI, Mujahedin, NCR, MISS, and IRF) had been established in virtually every nation in Western Europe, Canada, and the United States.

Primarily targeting idealistic young Iranian students, these MEK support cells had raised by 1987, millions of dollars, had successfully orchestrated major demonstrations in cities throughout the United States, Canada, Europe, and the Middle East and had obtained large amounts of weapons, ammunition, spare parts, and other military supplies from various sympathetic Governments (primarily Iraq), and had gained the support of many prominent politicians—including over 2,000 American national and local level legislators.

II. THE MEK TODAY

A. Military Operations

During 1987, MEK leaders have publicly claimed credit for many military incursions into Iran. Asserting that the organization's military force, the Iranian National Liberation Army (INLA), consists of 10,000 soldiers; group leaders have frequently published news bulletins which highlight recent clashes with Iranian troops. For example, a recent issue of Iran Liberation informs readers that the INLA has caused the death of more than 3,000 Iranian troops since January.

The INLA's current targets appear to be Iranian military convoys, communication installations, and lightly defended border communities. The tactics employed by the group predominately entail nighttime raids over the border in small units, shooting or capturing Iranian sentries, holding the targeted area until early morning, and finally blowing-up the target before returning to Iraq.

While MEK's reporting of the circumstances surrounding these raids are very

likely exaggerated, there has been enough independent and reliable information which indicates that the MEK is frequently conducting military raids into Iran. Officials within the Iranian Government have also been substantiating some of those reports, however, the Iranians seem to be more concerned about the terrorist activity ("random bombings in civilian and public places") in cities throughout Iran which are attributed to the MEK.

B. Political and Diplomatic Endeavors

Outside the United States and Canada, the MEK officially represents itself as the NCR of Iran. The NCR of Iran is most frequently used by the group when its delegations visit the United Nations or take part in other international forums. For example, an NCR of Iran delegation attended the 44th Italian Socialist Party Congress in April, 1987, and another met with the leadership of the British Labor Party in the spring of 1987.

Within the United States and Canada, the MEK politically represents itself as the PMOI. The PMOI currently operates an office on Wisconsin Avenue in Washington D.C. Under the PMOI label, MEK members regularly lobby U.S. Senators and Congressman for political support. The PMOI also appears to organize anti-Khomeini demonstrations—one of which took place in Washington on June 19. This demonstration involved about 2,000 people and was well organized.

C. Funding and Recruitment

The MEK raises funds and recruits members as the IRF and the MISS. Since at least 1984, MEK members have been going door to door soliciting "charitable" contributions on behalf of the IRF in the Washington D.C. area and in twelve states elsewhere around the country. The U.S. Department of State (USDS) in a 1987 public source report cited that the IRF, which is based on K Street, Northwest in Washington, is not only affiliated with the MEK, but is in fact a front name for the group.

The IRF has been successful in its fund raising efforts. Washington Post staff writer, Molly Sinclair, wrote in 1985 that registration papers filed by the IRF in Maryland and in Virginia disclosed that the organization collected $97,230 from American contributers during the year that ended in September, 1984.

MEK members representing themselves as the MISS are also involved in fund raising activities, however, these efforts appear to be limited to college and university students around the world. The group solicits donations from sympathetic students—Iranian and others. The MISS may also be involved in recruiting activities for the MEK. While the USDA publicly regard the MISS as a front name for the MEK, it appears that the MISS may provide a communication link between MEK headquarters in Baghdad and Iranian students who are scattered throughout the world. MISS chapters located in colleges and universities throughout the United States, appear to be primarily involved in distributing MEK literature and conducting seminars.

D. Propaganda

The MEK's main propaganda organ in the United States is Iran Liberation. Billed as the "news bulletin of the Peoples Mujahedin of Iran," the six-page newsletter informs readers of MEK-related political dynamics, military operations, and various atrocities committed by the Khomeini regime. The newsletter, which cites a Wisconsin Avenue, Washington, D.C. address, is handed out at PMOI, IRF, and MISS activities within the United States. With a nominal donation (unspecified amount) forwarded to the listed address, a subscriber is somewhat regularly appraised of news that the MEK deems important.

All propaganda published and distributed by the various MEK groups (PMOI, IRF, MISS) contain terminology, photographs, and names which easily link them to each other and to the MEK. For example, most issues of the PMOI's Iran Liberation contain numerous reference to MEK leader Massaud Rajavi and his wife, as well as describe MEK military activity. The same is true for IRF and MISS literature. Both groups distribute Iran Liberation, hand out pamphlets which depict Rajavi, and espouse traditional MEK political philosophy.

The PMOI and the IRF routinely distribute pamphlets which describe many unsubstantiated human rights violations committed by the Khomeini regime. Photographs of tortured and executed Iranians, articles regarding the murder of Iranian women and children, and stories about the Khomeini regime's support of international terrorism are some of the most common topics.

III. INTERNATIONAL STRUCTURE

A. Biographies of Prominent Members

Massaud Rajavi

The forty-year-old Rajavi has been the leader of the MEK since 1975. According to his official MEK biography, he joined the group in 1966 and was responsible for organizing its ideological instruction program. Born in either Mashdad or Tabas, Iran, Rajavi graduated from Tehran University with a degree in political science (he joined the MEK while he attended the university). In 1970 he went to Lebanon and Jordan for training by the Palestine Liberation Organization.

Rajavi was arrested by SAVAK in 1971 (for anti-government activities) and was sentenced to life imprisonment. From 1975, he remained the only surviving high-level MEK official, and until 1978, he led the group from prison. Released in 1978 under one of the Shah's amnesties, Rajavi subsequently took full control of the organization. Possibly residing in Gavaneh, Iraq (on the Iran-Iraq border), Rajavi appears to control the MEK's military, political, funding, and recruitment activities.

Rajavi is currently married to his third wife. Official MEK biographies state that his first wife, Ashraf, was killed by Khomeini military forces during a raid on the Rajavi residence in February 1982. Rajavi then married Firouzeh, the daughter of Bani Sadr. That marriage failed when Firouzeh filed for divorce after Bani Sadr disassociated himself from the NCR. In 1985, Rajavi married Maryam (then a co-leader of the MEK).

Ali Safavi

Safavi is the MEK's official representative to the United States. Thirty-four years old, Safavi appears to be the person charged with the responsibility of convincing the American public and politicians that the Khomeini regime is in political, military, and economic difficulty, and that Massaud Rajavi is the only alternative. An Iranian exile, Safavi is a sociologist who studied for his doctorate at the University of Michigan.

Shahin Gobadi

Gobadi was the MEK's spokesman during the anti-Khomeini demonstration which the group held on June 19, 1987, in Washington, D.C.

Hamid Boka'i

Boka'i is predominately pictured and described in MEK literature as a "Mojahedin representative for International relations."

Ahmad Foroughi

Foroughi has frequently been pictured and described in MEK newsletters as a member of the NCR of Iran international delegation.

Mohammad-Hossein Naghdi

Naghdi has also frequently been pictured and described in MEK literature as a Member of the NCR of Iran international delegation.

B. Organizational Structure

There is not a large amount of available data regarding the organizational structure of the MEK. However, a review of MEK literature, as well as the small number of independent books and articles which have been published on the group, indicates that some linkages can be made. There appears to be little doubt that MEK headquarters is located within Iraq, in either Baghdad or Gavaneh. The MEK's National Resistance Council appears to function as the parliament of the organization.

MEK presence in European and North American nations is usually in the form of the PMOI, IRF, and MISS. The PMOI offices appear to serve as the official linkage between MEK headquarters and the host country (similar to an ambassadorial relationship). The PMOI officer usually represents the organization to the press, to legislators, and to heads of state. PMOI offices are located in cities of countries which contain the seat of government.

MISS chapters, which are located on college campuses throughout Europe and North America, probably function as the linkage between MEK headquarters and Iranian students. Because the MEK relies heavily on student support (both financial and militarily) the MISS may have direct political access to MEK national headquarters. MISS chapters may also perform intelligence functions for MEK headquarters, monitoring both pro-Khomeini and pro-monarchist supporters—as well as identifying potential recruits.

The IRF seems to serve as the MEK's "grass roots" level fund-raising operation. Based in small offices, IRF members operate door-to-door in neighborhood communities soliciting donations. Even though the IRF may be a valuable source of revenue for the group, there is no indication that the IRF is directly connected to MEK headquarters. It is plausible to assume that the IRF operates under the direction of the PMOI.

The following graphic may portray the bureaucratic structure of the MEK.

[Graph not reproducible in the Record.]

While the above reflects a cursory command and control structure, it should be noted that a great deal of flexibility may exist. For example, the INLA may be partly controlled by the National Resistance Council. Also, the PMOI and the MISS may not be linked. The possibility that the IRF and the MISS are linked cannot be ruled out. Because these groups are basically one organization, members may interchange roles.

IV. IDEOLOGY

A. Influence of Marxism and Shia Islam

Marxism and Shia Islam have had a profound effect on the development of MEK ideology from the group's inception in the mid-1960s. The founding members of the group believed that Shi'ism provided the revolutionary theistic basis which would attract idealistic, yet religious Iranians. Marxism was seen as the political framework in which the MEK could achieve its goals.

For two years the original members of the MEK researched various Marxist and Shia writings and eventually produced a booklet

entitled *The Profile of a Muslim*. The booklet, written by Ahmad Rezai, contained many classic Shia statements attributed to Imam Ali (the first Shia Imam) and tracts from the Koran. These writings were incorporated by the group in order to show that the original Islamic society had been a homogeneous community which, due to the establishment of private property and other Western institutions, had subsequently deteriorated into antagonistic classes and nations.

MEK members argued that the Koran looked to the establishment of a classless society and called on the oppressed Muslims to struggle to achieve it. In this struggle, Hussein, the martyred third Shia Imam, was to be taken as the model. The MEK argued that classless society was to be the same as the promised society of the Mahdi (the Shia Twelfth Imam) wherein principles of divine justice would prevail.

This society, referred to by the MEK as "Towhid," will be a society of unity and plenty where "each contributes according to his ability and each receives according to his need." MEK leaders believe that there would be no exploitation of man by man in this society as well as no "social, ethnic, and economic contradictions, and no human conflict." To achieve this society, the MEK believes an "all out war" must be waged on all exploiters and oppressors who are being led by "the American imperialists."

This blend of revolutionary Islam and Marxism has helped attract many idealistic, young, politically frustrated Iranians to the MEK. The organization has crafted its philosophy and applied it consistently to Iranian domestic and foreign affairs. It reinterprets the Koran and several influential Shia texts using concepts from a wide range of international revolutionary literature. The MEK present their program and the theories behind it as a dynamic response to the problems of modern Iran and as a model for other revolutionary groups.

B. Central Ideological Principles

The MEK's central principles are twofold. The first entails the total opposition to "U.S. imperialism," which is the principal enemy of revolutionaries. To the group, all the events which occur within Iran involve this confrontation. The second is that political, social, and economic power must be used in the service of ideology. To the group, if "practical considerations" take precedence over ideology, progress cannot be made toward the ideal Islamic society.

Other recurring themes are the superiority of collective interests over those of individuals, the primacy of Iranian political and social models over those originating abroad, and the necessity of remolding the attitudes and behavior of the people to remove the effects of corrupting influences.

In their analysis of 20th century Iran, MEK theorists argue that the 1905 revolution transformed Iran from a feudal society into a bourgeois system heavily dependent upon Western capitalism and under the domination of imperialism—especially U.S. imperialism. They believe that by the late 1960s, cultural, economic, political, and military imperialism threatened the very existence of Iran. The MEK says that the Pahlavi reign had little support outside the Westernized middle and upper class and it ruled by terror and propaganda. MEK texts call for "heroic acts of violence" to awaken the people and begin the breakup of oppressive societies.

In the current situation, the Shia fundamentalists are guilty of "pragmatism" believing that their end (the Islamic Republic) justifies the temporary use of unacceptable methods. To the MEK, the fundamentalists have corrupted their ideological principles. The MEK's leftist rivals (Fedayeen -E- Khalq and Paykar) are said to be "opportunists" who openly disregard principles in guiding their activities.

While the MEK strongly endorsed the leadership of Khomeini over the "unified masses" that toppled the Shah, they argued that he has not provided the necessary force to prevent the fundamentalists' corruption of the principles of the 1978 revolution. Consequently, the MEK believes that imperialism may reassert itself within Iran.

In the MEK's view, the Shia fundamentalists turned away from Khomeini's emphasis on the will of the people at the beginning of the new regime. Khomeini and his supporters have, according to the MEK, allowed their "pragmatic" fear of the return of imperialist influence and their "opportunistic" fear of losing control of the revolution to restrict the choices and information open to the people, and have consequently oppressed them.

C. Specific Excerpts of MEK Texts

Early MEK writings (1966–1971), such as passages in *Mujahid*, primarily address issues regarding Shiism and its role within the organization's revolutionary program. Some examples of MEK writings on these topics include:

"After years of extensive study of Islamic history and Shia ideology, our organization has reached the firm conclusion that Islam, especially Shiism, will play a major role in inspiring the masses to join the revolution. Shiism has both a revolutionary message and a special place in our hearts," and

"A man is a true Muslim only if he is a revolutionary. A Muslim is either a revolutionary or not a true Muslim. In the whole of the Koran, there is not a single Muslim who was not a revolutionary."

An enlightening essay published by the MEK regarding Islam, and Islam's role within the group's ideological framework, is found in a statement publicly issued by the group in 1977. This statement was issued in response to the Iranian Government's public assertions that the MEK was an un-Islamic terrorist organization. The statement, in part, reads:

"Which Islam is it that the Shah refers to? Is it not the Islam of Imperialism? The counterfeit "Islam" of imperialism is carefully spoon-fed to Muslim countries, and results in their colonization, with the imperialists ultimately in control of the economics, education, and culture of the Muslim countries. According to this "Islam of Imperialism", Islam is made for the next world only and has nothing to do with the life of this world . . .

"The Imperialist's brand of Islam dictates that Islamic nations be their colonies and allows them to loot all the wealth, resources, and productivity of Muslim nations. But the Islam of the Prophet Mohammad (on whom be peace) is the only true Islam. Its revolutionary spirit is not compatible with, or comparable to, the (present) weakness and spinelessness of the Muslims. The Islam which Prophet Mohammad brought would never provide land to Zionists for them to cultivate and produce food for their armies aiding them to kill the oppressed and impoverished Palestinian masses.

"Under the Islam taught by Prophet Mohammad, the treacherous Shah and his exploitive guests would not serve themselves 50-year old French champagne. The Islam which the Prophet Mohammad brought is revolutionary and it is for precisely this reason that the Iranian Muslims are joining the revolution. The Shah is afraid of the new wave of Islamic cultural revolution, a wave that is adhered to and propagated by none other than the Mujahideen-e-Khalq. We have not brought with us a new religion. Islam, from its beginning, has been progressive and revolutionary, and has fought against oppression. We are revolting today, as Islam has always done, to break down the obstacles that are blocking the path of man and society towards perfection.

"The Shah is frightened from this wave of Muslim awakening. He is frightened of a revolutionary Islam. He attempts to discredit such a movement and cries out: 'A revolutionary cannot be a Muslim. One must be either a Muslim or a revolutionary!' (According to the Shah's logic) a person who participates in any guerrilla activity must, therefore, be a non-believer; one who is both a revolutionary and a Muslim must be a liar and an apostate by the regime's standards.

"The truth is that a Muslim can be nothing but a revolutionary. If the battle against oppression and immorality is Un-Islamic, if the battle against the supporters and servants of imperialists is Un-Islamic, if the battle against corruption is Un-Islamic, if a desire for freedom is Un-Islamic, if the battle against the exploitation of the people is Un-Islamic, then we and the rest of the Iranian people confess to being Un-Islamic.

"Furthermore, if sucking the blood of hardworking people and plundering the production of farmers and labourers and profiteering from the people's essential needs is Islamic, if placing the country's fate and its people in the hands of American and Zionist spies and military advisers is Islamic, if possession of castles and luxurious mansions, and private airplanes, while the people are starving to death in masses, is Islamic, if making farmers homeless, and gunning down students and labourers is Islamic, if torturing the mothers, fathers, wives, children, sisters and brothers of fugitive revolutionaries is Islamic, if plundering the vast resources of oil, arranging the most wasteful celebrations in history (the Shah's self-coronation and celebrations marking 2500 years of monarchy in Iran that is estimated to have cost the State treasury a hundred million dollars) spending millions of dollars from the treasury of our destitute people for the pleasure of a bunch of treacherous international criminals is Islamic, then we, alongside all the Iranian people confess to being non-Muslims, and we wish to clearly state that only the Shah and his servants and supporters in his Pharoanic rule can be Muslims.

"It is a great honour for us to be recognized by the treacherous regime of the Shah as his enemy. This indicates that our essence is contradictory to the nature of his blood-shedding regime. (Ours) is a sacred war and an answer to God's Commandment: 'Why should you not fight in the cause of God and in the cause of those who being weak are ill-treated and oppressed? Men, women and children who cry, will our Lord rescue us from this town, whose people are oppressors, and raise up for us, one who will help?' (the Quran, 4:75)."

MEK literature also contains examples of the organization's reliance on Marxist ideology and terminology. An essay within *Mojahed*, an early MEK publication, was written in 1975 to "clarify" its involvement with Marxists. The statement reads as follows:

"The Shah is terrified of revolutionary Islam. The regime is trying to place a wedge between Muslims and Marxists. In our view there is only one major enemy—imperialism

and its local collaborators. When SAVAK shoots, it kills both Muslims and Marxists. Consequently, in the present situation there is organic unity between Muslim revolutionaries and Marxist revolutionaries. In truth, why do we respect Marxism? Of course, Marxism and Islam are not identical. Nevertheless, Islam is definitely closer to Marxism than to Pahlavism. Islam and Marxism teach the same lessons for they fight against injustice. Islam and Marxism contain the same message, for they inspire martyrdom, struggle, and self-sacrifice. Who is closer to Islam—the Vietnamese who fight against American Imperialism or the Shah who helps Zionism? Since Islam fights oppression, it will work with Marxism, which also fights oppression. They have a common enemy, i.e., the reactionary imperialist."

The MEK's two major strategy programs are the Nine Point Policy (published in 1969) and the Minimum Expectation Program (published in 1980). The Nine Point Policy was the product of an assignment given to a sixteen-member committee which was charged with formulating MEK policy and strategy. After eight months of study, the policy was published:

1. Iran was dominated by world imperialism, especially U.S. imperialism. Its economy was mainly under the control of comprador bourgeoisie, meaning that land reform had transformed the country from a 'Bourgeois-feudal' to a 'Bourgeois-comprador' system.

2. Land reform essentially caused revolutionary potential in the countryside to subside. Because real land reform had not been implemented and oppressive relations in the countryside still existed, initiating a Chinese-style struggle in the countryside was impossible, although the potential for revolutionary activity remains.

3. Iran was essentially a police state where the armed forces constituted the ultimate power base. The strength and political stability of the regime was based on the effective functioning of its security forces, which were directed by the American Central Intelligence Agency.

4. Because antagonistic class pressures and political awareness of the Iranian masses has reached a high point, the vanguard groups did not need to expose the true face of the regime to the people. But through appropriate political activities, mass alienation had to be intensified.

5. By extending the struggle to the masses of people and allaying hopelessness and fear, the regime must be destabilized via the disruption of the police network—the main force causing disunity in the anti-government struggle. This can only take place by armed struggle.

6. The organization, whether on the basis of monotheistic ideology or on its understanding of historical experiences, concluded that the religion of Islam in general, and the Shia school of thought in the revolutionary and combative traditions of Shia, such as the uprising of Imam Hussein, could be useful in the mobilization of the masses.

7. Because of the awareness of the anti-government forces in the cities (since the Constitutional Revolution, almost all struggles have taken place in the cities) and because the regime, under the guise of land reform, was able to cover up its weaknesses in the rural areas, guerrilla warfare should be initiated in the cities where actions for destabilizing the government and its police network were possible. The struggle in the cities must follow these guidelines:

a. Striking blows to the police network because it was the main pillar of the dictatorial, imperialist regime.

b. Safeguarding the organization against destruction by a major police crackdown. This was to be accomplished by building a strong social base in Iranian society and preparing substitute units to fill in when required.

c. Infiltrating the police network so that their operations were known by the organization prior to initiation.

8. The expansion of guerrilla warfare to the countryside. The organization believed that the major forces of revolution consisted of the workers and the peasants. Of course, this did not imply that the struggle had its ends in the cities; rather, the organization believed the ultimate collapse of the regime would be achieved through guerrilla warfare in the cities while the overall collapse would be accomplished by surrounding the cities from rural military bases.

9. Victory would be achieved through the combined use of a liberation army and rural guerrilla warfare. Therefore, after the struggle in the countryside, the task of creating a 'Peoples Army' must be undertaken to confront the regime's forces.

The Minimum Expectation Program remains the most complete official statement written by the MEK leadership. The Minimum Expectation Program is an all-inclusive statement about economic, social, and political issues. While the Minimum Expectation Program reveals much about the MEK's ideological orientation, the statement is more revealing in respect to the group's positions regarding economic policies, military issues, rights of women and minorities, rights of peasants, and finally foreign affairs. It may be noted that since 1980 some slight modifications have been made to the Minimum Expectation Program, however, those changes have consisted only of softening certain ideological issues rather than altering any of the document's main points. The Minimum Expectation Program reads:

1. All comprador investments must be appropriated. This capital has been the cause of the greatest misery and oppression for our workers, not to speak of the untold strife it has created for our national enterprise.

a. Foreign-owned, colonialist banks which have plundered this nation must be closed down.

b. Foreign-owned, and comprador businesses, plants, and affiliated agricultural enterprises must be expropriated and handed over to the people, and the management of these operations handled by a staff council (comprising works, clerical personnel, and a representative of the government). The aim is to build anew on the shards of colonialist enterprise an equitable system based on Islam and moving towards Towhid [Divine Integration].

2. National control must be established over all of the nation's natural resources, not the least of which is petroleum. All shameful colonialist agreements in this field must be irrevocably terminated.

As the Quran expressed it: natural resources and public wealth are included in the concept of anfaal (the spoils of war) or, by extension, the commonweal. The utilization of resources in the way of God and His Prophet means employing these benefits for the commonweal, whereby no single individual has an interest and all are freed from the bonds that inhibit virtue.

3. Massive, large-scale investment enterprises must be avoided whereby costly luxury industrial conglomerates are allowed to expand at the expense of moderately-scaled and small industries. Preference should naturally be given to agriculture over industry or a healthy economic development and the ideological channeling of the technocrats and bureaucrats will be impossible.

4. A popular army must be established. Adjust and popular economic development where the welfare of the down-trodden is given priority has no place for the fostering of a paper-tiger army, top-heavy with the latest in fancy and costly weaponry. The devotion of resources to the building up of an unwieldy facade of any army shares the same unbalanced character as the haphazard growth situation in other economic and social areas.

A political system which lacks popular support by its very nature is forced to develop and maintain an army which must be equipped with complex weapons and cultivates a phony "professionalism" which divorces it from the masses in its preoccupation with standing up to foreign threats and putting down domestic 'insurrection.'

Such an army has no alternative but to build up the external appurtenance of its weaponry and to play down the human factor of its personnel. Its destiny leads it into becoming absorbed into the imperialist military complex whereby it is made dependent on imperialist logistics (for the supply of complex weaponry) an imperialist advisory personnel.

Such an army is in direct contact only with the ruling bureaucracy and is dependent on a base which is beyond the frontiers of the land which it purportedly serves. To expect popular reactions and a popular performance from such an army would be the height of absurdity.

Our bitter experience with the Imperial Army over the last fifty years is a clear indication of the truth of this assertion. It is for this reason that we call for the establishment of an army of the people, an army which fights for the things in which the people believe and for the interests of the people as a whole. It is not a hireling army of mercenaries fighting only for money, whose sole motive is receiving their wages.

At this point it should be made clear that the establishment of a popular army in no way implies the deprivation of individual rights or the application of pressure, material or moral, on our brave brothers who make up the Iranian armed forces at the moment. What we are calling for is a foundational transformation of the structure and content of relations in the army in such a manner that our army brothers may never again be forced into a system which shunts and restricts the expression of their will to participate and develop their talents in the popular way. This is the place, then, to review the characteristics of what constitutes a popular army:

a. In the popular army there is no blind obedience. Ideology and a correct line of policy, blended with political awareness, provide the guiding force for such an army.

b. The popular army is a national army in the service of the defence of the country and the defender of the interests of the people against foreign aggression.

c. The popular army is completely integrated into society and completely harmonious, particularly with the strata of the most oppressed among the people.

d. The popular army is an integrated unity in its own right when it possesses the foregoing characteristics. It permits no under distinctions of privilege within its ranks, between enlisted man, NCO or officer. All eat the same food and no remarkable differences exist in pay and facilities. Promotions are

made through consultations with personnel, and unity is maintained throughout by a common appeal to iron discipline, understood by all.

An army which develops a standard of structural relationships like this will have the closest popular relationship with the masses. Actually the prototype for this kind of army is the model army of the early days of Islam, which was composed of soldiers and officers whose sole motivation was service to God and the people. The internal and external relations of armies under the command of the Prophet and of Iman Ali, among the personnel and with the civilians, can provide an instructive case for those who seek to form an army designed to carry out its functions in the name of Islam. In the words of Ali to Malek Ashtar, "Be kind to your subordinates and hard on arrogant oppressors."

e. Service in the popular army is never compulsory.

f. The popular army can never be dominated by foreign advisors.

g. The popular army not only does not participate in unjust imperialist wars or in counter-revolutionary conflicts such as the crushing of the freedom-fighters of Dhofar in Oman, but is at the disposal of all revolutionary movements such as the Palestinian sincerity in seeking justice and equity, they have no fear of their ideologies being the object of debate.

5. Of course, it should be made crystal clear that there are distinct demarcations between revolutionary freedom and democracy and the approach of liberalism and irresponsible capitalism, distinctions which cannot be ignored in any revolutionary system. As the Quran expresses it, "Do not follow that of which you have no knowledge nor penetrating understanding" (Asraa', 36). Imam Ali always stressed that he would never be the first to draw his sword or launch a conflict to counter the views of someone else no matter how hostilely his opponents might present their views. Imam Jaafar Sadeq, the Sixth Imam of the Shiite sect, sat for hours while his ideological and philosophical opponents ranted and harangued him, never losing his patience or dignity, or behaving in any way disrespectfully towards them. And, indeed, if we believe that Islam is the highest path, why should we feel threatened by other ideas and opinions?

Peoples of different regions must be provided with full political rights to enjoy their own cultural expressions, all within the frame-work of the overall unity, solidarity, and sovereignty of the country. We believe fundamentally that the way the 'nationalities' question is confronted determines the manner in which we evaluate the extent of genuineness and revolutionary legitimacy of a truly popular Towhidi government system.

(The Minimum Expectation Program then outlines policies in respect to workers and peasants).

All anti-labor regulations and legislation must be abolished, and new labor laws must be enacted based on the views of the workers.

Housing must be provided for all workers.

The management of the Workers Welfare Bank and other labor banks and funds must be turned over to the workers themselves.

All governmental wage deductions must be eliminated from worker's salaries. Workers' benefits (health, retirement, casualty, etc.) must be provided from petroleum revenues.

The administration of factories should be carried out by a council composed of representatives of the councils of the workers and of the clerical personnel and representatives of the employer.

Contractual labor must be changed to formal employment (with all its attendant wage guarantees and benefit provisions).

The worker must have a share in the factory profits.

Like the workers, the oppressed peasants of this land must not be forced to bear the debts incurred with government agencies of the previous regime.

The very lands which were usurped from the peasants by the institutions of the previous regime should be returned to the peasant owners.

Basic technology and interest-free agricultural loans must be provided.

The working and productive farmer should not be subjected to land or produce tax.

A concerted effort must be made to encourage and provide the necessary conditions for the establishment of peoples' co-operatives.

All foreign interference of any kind, as well as the importation of foreign agricultural products, must be resisted.

Housing must be provided for farmers through the construction of suitable complexes as a deterrent to the farmers to migrate to the cities.

(Finally, the Minimum Expectation Program addresses the following goals and objectives in respect to foreign policy):

1. A complete political and economic boycott of the racist governments of Israel, Zimbabwe (formerly Rhodesia), and the Union of South Africa should be instituted. By the same token assistance should be provided to liberation movements around the world with the adoption of resolute, decisive political positions in support of all freedom causes.

2. Iran should withdraw from all humiliating imperialist agreements, open or secret, political or military, and join the United Nations bloc of non-aligned nations.

The following text is taken from a speech given by MEK leader Massaud Rajavi in 1972 during his trial proceedings. According to Suroosh Irfani (see preface), the text of this speech was widely circulated among MEK members and sympathizers during the period before the 1979 revolution. The statement reads:

"This trial will end tonight or tomorrow night. So perhaps these are the last nights of our lives. If we are not executed, we will be sentenced to life imprisonment. The regime is holding this trial because the people's movement has intensified and international concern for the state of political prisoners in Iran has increased. For example, Jean Paul Sartre has requested for permission to attend this trial. Al-Fateh issued a special bulletin in our support, and radio Iraq has read out the names of a number of the Shah's political prisoners threatened with execution. The Pahlavi regime, therefore, decided it was in its own interest to hold this trial.

"Each of us has been allocated only half an hour for his defense. Since this does not give us sufficient time to present our case in our ideological context, my comrades will continue the text of this defense in the context of political and economic realities and the rationale and history of our organization and revolutionary struggle.

"The cause for our misfortune and the suffering of all the people at this stage in history is international imperialism. Puppet regimes have been installed here and there by imperialism. Were these regimes to rely on themselves and their people, they would not last even for a day. There are two fronts in the world today. On the one side are the impoverished, the deprived and exploited masses, the homeless and the hungry, the struggling Palestinians and revolutionaries. On the other side are the affluent, the greedy owners of oil wells, big industries and war machines. There is no question of a compromise or a human relationship between those two fronts. We are proud of what you call are our crimes. We feel honored that we are fighting, hand in hand with other revolutionaries, for destroying imperialism and Zionism. Only two options face us today. Either struggle or surrender. Either we must fight like the Vietnamese, Chinese, and Palestinians, or we must submit ourselves to bondage, like the (Shah's) Iran. The odds we are facing in our struggle are heavy. But a human being cannot be cleansed without suffering and trial. When I speak these words, I have in mind the mothers and fathers whose children are in prison. But such is the philosophy of life. Their children will be destroyed physically, but dawn is near. We must endure.

"I and my friends are children of Dr. Mossadeq and followers of his path for national independence and freedom. We have turned our backs on money and position. It was the people who brought Dr. Mossadeq to power to work for nationalization of oil. His was the only legal government our country has had. But Mossadeq was overthrown and the political opponents of the (Shah's) regime were massacred. Following this, the regime flung open the doors for the unrestrained plunder of Iran's wealth. Oil revenues began to be mainly used for purchasing arms and paying the salaries of American advisers.

"Today, the regime has found itself compelled to don a new dress in order to prolong its survival. It is carrying out land reforms and sharing profits with factory workers. But it is playing imperialism's game. Since the coup, (against Mossadeq in 1953) corruption in government administration and bribery are on the increase as are the misfortunes and deprivations imposed on the people by the ruling classes. Take a look at the shanty towns around Tehran. If the poor fall sick, they are condemned to die while waiting unattended outside the hospitals. The shanty town dwellers have nothing to lose except their debts. In rural areas, exploitation by landlords has been replaced by exploitation by the government. These are some of the things creating readiness for revolution. Under conditions when all voices of protest are being muffled and people are suppressed, the only way for struggle is armed resistance by the people.

"To serve government propaganda, the regime's Prosecutor is accusing us of wasting the country's foreign exchange in purchasing arms. I wish to ask: are we the ones who have transferred huge amounts of foreign exchange from this country and sold the nation, or you? Who is hoarding foreign exchange in Swiss accounts? Who owns the hotels, night clubs, and casinos? If he (the Shah) has not acquired all these by robbing the nation of its wealth, then we must assume that his father was a thief. Are we the ones who are wasting the country's foreign exchange or those who import luxury goods and cosmetics, dresses from Dior and flowers from the Hague, whose expenditure for a night of revelry is astronomical.

"Our oil resources are being heartlessly plundered. If the present trend is to continue, Iran's oil reserves would be depleted by 1987. The present oil production stands at 227 million tons a year. Iran is receiving only $1.3 for every $10 of oil that is taken away

and sold at high prices in European markets. We are losing at least two billion dollars in this unequal transaction. Mr. Prosecutor, take a look at this amount, and not at the foreign exchange we have used for purchasing a few machine guns. Hundreds of millions of dollars are ending up in the pockets of foreign companies. In a Press statement, the chairman of the planning commission has confessed that an amount running into hundreds of millions had been embezzled under various pretexts. We were promised that with the oil income, Iran would become a welfare state. But the masses have become more impoverished. People are denied their legal rights. When the workers of brick and smelting factories went on strike, soldiers opened fire on them. 200 workers were killed. Troops killed Dr. Khan Ali during the teachers' strike, and wounded so many others. The teachers and the factory workers had merely asked for a salary increase. Yet they were fired at, and their killers got promotions. When the regime reacts to the legitimate demands of the people in this manner, is it possible to remain silent and not pick up a gun?

"Our country is suppressed under the tips of bayonets. To resist this general suppression, even the clergy, which had withdrawn for the past 50 years, is entering the scene of struggle against the Pahlavi regime. There was an uprising in Qom. Students of religious schools attacked soldiers and soldiers killed two persons.

"This led to an uprising by the clergy, the bazaar merchants, and students. The result was the massacre in June 1963. It was after this massacre that Hanifnejad and Badizadegaan came to the conclusion that it was not possible to secure one's rights through discussion and logical arguments. They referred to the Quran and the Nahjul Balagha to begin a new revolutionary movement. Besides the Mujahideen -E- Khalq, other revolutionary groups have emerged and continue to emerge to fight for the defense of human dignity.

"That so many revolutionaries are joining the underground resistance shows that the existing conditions are such that hundreds of our best youth have stepped on the path of armed struggle. This proves that our struggle is not waged for any personal motive or objective. Hundreds of highly qualified doctors and engineers are on this path. Ten years ago, the activity of opposition groups was limited to the clandestine distribution of newsletters and bulletins. But now we are picking up arms. This is only the beginning of our struggle. We are aware that victory cannot be achieved quickly and easily. Hazrat Ali has said: 'God does not destroy the exploiters and oppressors of the times Himself. He gives them the opportunity to return to the straight path. When they do not do so, they sink deeper into the swamps of exploitation and decadence. Then He delegates to the people the responsibility to carry out Divine Justice. God does not heal the fractured bones of any nation without suffering and trial.'

"The (Pahlavi) regime is endeavoring to lead our youth astray by propagating the moral decadence of Western capitalism. Instead of creating conditions for heightening the social and political consciousness of the young, the regime is encouraging corruption and immorality by setting up "Youth Palaces" (and such filthy publications as *Zan-e-Rooz (Woman Today)*. The regime's objective is to prevent the young from getting involved with the real problems concerning them and their society.

"Ruthless suppression is being openly practiced in order to crush the spirit of resistance and instill an attitude of despair and powerlessness among people. Armed guards are being installed in universities. SAVAK's budget is running into hundreds of millions. No one can be taken into employment without first undergoing a screening by SAVAK. The Police and SAVAK have been given unlimited authority for dealing with political dissidents. The director of Qazel Qile prison has instructed his personnel to deal with political dissidents as a butcher deals with the lamb. The regime is not prepared to tolerate opposition or criticism in any form. The workers of Jahan textile industry who were demanding a pay raise were attacked by soldiers. Twelve of the factory workers were killed. A few months ago, soldiers attacked Tehran University and Arya Mehr University. Even the professors were mistreated and assaulted.

"There is nothing the regime can do but intensify its oppression. This is a clear indication of its weakness and is a sign of its impending doom. Political prisoners are being subjected to savage torture.

"Many of them have died under torture. According to article 131 of the Constitution, if an official causes the death of a political prisoner (under interrogation and torture) he is to be dealt with as a murderer. Yet the killers of political prisoners are going about freely and getting promotions. Burning the body of the prisoners with a stove, pulling out the fingernails, whipping and blows to the genitals are the methods most often used. Mohammad Hanif-negad was beaten so heavily that the bones of his hands, feet, nose, and ears were crushed. Behrooz Dehqani was killed under torture. A baton smeared with acid was thrust into the rectum of Masood Ahmadzadeh. Before he died, Ahmadzadeh had to spend two months of gruelling agony in hospital. You cannot endure listening to our words. We do not expect this inhuman regime to treat us differently. That is why we are fighting to overthrow it. We are looking forward to that day when our people will drag the traitors to the people's court. Down with American imperialism. Hail to those who endure agonies and suffering for the sakes of revolution and freedom."

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[From the Congressional Research Service, Nov. 20, 1992]

THE PEOPLE'S MOJAHEDIN ORGANIZATION OF IRAN

(By Kenneth Katzman, Analyst in Middle Eastern Affairs, Foreign Affairs and National Defense Division)

SUMMARY

Once a partner in the coalition that overthrew the Shah of Iran, the People's Mojahedin Organization of Iran (PMOI) is now a major opponent of the regime in Tehran. It advocates democracy, human rights protection, and free market economics for Iran, but its past commitment to left-wing positions has led many observers to question its true intentions. While noting that the PMOI is the most active and effective Iranian opposition group, most observers doubt it currently has sufficient strength to threaten the regime's grip on power. Because of the Mojahedin's alleged use of terrorism during its fight against the former Shah, its early association with the Khomeini regime, and ties with Iraq, the State Department refuses to meet with its representatives. Many in Congress, however, have publicly supported the group or its goals.

INTRODUCTION

Iran's major opposition group, the People's Mojahedin Organization of Iran (PMOI) was formed in 1963. It has clear control over the twenty-two member umbrella group called the National Council of Resistance of Iran (NCR), which was established in 1981 to give the appearance of a broad-based opposition coalition. The military arm of the PMOI/NCR, the Iraq-based National Liberation Army (NLA), was formally established in 1987. All three organizations are led by Masud Rajavi and his wife, Maryam, who serves as Secretary General of the PMOI and deputy commander of the NLA.

Organizational History: The PMOI was founded in 1963 (the year Ayatollah Ruhollah Khomeini began his revolutionary struggle against the Shah) as a militant, revolutionary, anti-Shah organization.[1] Ideologically, it attempted to blend Islamic fundamentalism and Marxism, but its increasing emphasis on Marxism, in the mid-1970s, caused many of the Islamic elements in the organization to split off and work more closely with the clerics close to Ayatollah Khomeini.[2] These ideological differences did not prevent the PMOI from cooperating with the clerical forces in toppling the Shah, but tensions between the Mojahedin and Khomeini increased significantly after the triumph of the revolution in February 1979. The clerics began to consolidate their control over the government and exclude the non-clerical groups from power. The PMOI also diverged from other leftist groups such as the pro-Moscow Tudeh Party, which continued to back the clerics.

Mojahedin relations with the clerics worsened throughout 1980 and 1981.[3] Ayatollah Khomeini refused to allow the PMOI's leader, Masud Rajavi, to run in the January 1980 presidential elections because the group had boycotted a referendum on the new Islamic republican constitution.[4] The PMOI held a major demonstration on June 20, 1981, which turned into an armed confrontation with the regime. Former President Abol Hassan Bani-Sadr was perceived as encouraging the PMOI demonstrations and cultivating the PMOI as a base of support; he was removed as President the next day. On July 29, 1981, PMOI leader Masud Rajavi and the ousted Bani-Sadr secretly escaped to Paris and announced the formation of the National Council of Resistance (NCR). Blocked from power through legal means, the Mojahedin launched a major armed revolt in September 1981, which was crushed by the regime's Revolutionary Guard and set off the regime's campaign to wipe out the PMOI within Iran. The regime also charged the group with responsibility for bombings at the headquarters of the Islamic Republican Party (IRP), the cleric's party organization) and the Prime Minister's office in the summer of 1981, which killed many major regime leaders.[5]

Despite their difference, the PMOI and the clerics shared an uncompromising anti-American and anti-Western orientation. The PMOI is charged with killing several Americans in Iran as part of its underground struggle against the Shah. According to the State Department, these included U.S. military adviser Lt. Col. Lewis Hawkins in 1973, two U.S. Air Force officers and a local employee of the U.S. Embassy in Tehran in 1975, and three American employees of Rockwell International in 1976.[6] The PMOI counters that its top leadership was in prison at the time of these killings and that they were the work of radical Marxist opposition factions within the PMOI.[7] The State Department and scholars of the period say the PMOI also supported the holding of the American hostages and saw the hostage crisis as an opportunity to discredit Iranian liberals and the United States.[8] The State Department emphasizes these points in justifying its refusal to meet with the organization. The PMOI claims it did not support the hostage taking and that the regime used the crisis as a tool for cracking down on its internal opponents, including the PMOI. The PMOI also denies that it is anti-American and publicly supports current U.S.-sponsored Middle East peace efforts.

Strategy, Tactics, and Capabilities of the PMOI: Since its failed September 1981 uprising against the regime, the PMOI has been engaged in armed struggle against the regime, including the use of political violence. In Iran, the Mojahedin maintains clandestine cells that spread PMOI literature, gather information on regime activities, and conduct operations against regime officials and installations. For example, in October 1992, the PMOI claimed responsibility for planting a bomb in the headquarters of the Revolutionary Guard, the regime's principal instrument for combatting the PMOI. The PMOI also claims to have played a major role in anti-regime demonstrations during 1992, but many analysts, although acknowledging some PMOI involvement, do not believe that the PMOI has sufficient strength or support to seriously threaten the regime's grip on power. Despite its weaknesses, the PMOI's dedicated followers have been resilient and persistent, defying regime efforts to eliminate the organization within Iran. The regime is genuinely concerned about PMOI activities in Iran and PMOI supporters are a major target of Iran's internal security apparatus. The group claims that 100,000 of its members have been killed and 150,000 imprisoned by the regime, but these figures are believed to be somewhat exaggerated. Noting that the Mojahedin is not the only victim of its struggle against the Iranian regime, in mid-1991, a State Department spokesman said that the PMOI's use of violence against the regime has resulted in the deaths of 10,000 Iranians, most of whom were innocent civilians.[9]

Operating through the National Council of Resistance umbrella group, the Mojahedin maintains offices throughout Western Europe and the United States which attempt to expose alleged regime abuses and curb foreign governments' relations with or support for the Tehran government. The organization frequently conducts anti-Iranian regime marches and demonstrations in those countries, publicizing the regime's alleged human rights abuses. On several occasions, it has attacked Iran's embassies abroad, following Iranian actions against the organization. The PMOI attacked Iranian missions in ten countries, including the United States, in April 1992, following an Iranian air strike on its base across the Iranian border with Iraq,[10] and incited significant protest outside Iran after the Iranian regime assassinated Masud Rajavi's brother, Kazem, in Switzerland on April 24, 1990.[11] Over the past year, the PMOI has also attempted to raise additional concerns in the United States and Western Europe about Iran's weapons of mass destruction programs and its military intentions. Many of its reports remain unconfirmed, but some analysts note that the PMOI occasionally does uncover sensitive information on Iranian activities[12] and that its information should not be automatically rejected.

The PMOI's military arm is the National Liberation Army (NLA), which was officially formed in 1987 after France, as a gesture toward the Iranian government in 1986, expelled the PMOI leadership. Iraq, then in an all out war with Iran, granted the organization a new home. The NLA is based about sixty miles from the border with Iran and claims 40,000 troops under its command, although analysts believe the figure is probably closer to about 15,000. About one-third of the NLA's combat forces and unit commanders are women. It has perhaps a few hundred tanks as well as other heavy equipment captured from Iran during the Iran-Iraq war.[13] Journalists who have visited NLA bases reported seeing that some of the NLA's tanks were not working.[14] Lighter weaponry and ammunition is believed to be supplied largely by Iraq.[15] The group repeatedly claims that a "final offensive" that will liberate Iran is imminent, but most analysts doubt that the NLA can conduct a major offensive against an Iranian military of about 600,000. The NLA has, however, successfully fended off several small offensives against them by Iran's Revolutionary Guards, most notably those connected to the March 1991 Shiite uprisings against Saddam Hussein. Moreover, it is widely believed that the NLA is largely under the control of Iraq and, even if capable, would not be able to carry out an offensive into Iran without at least the tacit approval of Saddam Husayn.[16] Saddam also has apparently used the NLA as a bargaining chip in relations with Iran, unleashing the group when relations deteriorate and reining it in when relations improve.

Sources of External Support: Just as the extent of the PMOI's support within Iran is not precisely known, neither is its strength among Iranian exiles. Because of its anti-Shah past, the PMOI is not close to major monarchist opposition figures such as the former Shah's son (Reza Pahlavi). Although he co-founded the NCR with Rajavi, former President Bani-Sadr has not been active as an opposition figure and is not currently identified as a member of the 22 person NCR. The PMOI/NCR also does not appear close to the loyal opposition National Freedom Movement, headed by the Islamic Republic's first Prime Minister, Mehdi Bazargan, and which is allowed to operate within Iran. A

Footnotes at end of article.

few nationalist and democratic parties, such as the National Democratic Front of Iran, have joined the NCR. Among Iranian exiles, the former Shah's son probably enjoys more popular support than the Mojahedin, but the PMOI's followers, drawn generally from the intelligensia, are said to be more dedicated and zealous than those of the other groups.

Among governments in the Middle East, Baghdad is the PMOI's most visible supporter, offering the group a base of operations, as well as safe haven, and weapons. Many observers claim that Iraq is the PMOI's chief financial source, even though the PMOI lists its primary financial sources as merchants inside Iran, Iranian exiles, and a network of businesses in Europe.[17] There have also been unconfirmed reports that Saudi Arabia is contributing to the PMOI. However, the Mojahedin's close ties to the Iraqi Government—Saudi Arabia's primary adversary—casts significant doubt on those reports. There are also indications that Turkey had been supporting the PMOI; in a September 1992 security agreement with Iran, Turkey pledged not to allow Iranian opposition groups to operate from Turkey.[18] Many observers also note that, because of the large number of Iranians in or passing through Turkey, the PMOI has a significant information gathering network there.

Relations With the Administration and Congress: Since 1987, the PMOI has been registered with the U.S. Department of Justice under the Foreign Agents Registration Act of 1938, as amended. However, the Administration refuses to meet with representatives of the organization. In response to an inquiry by Representative Lee Hamilton, Chairman of the Europe and Middle East Subcommittee of the House Foreign Affairs Committee, the State Department explained its position as "stem[ming] from the PMOI's use of terrorism and its aim of seeking the violent overthrow of the current Iranian regime." The Department also lists Mojahedin attacks on U.S. personnel in Iran before the revolution, the group's support for the takeover of the U.S. Embassy Tehran in 1979, and the PMOI's current ties to the Iraqi Government as justifications.[19] State notes the group's past acceptance of some aspects of Marxism but indicates that ideology is not the basis of U.S. opposition to the group. The PMOI charges that the Department position is the product of a pledge to the Iranian Government in the U.S.-Iran arms dealings of 1985–86,[20] and objects to the Department's characterization of the organization.

Many Members of Congress have been more supportive of the PMOI, perhaps because of the significant Iranian exile community in the United States. The PMOI's warmer reception in Congress may also flow from continuing popular resentment of Iran over its seizure of the American hostages in 1979. Some Members may believe that any alternative is preferable to the current regime in Tehran. As examples, Representative Mervin Dymally has occasionally circulated letters supporting the PMOI or its goals; congressional letters such as these have sometimes attracted close to two hundred signatures by House members. In the belief that all sides of the debate on U.S. policy toward Iran should be represented, Representative Dymally also has hosted speaking engagements for PMOI representatives. In October 1992, Senator Hank Brown led 61 Senate colleagues in urging the U.N. General Assembly to condemn human rights violations in Iran and "supporting the Iranian People's Resistance."[21] PMOI literature frequently trumpets the group's meetings with Members and their expressions of support for the organization, no matter how qualified that support.

FOOTNOTES

[1] A detailed discussion of the political and ideological roots of the MKO is contained in Abrahamian, Ervand. Radicial Islam: The Iranian Mojahedin. Londor: I.B. Taurus and Co. Ltd., 1989.

[2] The PMOI claims its current leadership is also drawn from the Islamic rather than the Marxist wing of the organization. The group publicly espouses democracy, protection for Iran's minorities, internationally recognized standards of human rights, and free market economics. However, many critics question whether or not the group has really abandoned its more authoritarian roots and believe that the group is concealing its true views in order to curry international support in toppling the Tehran regime.

[3] A discussion of the relationships among Bani-Sadr, the PMOI, and the clerics is contained in Bakhash, Shaul. The Reign of the Ayatollahs. New York: Basic Books, Inc., 1984.

[4] Bakhash, p. 90.

[5] There has been much speculation among academics that these bombings were actually planned by senior IRP leaders, including Ali Akbar Hashemi Rafsanjani (now Iran's President) to rid themselves of rivals within the IRP.

[6] See, Department Views of the People's Mojahedin Organization of Iran, in Congressional Record, daily edition, April 28, 1992. p. E1114-E1117.

[7] Ibid., p. E1116.

[8] Ibid. See also Bakhash, Shaul. The Reign of the Ayatollahs. p. 114–116.

[9] Iranian Rebels Cheered on Hill, Called Terrorists by State. Washington Times, July 15, 1991. p. A7.

[10] Iran Rebels Hit Missions in 10 Nations. New York Times, April 6, 1992. p. A3.

[11] Beichman, Arnold, Chilling Stretch of Iranian Intimidation. Washington Times July 15, 1991. p. D1. The report also notes the Swiss justice authorities charge that Iranian government agencies directly planned and carried out the assassination of Kazem Rajavi. The U.S. State Department also assigns responsibility for the killing to Tehran.

[12] Iranian Rebels Cheered on Hill, Called Terrorits by State.

[13] During the Iran-Iraq war, NLA units often accompanied Iraqi units on the offensives into Iran and were given a share of captured weaponry. In July 1988, for example, NLA units took advantage of a major Iraqi offensive into western Iran to briefly capture and hold two towns, Kerend and Eslamabad-e-Gharb, in its Eternal Light operation.

[14] Opposition Trains on Plains of Iraq to Topple Iranian Rulers. Associated Press, May 8, 1991.

[15] Group Unveils Iran's Nuke Weapon Plan, Plots "Equal Opportunity" Overthrow. Armed Forces Journal International, March 1992. pp. 26, 28.

[16] Facing Iran: An Army With Resolve and Day Care. New York Times, June 5, 1991. p. A4.

[17] Group Unveils Iran's Nuke Weapon Plan, Plots "Equal Opportunity Overthrow.

[18] Further on Iran-Turkey Accord. Tehran Islamic Republic News Agency, September 15, 1992.

[19] Exchange of letters between the PMOI and Rep. Lee Hamilton, and between Rep. Hamilton and the Department of State, reprinted in Congressional Record, daily edition. April 28, 1992. pp. E1114–E1117

[20] Iranian Rebels Cheered on Hill, Called Terrorists by State.

[21] Taken from the test of the Senate letter to U.N. Secretary-General Boutros Boutros-Ghali, October 28, 1992.

[From the Washington Post, Dec. 2, 1992]

DON'T LOOK TO IRAN'S MUJAHEDDIN FOR HELP

I agree with William Raspberry on "The Threat From Tehran" [op-ed, Nov. 11]. Iran's military buildup and religious proselytizing pose a threat to regional stability and U.S. security interests as well as to the security of Iran itself. Indeed, the clerical regime has neglected democratic principles, human rights and the general wellbeing of its people in the pursuit of militant fundamentalism, terrorism and military supremacy. I further agree with Mr. Raspberry that the clerical regime should be replaced with a democratic one.

But I should emphasize that the People's Mujaheddin Organization is not the answer. The People's Mujaheddin is a leftist revolutionary group categorized as a terrorist organization by the State Department. In the 1970s, the Mujaheddin assassinated a number of Americans in Iran: Air Force Brigadier Gen. Harold Price, Col. Lewis Hawkins, Col. Paul Schaefer and three civilian employees of Rockwell International.

The Mujaheddin carried out an aborted attempt to kidnap Ambassador Douglas A. MacArthur II in December 1970 in Tehran and bombed the offices of El Al, British Airways the Jewish Emigration in Tehran.

The Mujaheddin also participated in the takeover of the U.S. Embassy and the taking of the American diplomats as hostages in Tehran and took credit for prolonging their ordeal.

The American public and the leadership should be aware that the People's Mujaheddin has been and is a tool of the Baghdad regime and receives financial, political and moral support from Saddam Hussein.

Durng the war between Iran and Iraq, the Mujaheddin went so far as to attack the Iranian armed forces from bases in Iraq.

The solution to the problem of Iran is to replace the despotic regime of Tehran with a democratic Western-oriented government that would promote peace and stability in the region and put an end to state-sponsored terrorism.

ASSAD HOMAYOUN.

CHEVY CHASE.

The writer is a former minister in the Iranian Embassy in Washington.

IRAN REBEL GROUP LOBBIES WELL, BUT IS IT ANTI-AMERICAN?

(By Morton M. Kondracke)

Having lobbied its way into favor on Capitol Hill, a controversial Iraq-based Iranian revolutionary group is making a strong play to gain official recognition from the incoming Clinton Administration.

But Sen. John McCain (R-Ariz) is asking the FBI for a public report on the group, the People's Mujahedin of Iran (PMOI), charging that it has a "history of violence against American citizens." It a charge that bears looking into by the President-elect.

A delegation of PMOI officials, including its foreign affairs director, attended the Democratic Leadership Council's dinner in Washington Dec. 8 and managed to make a brief presentation of its case and some literature to Clinton, his wife Hillary, and several top Congressional leaders.

Vice President-elect Al Gore, one of 62 Senators who signed a pro-PMOI letter Oct. 28, met for half an hour with the foreign affairs director, Mohammed Mohadessin, just before the election.

"With a new Administration, we believe it is time for a new approach toward Iran," a Mohadessin aide, Ali Safavi, told me. He indicated that the PMOI hopes, at a minimum, for reversal of a State Department ban on official contact with the group and, at best, for aid and recognition as the leading resistance group battling the fundamentalist government of Iran.

Safavi charged the Bush Administration with "appeasing the mullahs." who are bent on a policy of internal repression, terrorism, military domination of the Persian Gulf, and development of nuclear, chemical, and biological arsenals.

Administration officials admit that Iranian President Hashemi Rafsanjani has not, as they hoped, demonstrated more moderation than the late Ayatollah Khomeini. Iran is currently accused of trying to wreck the

Mideast peace talks by prompting fundamentalist attacks on Israelis and of being one of the world's foremost sponsors of terrorism. The CIA recently confirmed there are signs that Iran is working on a nuclear capability.

Still, the State Department says it opposes the PMOI as a "leftist" group founded in opposition to Zionism and American "imperialism" and alleges it supported not only the assassination of several American military officers and civilians in Iran between 1973 and 1976, prior to the overthrow of the Shah in 1979, but also the seizure of the US embassy in November 1979.

But PMOI spokesmen claim their group is Islamic and democratic and, while certainly anti-Shah, had nothing to do with attacks on Americans. The group asserts that the assassinations took place when the PMOI's leader, Masoud Rajavi, was in jail and leadership of the group was seized by militant Marxists. Further, the US embassy, according to PMOI, was seized by Islamic militants who later became the Revolutionary Guards.

The group maintains an effective lobby in Washington. This summer, 219 House Members, led by Reps. Mervyn Dymally (D-Calif), Helen Bentley (R-Md), and Robert Torricelli (D-NJ), signed a statement denouncing Iranian human rights abuses and declaring that the PMOI-led National Resistance Council "is capable of establishing freedom and democracy in Iran."

The Senate letter that was signed by Gore and circulated by Sen. Hank Brown (R-Colo) cited the House action and support from 1,300 parliamentarians in 19 other countries.

But on Nov. 28, a Congressional Research Service report raised questions both about PMOI's military prowess and its dedication to democracy.

According to CRS scholar Kenneth Katzman, the PMOI-led National Liberation Army (NLA) "claims 40,000 troops under its command, although analysts believe the figure is probably closer to 15,000," as against 600,000 in Iran. "Moreover, it is widely believed that the NLA is largely under the control of Iraq, and, even if capable, would not be able to carry out an offensive into Iran without at least the tacit approval of Saddam Hussein," Katzman wrote.

Katzman says that Rajavi is an "authoritarian socialist" and notes that PMOI propaganda features pictures of him and his wife in the style of regimes dominated by cults of personality.

McCain, co-sponsor of tough sanctions legislation against Iran, wrote to FBI Director William Sessions on Dec. 15 asking for an update of a 1987 public report on PMOI, which alleged complicity in assassination of Americans and the embassy takeover.

"I am concerned that PMOI is playing an active role in lobbying the US Congress," McCain wrote, "under conditions where members have no way to learn the history of this organization," which he said involves "violence against American citizens, terrorism and financial ties to Iraq."

As a well-placed Congressional aide noted, "this is a three-cornered game between Iraq, Iran, and the PMOI. There are no good guys. There are only villains."

So while it may be that the Clinton Administration will find the PMOI worth supporting to harass an aggressively anti-western Iran, no decisions should be made before the facts are sorted out.

CAMPAIGN FOR DEMOCRACY
AND HUMAN RIGHTS IN IRAN,
December 24, 1992.

DEAR SENATOR MCCAIN: Your tough sanctions legislation against the Islamic "Republic" of Iran and your stand against the "People's Mojahedin Organization" is quite commendable.

The PMOI which has been repudiated as a terrorist organization on numerous occasions by the United States Department of State in the last 20 years, has presented a grossly distorted picture of their movement and their gross acts of terrorism is without exaggeration feared and abhored by the Iranian people.

Many facts concerning the unsavory nature of this so-called resistance movement should be presented to the honorable members of Congress who are horrified by the insane and reprehensible behavior of an Iranian leadership which has resorted to unprecedented acts of brutality, hostage taking and international terrorism. For example the fact that the resistance group being promoted was a committed supporter of Khomeini and until it began quarreling with the Mullahs in 1981, had in fact acted hand in hand with the Islamic regime to suppress all shades of liberal and democratic thought in Iran. It is also important to note that during both the Iran-Iraq War, as well as the Persian Gulf War, it had sided with Saddam Hussein first against their own people and later against the democratic alliance.

The solution to Iran's problems is the replacement of the current Rafsanjani-clerical Administration with one democratic inclination, responsive to popular aspirations, needs and priorities. Democratically minded Iranian opposition groups are working toward this goal.

We are looking forward to hear from you.

Respectfully Yours,

LAILA AMIR,
President.

IRANIAN COMMUNITY CENTER
IN ARIZONA,
Glendale, AZ, December 28, 1992.

Hon. Senator JOHN MCCAIN,
Senator of Arizona.

DEAR SENATOR MCCAIN: A recent article in the Washington Post has stirred up a controversy in our community. In the letter titled "Iranian Group Lobbying Clinton", the author, Mr. Kondracke, has attempted to undermine Mojahedin's legitimacy in their struggle for democracy and peace in Iran. Their diplomatic campaign which is merely to expose Khomeini's brutal regime and to introduce their just resistance, has been portrayed as fraud and deceiving, an accusation that has brought resentment in our community.

Our community was particularly hurt to find your name in the article supporting Mr. Kondracke's arguments particularly when we have been in contact with your office and have informed you of the situation.

After fourteen years of Khomeini, the world has realized Khomeini's crime against humanity, thanks to Mojahedin for their countless efforts to expose the regime. If it was not for the Mojahedin with their extensive support and connections within Iran, how would the truth by-pass the filters of a controlled and censored Iran. International organizations such as Amnesty International, when reporting on Iran, base their figures primarily on the Mojahedin. This illustrates their recognition and credibility.

The regime in Iran has been condemned repeatedly in the world community for the violations of human rights and export of terrorism. Iran's response to the condemnation has been to deny the charges on the basis that the information leading to condemnation has been produced by the Mojahedin. Thus clearly, the first beneficiary of this letter are the mulahs in Iran and consequently, the first victim will be the Iranian people who carry the bitter experience of 14 years of ruling of a reactionary, anti-western, and oppressive regime.

As Iranian-Americans, we are concerned with the situation in Iran and follow the events closely. We are well informed on the Mojahedin and are certain that the alleged charges in the letter are not true. Mojahedin have never been involved in any terrorist activities as suggested by Mr. Kondracke. They have strongly and repeatedly condemned any such action or one against the international laws and principles that they are striving and seeking for Iran. They are truly independent and have no financial or military ties to a foreign country or agency. They are deeply rooted in the Iranian people and enjoy popular support, among Iranian people as our community here in Arizona is a proof of that.

During the eighties, at the time when the Reagan-Bush administration was trying to renew its vows of friendship with Khomeini, the first prerequisite to any such relationship with Iran was denunciations of the Mojahedin. It was within this context that the 1987 FBI report came out. Therefore, except for Khomeini and its strategic friends, no one would believe that a movement with strong Islamic beliefs with many highly western (including the United States) educated members can possibly be "leftist" or "terrorist". Accusing the Mojahedin of such, is an insult to a nation who see their only hope for freedom in the Mojahedin.

There are two opposite scenarios in Iran. One is represented by the Khomeini regime which has proven to be only a potential for further instability for the region with no chance of any moderation. The second scenario which lies with the Mojahedin, is the only alternative for this troubled but strategically important region of the world. Stability will only return when Iran is freed. Only the Mojahedin can bring a lasting democracy to Iran and peace and stability to the region. Therefore, it is in the best interest of the United States as well as the Iranian people that the United States take a firm standing, against mulahs in Iran and to support the Mojahedin.

Mojahedin have been clear on the future of Iran. Their standing on issues has been out for many years. We as Iranian-Americans are all familiar with their goals. They have enjoyed international support. It just seems impossible that the whole world is misinformed. The "conditions" to study the past history and present program is all public information easily accessible to all. Thus, the recent support by the United States Congress is not due to their lack of knowledge but rather to their commitment to human principles.

The current situation in the region is volatile and changes can go in any direction. A greater focus and attention on the situation is required. We would like to send representatives and discuss with you concerning the situation and the Mojahedin. We hope to work together with you to resolve the misunderstandings.

Sincerely yours,

REZA MOHKAMI,
[And 5 others].

IRANIAN CULTURAL SOCIETY
OF NEW JERSEY,
Toms River, NJ, December 28, 1992.

Ms. STACY MASON,
Roll Call, 900 2nd Street, NE.,
Washington, DC.

DEAR MS. MASON: When finally there seem to be a change in the US policy toward Iran and the Iranian Resistance, elements and supporters of the Mullah's regime in Iran are at work to pursue a campaign of misinformation aiming at discrediting the new policy. Reading Mr. Kondracke's article in the December 21, 1992 issue of the Roll Call, I see that this misinformation campaign has found its way into his work as well.

Without going into details of the State Department "fact sheet" against the Resistance which has been rebutted by the Resistance representatives in the US, I just would like to emphasis on a fact that there is no alternative beside the National Council of Resistance to the regime in Tehran. The choice is between a regime which presents the biggest threat to US vital interests in the Persian Gulf region and the peace and security of the entire Middle East, and a democratic independent resistance led by Mr. Masoud Rajavi which will undo what Khomeini did in Iran. Denouncing the Iranian Resistance from any standpoint, in practical terms, means supporting the current regime.

The last three US presidents have made misinformed decisions with regard to the Mullah's regime which have damaged these presidencies one way or another. President-elect Clinton cleverly understands this and is determined to make a US policy more in line with US and world interests in that region. The recent meetings between Resistance representatives and members of the incoming Administration demonstrate the new policy. This new policy is in the interest of both nations and in particular in interest of Iranian-Americans who wish close and friendly relations between the American government and a new democratic government in their original homeland.

Time has come for this change and no efforts on the part of the Mullahs or their surrogates can stop it.

Sincerely,

JAVAD BOROUMAND.●

1992 "WOMEN ON THE MOVE" LIFETIME ACHIEVEMENT AWARD

● Mr. DECONCINI. Mr. President, on Sunday, December 13, 1992, four Arizona women received the 1992 "Women on the Move" Lifetime Achievement Award for outstanding public service and dedication to the community.

These four individuals are role models for not only women, but for anyone who aspires to achieve the highest level of personal satisfaction and who commits themselves to helping others. It is a particular personal pleasure that my mother, Ora Webster DeConcini-Martin, was among these exceptional individuals.

I would also like to commend the recipient of the 1992 "Women on the Move" Corporate Award, Tucson Electric Power Company, for focusing on and committing resources to helping the community.

I urge my colleagues to join me in extending congratulations to all the recipients for their fine accomplishments.

Mr. President, I ask that the enclosed award citations for these five recipients be printed in the CONGRESSIONAL RECORD.

The citations follow:

1992 WOMEN ON THE MOVE LIFETIME ACHIEVEMENT AWARD RECIPIENTS

Laura Nobles Banks is a Tucson native who has made her mark as both an educator and a businesswomen. Dr. Banks earned her doctorate in Education and is a retired Assistant Superintendent for the Tucson Unified School District and owner and President of LNB Enterprises, an educational consulting firm. Dr. Banks is also owner, with her husband Jack Banks, and operator of Jack's Original Bar-B-Q. Dr. Banks is particularly proud of her participation in the United Nations Decade for Women Forum in Nairobi, Kenya, and her contribution to the YWCA of Tucson of a building in Barrio Anita that was used to improve the quality of life for young adults and seniors and ultimately was used as a child daycare center. Dr. Banks was the President of the YWCA Board of Directors in 1963 and 1964, served on the YWCA National Board for eleven years, and continues to be very involved in community organizations. She is a member of the University of Arizona Foundation Planned Giving Committee, Women at the Top, Rotary Club of Tucson, Alpha Kappa Alpha, Inc., The Links, Inc., and Southern Arizona Restaurant Association. Dr. Banks is a Community Advisor for the Junior League of Tucson, a member of the Advisory Board of Resources for Women, and a Golden Heritage Member of the NAACP. Dr. Banks has received numerous awards including: NAACP Outstanding Community Service Award, U of A Black Alumni Phenomenal Women Award, Tucson High School Hall of Fame Award, Outstanding Achievement Award from the TUSD Council of Black Educators, and is listed in Who's Who in Arizona, 1989–1990. She will receive the University of Arizona's Distinguished Citizen Award in December 1992.

Ora Webster DeConcini-Martin is the daughter of an Arizona pioneer family and graduate of the University of Arizona. With Evo, her husband of 54 years, and now Morris Martin, she has created a legacy of sharing and giving to the Tucson Community for close to five decades. Ora DeConcini-Martin, Arizona Mother of the Year in 1978, has four children, Dino, a Phoenix attorney; Dennis, U.S. Senator from Arizona; David, a real estate developer and family business manager; and Danielle, a school teacher, homemaker and community activist. She was a charter member of the League of Women Voters of Tucson and has been active in the Democratic Party, serving as committeewoman for 30 years and as a national committeewoman from 1972 to 1980. Mrs. DeConcini-Martin's concern for the homeless has led to increased space to serve 60 more men at the Primavera Shelter. The building of Casitas Esperanza DeConcini at Pio Decimo Center also provides short-term transitional housing for displaced or homeless families and last year provided 20,000 child nights. Her commitment and contributions to quality health care led to the establishment of the DeConcini Primary Care Center at St. Joseph's Hospital. Her community activities include volunteer service and membership on many community boards including, the Catholic Foundation for the Diocese of Tucson, the Newman Foundation, the Pio Decimo Neighborhood Center, St. Elizabeth of Hungary Clinic, Merilac Lodge, the Tucson Symphony, the Boys Club Women's Board and the Arizona Cancer Foundation.

Cele Peterson grew up in Bisbee, Arizona, and attended the University of Arizona and George Washington University. Mrs. Peterson worked for the Library of Congress in Washington D.C. translating old Spanish documents which related to the history of the southwestern United States. Cele Peterson opened her first Cele Peterson's store in 1931—today there are three. Mrs. Peterson is a nationally recognized fashion designer of women's clothing with a southwestern flair. Cele Peterson has been a leader in the Tucson business, social services, and arts community for over 60 years and has played an important part in the growth of Tucson as a community. She has served on the boards of numerous community organizations including, the Tucson Symphony, the Opera Dames, the Founding Opera Board, Arizona Civic Theater, Casa de los Ninos, Industrial Development Authority, Tucson Local Development Corporation, Tucson Community Foundation Board of Trustees, The UA Humanities Seminars Community Advisory Board, Board of Steele Memorial Children's Research Center, Pima Council on Aging, National Society of Arts and Letters, and the Advisory Board of Therapeutic Riding of Tucson (TROT). Cele Peterson was the founder of the Southwest Children's Exploratory Center which later became the Tucson Children's Museum. Cele Peterson has been the recipient of many honors from a very grateful community including, City of Hope, Chamber of Commerce Founders Award, University Distinguished Citizen Award and the Crystal Apple Award. Mrs. Peterson is the mother of five children, ten grandchildren and three great grandchildren.

Esther Don Tang was born in Tucson to the Don Wah family, a Tucson pioneer family before 1908, and attended Tucson schools and the University of Arizona. Esther Don Tang has distinguished herself as a leader in social services and in business. She retired as the Executive Director of the Pio Decimo Center after twenty years and is currently the Vice Chair and Consultant for Netwest Development Corporation, which develops housing for the elderly, families with children and entry level workers. Esther Don Tang has served on the National Board of the YWCA, Pima Community College Board, the Model City Advisory Board, Governor's Committee on Marriage and Family, the Salvation Army Board of Directors, Pima Council on Aging, the University of Arizona National Humanities Board, and the Arizona State Personnel Board. Esther Don Tang has also chaired the Tucson/Taichung Sister City Committee and trained Peace Corp Volunteers for Venezuela. She was the 1955 Woman of the Year, has received the Jefferson Award, the Dr. Martin Luther King Distinguished Leadership Award, has been honored by Tucson Rape Crisis Center, YWCA Women on the Move, Pima College Foundation, Tucson High School Hall of Fame, and the U of A Asian American Faculty. Mrs. Tang is particularly proud to have received the University of Arizona Doctor of Humane Letters and to have had the title of Lady Commander of Equestrian Order of the Holy Sepulchre of Jerusalem bestowed on her by the Pope.

1992 WOMEN ON THE MOVE CORPORATE AWARD RECIPIENT

Tucson Electric Power Company, an investor-owned electric utility which serves the Tucson area, has struggled over the last several years to restructure the Company in order to avoid a bankruptcy and the attendant negative impact on our community. The

Company's lengthy and complicated financial restructuring has been accompanied by a less public, but equally significant internal redirection and restructuring.

Tucson Electric Power's (TEP) new mission focuses on customer service, employee utilization, shareholder value and committing resources to help improve the community. Little time has been wasted in implementation. Soon after his election as President and CEO of TEP Charles E. Bayless added two women to the top management team in the positions of Vice President and Controller and Vice President of Finance. At the same time, two other women were entrusted with legal and strategic planning responsibilities, each crucial to the success of the financial restructuring of the Company's future.

Diversity is being addressed in many ways. The Cultural Awareness Resource and Education (CARE) Committee is charged with researching and making recommendations regarding employee cultural diversity issues, and an aggressive affirmative action program is designed to place females and minorities in positions in which they are currently underrepresented. Human resources policies continually examine work group opportunities for including a diverse mix of employees. Reflective of these TEP policies is the fact that the Board of Directors now includes two businesswomen and a Hispanic businessman.

New training programs, available to employees at all levels, stress communications skills, interpersonal relationships and diversity issues. With customer diversity in mind, primary customer information has been made more usable through Spanish language translations in larger type. Additionally, a range of beneficial low-income and senior citizen energy assistance programs have been added.

Community relations has also become a priority. The Community Action Team (CAT) was formed to encourage and publicize volunteer opportunities in the community. A modest corporate contributions program is targeted at cultural diversity and the environment as well as human needs in the community. And more employees are serving on non-profit boards of directors with the Company's full support and encouragement.

While environmental concerns are not new at TEP, the Company's educational programs on energy conservation and the environment have been expanded significantly over the past two years, reaching 2,700 local fourth-graders and their families through a hands-on energy conservation program, and another 3,000 K–12 students with topics ranging from electrical safety to respect for the environment.

An increased emphasis has been placed on educating and encouraging customers to use less electricity more wisely. These residential and business incentive and rebate programs create a basis for long-term strategies which address both environmental solutions and shareholder value.●

SENIOR OLYMPIC FESTIVAL

● Mr. DECONCINI. Mr. President, on January 23, 1993, the 9th Annual Senior Olympic Festival will commence in Tucson, AZ. This event, sponsored by Del Webb's Sun City Tucson and Senior Care from Intergroup of Arizona, is a unique opportunity for some 2,300 athletes over the age of 50 to engage in a spirited week of friendly competition.

Over a week's time and 90 events later, these participants will compete to qualify at the State and possibly the National Senior Olympics. The Senior Olympics have demonstrated that age is not a factor for those individuals who choose to live a long, healthy, and vivacious life. These events encourage others to not only exercise but lead healthier lifestyles in general.

Mr. President, I ask that my colleagues join me in offering support and luck to all the participants at the festival and in their continuing commitment to life and fitness.●

RESOLUTIONS CONCERNING DEMOCRATIC COMMITTEE ASSIGNMENTS

Mr. MITCHELL. Mr. President, I send six resolutions to the desk, and I ask for their immediate consideration, en bloc.

The PRESIDING OFFICER. The resolutions will be stated by title.

The legislative clerk read as follows:

Senate resolutions S. Res. 14, S. Res. 15, S. Res. 16, S. Res. 17, S. Res. 18, and S. Res. 19, en bloc.

Mr. MITCHELL. Mr. President, for the information of the Senate, these resolutions relate to Democratic committee assignments, including the appointment of the Senator from New York [Mr. MOYNIHAN] as chairman of the Committee on Finance, and the Senator from Montana [Mr. BAUCUS] as chairman of the Committee on Environment and Public Works; adjustment in committee assignments caused by Senator Bentsen's resignation; adjustment in certain committee sizes, and majority appointments to certain committees.

These resolutions have been cleared by the Republican leader, and he will offer resolutions relating to minority committee assignments immediately following action on these resolutions.

The PRESIDING OFFICER. The question is on agreeing to the resolutions, en bloc.

The resolutions (S. Res. 14, S. Res. 15, S. Res. 16, S. Res. 17, S. Res. 18, and S. Res. 19) were agreed to, en bloc.

The resolutions are as follows:

S. RES. 14

Resolved, That the Senator from Montana, Max Baucus, be and he is hereby, appointed Chairman of the Committee on Environment and Public Works, and

That the Senator from New York, Daniel Patrick Moynihan, be and he is hereby, appointed Chairman of the Committee on Finance.

S. RES. 15

Resolved, That the Senator from North Dakota (Mr. Conrad) be appointed to the Committee on Finance in lieu of his appointment to the Committee on Energy and Natural Resources.

S. RES. 16

Resolved, That the Senator from Texas (Mr. Krueger) is hereby appointed to serve as a member of the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources.

S. RES. 17

Resolved, That paragraph 4 of Rule XXV of the Standing Rules of the Senate as amended, is amended by inserting "(A)" after "(h)(1)" and by inserting the following new paragraph thereafter:

"(B) A Senator who during the One Hundred and Third Congress serves on the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Agriculture, Nutrition, and Forestry, and who serves as chairman of a committee listed in paragraph 2, may serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.".

S. RES. 18

Resolved, That paragraph 3 of Rule XXV of the Standing Rules of the Senate is amended for the One Hundred and Third Congress as follows:

(a) In subparagraph (a) strike "19" after "Small Business" and insert in lieu thereof "21", and

(b) In subparagraph (c) strike "10" after "Indian Affairs" and insert in lieu thereof "18".

Sec. 2 Notwithstanding the provisions S. Res. 400, the Committee on Intelligence shall have 17 members solely for the duration of the One Hundred and Third Congress."

S. RES. 19

Resolved, That the following shall constitute the majority party's membership on the committees for the One Hundred and Third Congress, or until their successors are chosen:

Committee on the Budget: Mr. Sasser (Chairman), Mr. Hollings, Mr. Johnston, Mr. Riegle, Mr. Exon, Mr. Lautenberg, Mr. Simon, Mr. Conrad, Mr. Dodd, Mr. Sarbanes, Mrs. Boxer, and Ms. Murray.

Committee on Rules and Administration: Mr. Ford (Chairman), Mr. Pell, Mr. Byrd, Mr. Inouye, Mr. DeConcini, Mr. Moynihan, Mr. Dodd, Ms. Feinstein, and Mr. Mathews.

Committee on Small Business: Mr. Bumpers (Chairman), Mr. Nunn, Mr. Levin, Mr. Harkin, Mr. Kerry (MA), Mr. Lieberman, Mr. Wellstone, Mr. Wofford, Mr. Heflin, Mr. Lautenberg, Mr. Kohl, and Ms. Moseley-Braun.

Committee on Veterans' Affairs: Mr. Rockefeller, (Chairman), Mr. DeConcini, Mr. Mitchell, Mr. Graham, Mr. Akaka, Mr. Daschle, and Mr. Campbell.

Special Committee on Aging: Mr. Pryor (Chairman), Mr. Glenn, Mr. Bradley, Mr. Johnston, Mr. Breaux, Mr. Shelby, Mr. Reid, Mr. Graham, Mr. Kohl, Mr. Feingold, and Mr. Krueger.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

REPUBLICAN MEMBERSHIP ON CERTAIN COMMITTEES

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration with reference to committee assignments.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 22) to constitute the minority party's membership on certain committees for the 103d Congress, or until their successors are chosen.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

So the resolution (S. Res. 22) was agreed to as follows:

S. RES. 22

Resolved, that the following shall constitute the minority party's membership on the following committees for the 103d Congress, or until their successors are chosen:

Committee on the Budget: Mr. Domenici, Mr. Grassley, Mr. Nickles, Mr. Gramm, Mr. Bond, Mr. Lott, Mr. Brown, Mr. Gorton, and Mr. Gregg.

Committee on Rules and Administration: Mr. Stevens, Mr. Hatfield, Mr. Helms, Mr. Warner, Mr. Dole, Mr. McConnell, and Mr. Cochran.

Committee on Small Business: Mr. Pressler, Mr. Wallop, Mr. Bond, Mr. Burns, Mr. Mack, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett and Mr. Chafee.

Committee on Veterans' Affairs: Mr. Murkowski, Mr. Specter, Mr. Simpson, Mr. Thurmond, and Mr. Jeffords.

Special Committee on Aging: Mr. Cohen, Mr. Pessler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. McCain, Mr. Durenburger, Mr. Craig, Mr. Burns, and Mr. Specter.

Mr. DOLE. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 103–2 AND TREATY DOCUMENT NO. 103–3

Mr. MITCHELL. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following two treaties transmitted to the Secretary of the Senate on January 19, 1993, by the President of the United States:

Treaty with Argentina Concerning the Reciprocal Encouragement and Protection of Investment (Treaty Document No. 103–2); and

Treaty with Bulgaria Concerning the Encouragement and Reciprocal Protection of Investment (Treaty Document No. 103–3).

I further ask that the treaties be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the Argentine Republic Concerning the Reciprocal Encouragement and Protection of Investment, with Protocol, signed at Washington on November 14, 1991; and an amendment to the Protocol effected by exchange of notes at Buenos Aires on August 24 and November 6, 1992. I transmit also, for the information of the Senate, the report of the Department of State with respect to this treaty.

This is the first bilateral investment treaty with a Latin American country to be transmitted to the Senate since the announcement of my Enterprise for the Americas Initiative in June 1990. The treaty is designed to protect U.S. investment and encourage private sector development in Argentina and to support the economic reforms taking place there. The treaty's standstill and roll-back of Argentina's trade-distorting performance requirements are precedent-setting steps in opening markets for U.S. exports. In this regard, as well as in this approach to dispute settlement, the treaty will serve as a model for our negotiations with other South American countries.

The treaty is fully consistent with U.S. policy toward international investment. A specific tenet, reflected in this treaty, is that U.S. investment abroad and foreign investment in the United States should receive fair, equitable, and nondiscriminatory treatment. Under this treaty, the Parties also agree to international law standards for expropriation and expropriation compensation; free transfers of funds associated with investments; and the option of the investor to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this treaty as soon as possible, and give its advice and consent to ratification of the treaty, with protocol, as amended, at an early date.

GEORGE BUSH.

THE WHITE HOUSE, *January 19, 1993.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the Republic of Bulgaria Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and related exchange of letters, signed at Washington on September 23, 1992. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Treaty.

The Treaty will help to encourage U.S. private sector involvement in the Bulgarian economy by establishing a favorable legal framework for U.S. investment in Bulgaria. The Treaty is fully consistent with U.S. policy toward international investment. A specific tenet, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive fair, equitable, and nondiscriminatory treatment. Under this Treaty, the Parties also agree to international law standards for expropriation and expropriation compensation; free transfers of funds associated with investments; and the option of the investor to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Protocol and related exchange of letters, at an early date.

GEORGE BUSH.

THE WHITE HOUSE, *January 19, 1993.*

REPRINTING OF SENATE DOCUMENTS—SENATE CONCURRENT RESOLUTION 4; SENATE CONCURRENT RESOLUTION 5; AND SENATE CONCURRENT RESOLUTION 6

Mr. MITCHELL. Mr. President, I send three resolutions relating to the reprinting of Senate documents to the desk and I ask unanimous consent that they be considered en bloc; agreed to; and the motion to reconsider the passage of the resolutions, en bloc, be laid upon the table, and that statements I have on each resolution be printed at an appropriate place in the RECORD.

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

So the concurrent resolution (S. Con. Res. 4) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 4

Whereas informed research on the history and operations of the United States Congress depends on full access to existing scholarly studies of its former members, as well as to their published papers and other writings; and

Whereas no recent compilation of these significant research resources presently exists: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Senators of the United States: A Historical Bibliography" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed 5,000 copies for the use of the Office of the Secretary of the Senate.

SENATORS OF THE UNITED STATES: A HISTORICAL BIBLIOGRAPHY

Mr. MITCHELL. Mr. President, today I am submitting a resolution authoriz-

ing printing of a Senate document entitled "Senators of the United States: A Historical Bibliography." From 1789 to the present, over 1,800 Americans have served in the U.S. Senate. The careers of these individuals, as reflected in their writings and scholarly studies of their legislative service, provide detailed and personal illustrations of the workings, customs, and practices of the Senate.

There is at present no compilation to assist legislators, citizens, and scholars in identifying and locating these invaluable research resources. The Senate Historical Office has prepared "Senators of the United States: A Historical Bibliography" to provide researchers with a reference guide to works by and about former Members, and to stimulate further scholarship on the Senate's history. The bibliography lists biographies, articles, monographs, and doctoral dissertations that profile the lives and legislative service of approximately 1,100 former Senators, with special emphasis on modern, scholarly works. It also includes collected writings, autobiographies, diaries, and other published works by former Members.

So the concurrent resolution (S. Con. Res. 5) was agreed to.

The preamble was agreed to:

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 5

Whereas informed research on the United States Congress depends heavily on access to the office files, personal papers, oral history interview transcripts, and associated memorabilia of its former members;

Whereas the Senate in 1983 and the House of Representatives in 1988 have published well-received guides to these materials; and

Whereas thousands of new entries have been added to the Senate's 1983 edition and supplies of this award-winning reference guide have been exhausted: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Guide to Research Collections of Former United States Senators" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed 5,000 additional copies for the use of the Office of the Secretary of the Senate.

GUIDE TO RESEARCH COLLECTIONS OF FORMER UNITED STATES SENATORS

Mr. MITCHELL. Mr. President, in 1983 the Senate published the first edition of a reference book entitled "Guide to Research Collections of Former United States Senators, 1789–1982." This path-breaking work for the first time pulled together information about the locations and availability of over 3,500 senatorial collections in more than 350 research institutions throughout the United States. These collections, include office files personal papers, oral history transcripts, photographs, and memorabilia.

Research for this volume was conducted by the then only available method, a survey sent to the administrators of these collections. Now, more than a decade later, comprehensive national electronic data bases offer a wealth of additional information, including scores of previously unidentified collections and more accurate descriptions of already known collections.

The 1983 edition is now out of print. It is therefore timely to incorporate this new information in an updated guide that may be distributed to libraries, large and small, to facilitate research in the history of the Senate and the Nation that it serves.

So the concurrent resolution (S. Con. Res. 6) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 6

Whereas the United States Constitution, in Article I, section 5, provides that "Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members" and that "Each House may . . . punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member";

Whereas the Senate has sought faithfully to exercise these constitutional requirements of self-discipline through its more that two-hundred-year history;

Whereas the Senate, beginning in 1885, has periodically published compilations of its election, expulsion, and censure cases for the guidance of members and the American people; and

Whereas the most recent edition is now twenty years out of date: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That there shall be printed as a Senate document, the book entitled "Senate Election, Expulsion, and Censure Cases" prepared by the Senate Historical Office under the supervision of the Secretary of the Senate.

SEC. 2. Such document shall include illustrations, and shall be in such style, form, manner, and binding as directed by the Joint Committee on Printing after consultation with the Secretary of the Senate.

SEC. 3. In addition to the usual number of copies, there shall be printed with suitable binding 3,000 copies for the use of the Senate, to be allocated as determined by the Secretary of the Senate.

SENATE ELECTION EXPULSION, AND CENSURE CASES

Mr. MITCHELL. Mr. President, today I am submitting a resolution authorizing printing of a Senate document entitled "Senate Election, Expulsion, and Censure Cases." The Senate first published this document more than a century ago in 1885. Revised editions were issued in 1903, 1913, 1940, 1962, and 1973. The Senate Historical Office has recently updated this important reference work and has rewritten each of the more than 170 cases described in the 1973 edition to include information on the historical context of the individual disputes.

REAPPOINTMENT OF DEPUTY LEGAL COUNSEL

Mr. MITCHELL. Mr. President, on behalf of myself and Senator DOLE, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislation clerk read as follows:

A resolution (S. Res. 20) reappointing Kenneth U. Benjamin, Jr. as deputy Senate legal counsel.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

So the resolution (S. Res. 20) was agreed to as follows:

S. RES. 20

Resolved, That the reappointment of Kenneth U. Benjamin, Jr. to be Deputy Senate Legal Counsel, made by the President pro tempore of the Senate this day, shall be effective January 3, 1993, and the term of service of the appointee shall expire at the end of the One Hundred Fourth Congress.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AUTHORIZING TESTIMONY AND REPRESENTATION OF SENATE LEGAL COUNSEL

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution authorizing testimony and authorizing representation by Senate legal counsel and I ask for its immediate consideration.

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

The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 21) to authorize testimony and to authorize representation by the Senate legal counsel.

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. MITCHELL. Mr. President, in *Willey* v. *Riley, et al.*, Case No. LA 18962, pending in the Iowa district court for Linn County, a former member of Senator GRASSLEY's staff is the plaintiff in a dispute over his employment contract with his former law firm. In anticipation of having Senator GRASSLEY provide general character testimony at the trial of this matter, the plaintiff

placed Senator GRASSLEY on a witness list. The defendant has now requested the opportunity to depose the Senator in advance of trial. This resolution would authorize Senator GRASSLEY's deposition testimony in this case, except as to matters for which a privilege should be asserted, and would authorize the Senate legal counsel to represent Senator GRASSLEY in connection with his testimony.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, the resolution and its preamble are both agreed to.

So the resolution (S. Res. 21) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 21

Whereas, the parties in *Willey* v. *Riley, et al.*, No. LA 18962, pending in the Iowa district court for Linn County, seek the deposition testimony of Senator Grassley;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. sections 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to requests for testimony made to them in their official capacities: Now, therefore, be it

Resolved, That Senator Grassley is authorized to testify at a deposition in *Willey* v. *Riley, et al.*, Case No. LA 18962 (Iowa D.Ct.), except when his attendance at the Senate is necessary for the performance of his legislative duties, and except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Grassley in connection with his testimony in the case of *Willey* v. *Riley, et al.*

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

ORDERS FOR TOMORROW AND TUESDAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Friday, January 22, 1993; that on Friday the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate then stand in recess until 12 noon Tuesday, January 26; that on Tuesday, following the prayer, the Journal of Proceedings be deemed approved to date; that following the time reserved for the two leaders, there be a period for morning business not to extend beyond 12:45 p.m., with Senators permitted to speak therein for up to 5 minutes each, and that on Tuesday, January 26, the Senate stand in recess from 12:45 p.m. until 2:15 p.m. in order to accommodate the regular party caucuses.

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

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to section 1024, title 15, United States Code, appoints the following Senators to the Joint Economic Committee: the Senator from Virginia [Mr. ROBB]; the Senator from North Dakota [Mr. DORGAN]; the Senator from Idaho [Mr. CRAIG], vice the Senator from New Hampshire [Mr. SMITH], resigned; and the Senator from Utah [Mr. BENNETT].

The Chair, on behalf of the Vice President, pursuant to Senate Resolution 4, 95th Congress, Senate Resolution 448, 96th Congress, and Senate Resolution 127, 98th Congress, as amended by Senate Resolution 100, 101st Congress, appoints the following Senators to the Select Committee on Indian Affairs: the Senator from North Dakota [Mr. DORGAN], and the Senator from Colorado [Mr. CAMPBELL].

THE INAUGURAL CEREMONIES

Mr. MITCHELL. Mr. President, and Members of the Senate, yesterday we inaugurated President Clinton and Vice President GORE in a moving ceremony. That ceremony symbolizes one of the greatest strengths of our democracy—the peaceful transition of power. The President's statement was a powerful call to action to deal with the pressing needs of our Nation.

Though the program was relatively brief, it involved countless hours of preparation on logistics, construction of the platform, ticket distribution, preparation for the luncheon in Statuary Hall, and many other tasks.

Many people were involved in these preparations, but the chairman of the Joint Congressional Committee on Inaugural Ceremonies, the distinguished Senator from Kentucky [Mr. FORD] carried the major burden of making the arrangements for this historic occasion. He performed his responsibilities with his characteristic good humor, fairness, and efficiency—the same traits which he has brought to bear in handling his duties as Democratic whip. I offer my congratulations to Senator FORD on a job well done. He even managed to deliver on his promise that it would not rain.

In addition to Senator FORD, I also wish to congratulate the distinguished Senator from Alaska, Senator TED STEVENS. His attention to detail and the tenacity with which he tackles any project, or issue, were evident in the outstanding success of this endeavor. I wish to express my gratitude to Senator STEVENS and thank him for all of his good work.

I would also like to thank the other members of the Joint Inaugural Committee, those who served on that committee besides Senators FORD, STEVENS and myself. They were Speaker FOLEY; majority leader GEPHARDT, and minority leader MICHEL. Senator FORD and the committee were ably assisted by the officers and employees of the Senate and House of Representatives, as well as personnel from the executive branch.

I offer my appreciation and gratitude to everyone who worked on the arrangements for the inauguration. The tireless efforts of all involved, particularly those of the chairman, Senator FORD and the ranking member, Senator STEVENS, resulted in a memorable event for the entire Nation.

RECESS UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:08 p.m., recessed until Friday, January 22, 1993, at 10 a.m.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate January 21, 1993:

DEPARTMENT OF THE INTERIOR

BRUCE BABBITT, OF ARIZONA, TO BE SECRETARY OF THE INTERIOR.

DEPARTMENT OF COMMERCE

RONALD H. BROWN, OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF COMMERCE.

DEPARTMENT OF TRANSPORTATION

FEDERICO PEÑA, OF COLORADO, TO BE SECRETARY OF TRANSPORTATION.

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.

DEPARTMENT OF AGRICULTURE

MIKE ESPY, OF MISSISSIPPI, TO BE SECRETARY OF AGRICULTURE.

DEPARTMENT OF LABOR

ROBERT B. REICH, OF MASSACHUSETTS, TO BE SECRETARY OF LABOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DONNA E. SHALALA, OF WISCONSIN, TO BE SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HENRY G. CISNEROS, OF TEXAS, TO BE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

DEPARTMENT OF ENERGY

HAZEL ROLLINS O'LEARY, OF MINNESOTA, TO BE SECRETARY OF ENERGY.

DEPARTMENT OF EDUCATION

RICHARD W. RILEY, OF SOUTH CAROLINA, TO BE SECRETARY OF EDUCATION.

DEPARTMENT OF VETERANS AFFAIRS

JESSE BROWN, OF THE DISTRICT OF COLUMBIA, TO BE SECRETARY OF VETERANS AFFAIRS.

ENVIRONMENTAL PROTECTION AGENCY

CAROL M. BROWNER, OF FLORIDA, TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

EXECUTIVE OFFICE OF THE PRESIDENT

MICHAEL KANTOR, OF CALIFORNIA, TO BE U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

LEON E. PANETTA, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

DEPARTMENT OF THE TREASURY

ROGER ALTMAN, OF NEW YORK, TO BE DEPUTY SECRETARY OF THE TREASURY.

EXECUTIVE OFFICE OF THE PRESIDENT

ALICE RIVLIN, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.