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House of Representatives

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 14, 1996.

I hereby designate the Honorable MARK FOLEY to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Daniel J. Maher, Basilica of the National Shrine of the Immaculate Conception, Washington, DC, offered the following prayer:

Good and gracious God, we thank You for the many blessings You have poured out upon our Nation. As we praise You for Your wondrous works, we thank You too for raising up those assembled here who are servants of Your people and for calling them to be instruments of Your will for our land. Help them to bear gracefully this mantle of responsibility placed upon them. Inspire their deliberations this day, that they may more perfectly fulfill the sacred trust that both You and we, the people, have bestowed upon them. Bless our Nation through them and help them to live in the spirits of unity and peace that we hope their endeavors will assure for all the people of this Republic. We ask all these things in Your holy name. Amen.

THE JOURNAL

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

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

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

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

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

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

The SPEAKER pro tempore. Pursuant to clause 5, rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Colorado [Mr. HEFLEY] come forward and lead the House in the Pledge of Allegiance.

Mr. HEFLEY led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments a bill of the House of the following title:

H.R. 2854. An act to modify the operation of certain agricultural programs.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2854) ''An act to modify the operation of certain agricultural programs,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LUGAR, Mr. DOLE, Mr. HELMS, Mr. COCHRAN, Mr. MCCONNELL, Mr. CRAIG, Mr. LEAHY, Mr. PRYOR, Mr. HEFLIN, Mr. HARKIN, and Mr. CONRAD, to be the conferees on the part of the Senate.

TIME TO REIN IN SPENDING, AND HAVE LIMITED AND EFFECTIVE GOVERNMENT

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

Mr. HAYWORTH. Mr. Speaker, $8 billion. Inside the Beltway here, in this land of bureaucracy in the District of Columbia, $8 billion may not seem like a lot of money, but, Mr. Speaker, to the people of the Sixth District of Arizona, and I would say to people nationwide, $8 billion is a whole lot of money, especially when those $8 billion, Mr. Speaker, are going to come out of the pockets of the American people.

The fact is, Mr. Speaker, we have to have limited and effective government. Yet, the gentleman at the other end of Pennsylvania Avenue has the same old answer to the question. He talks about the days of big government being over. Yet, he wants to fund $8 billion of additional ineffective Washington programs.

Mr. Speaker, when I return to the Sixth District of Arizona, no one runs up to me and says ''Please, Congressman, take more and more of my money for ineffective government programs.'' They say the time has come to rein in spending and have a limited and effective government.

EFFECTIVE EDUCATION PROGRAMS WILL SUFFER UNDER EXTREME REPUBLICAN BUDGET CUTS

(Mr. GENE GREEN of Texas asked and was given permission to address

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the House for 1 minute and to revise and extend his remarks.)

Mr. GENE GREEN of Texas. Mr. Speaker, it is great to follow my colleague, the gentleman from Arizona, when he talks about ineffective government programs. Last week I had an opportunity to attend an honor society induction at Marshall Middle School in North Side Houston. Over 50 hard-working, very bright young Americans were inducted into the National Honor Society, and it was a moving ceremony. It illustrated the success of public education.

Mr. Speaker, this school and its feeder elementary schools stand to lose teachers, face larger school classes, and would be denied extra help in reading and writing if the majority Republicans continue to insist on their extreme education cuts. Even though the U.S. Senate voted overwhelmingly to restore vital funding in education and job training, the House Republicans are still wedded to their bill that makes serious cutbacks in education.

Mr. Speaker, let me point out that chart that is a layoff notice to the teachers and local school students. Schools are now making their budgets for next year. That layoff notice will say, ''I regret to inform you because of massive Federal budget cuts we are going to cut education funding in your district,'' so teachers will be laid off and class size will be higher.

Mr. Speaker, let us stop these extreme budget cuts.

SECRETARY O'LEARY GETS PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, the Washington Times reports this morning that energy Secretary Hazel O'Leary has spent $3.4 million to send 17,000 DOE employees to a self-help workshop called Seven Habits which is based on the book by time-management guru Steven Covey.

The 4-day workshops were run by 285 Energy Department Seven Habits facilitators and are designed to help DOE employees cope with the chaos of change.

Last month, this same Department furloughed 2,700 of its employees—without pay—due to budget shortfalls.

It is reported that Secretary O'Leary rejected advice to cut from the training and travel budgets to avoid the furloughs.

Perhaps it would be more advisable to send Secretary O'Leary to a money management workshop.

One of Steven Coveys seven habits is to be proactive. Perhaps the President should be proactive and dump Secretary O'Leary.

Secretary O'Leary gets my Porker of the Week Award this week.

THE NRA BACKS GUTTING ANTITERRORISM BILL

(Mr. SCHUMER asked and was given permission to address the House for 1 minute.)

Mr. SCHUMER. Mr. Speaker, the violent terrorist group Hamas found a new friend yesterday, the NRA, the National Rifle Association. Yesterday the House went toe-to-toe with this violent terrorist group in our debate over the antiterrorism bill. It was not a fair fight, and Hamas won. It was not a fair fight because the fix was in. The National Rifle Association and its allies jumped into the ring.

Once again, Mr. Speaker, the gentleman from Georgia, NEWT GINGRICH, and the Republican leadership bowed to the narrow demands of the NRA and the Republican party's extreme right wing. By the time they had done their work, the terrorism bill was eviscerated. Make no mistake, America, the bill is on life support. It will take a miracle to keep it alive. That will make our law enforcement officials' fight against the growing threat of terrorism harder.

By gutting the terrorism bill, the NRA allows tens of thousands of dollars and other support to continue flowing from this country into the coffers of groups like Hamas. Those resources will be used to slaughter scores of innocent people. Shame, Mr. Speaker. Shame.

FIFTH ANNIVERSARY OF PERSIAN GULF WAR

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

Mr. LUCAS. Mr. Speaker, 5 years after the Persian Gulf war our Nation still imports over 9 million barrels of oil a day. What's worse—oil imports have hurt domestic production and taken away U.S. jobs. We've lost over 500,000 American jobs since the early 1980's because of oil imports.

Our Nation's growing reliance on foreign oil is not just an issue that affects the oil patch—it's something that everyone should be concerned about.

If we want to lessen our reliance on oil imports, then we need to take steps to stimulate production of oil and gas right here in the United States. In order to boost production, we need to look at reducing unnecessary regulations that cripple U.S. production.

There are indeed, Mr. Speaker, many alternatives to oil dependency. Educating people about those alternatives will be a key to a stronger American oil and gas industry.

WE NEED THE TRUTH ABOUT PAN AM 103

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

Mr. TRAFICANT. Mr. Speaker, while Congress debates terrorism, the bombing of Pan American flight 103 is still a controversy. The Justice Department says the Libyans did it, and they indicted two Libyans who are still in jail over in Libya. Meanwhile, intelligence experts around the world disagree. They say these two Libyans were mules and runners who were incapable of masterminding and destroying Pan American flight 103. I agree. I say if Qadhafi has responsible for the downing of Pan American flight 103, these two Libyans would have already choked on a chicken bone and would have met their maker by now.

I think Congress deserves the truth. I think the families of the victims of 103 deserve the truth. I think the CIA and the Justice Department are withholding the truth. If Congress is going to stop terrorism, Congress should get the truth. Passing laws, in and of itself, will not stop terrorism.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The chair will recognize out of order the gentleman from California [Mr. DORNAN] to welcome the guest chaplain. The time will not count against the 1-minutes.

WELCOME TO THE REVEREND DANIEL J. MAHER

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

Mr. DORNAN. Mr. Speaker, what an honor to rise today for our Chaplain, who just gave such a beautiful invocation, our Chaplain for the day, Father Daniel Joseph Maher. He was born February 1, 1965, in Newport News, VA, raised throughout childhood in the city of Hampton, VA; a graduate of the College of William and Mary in Williamsburg with a BBA degree in 1986.

Father received his Masters of Divinity degree summa cum laude from St. Charles Borromeo Seminary in Philadelphia in 1990. He was ordained to the Roman Catholic priesthood in May 1991 for the diocese of Arlington, VA. Father served for 4 years as associate pastor of St. Leo the Great Church in Fairfax, VA, where I have seen him many times upon the beautiful altar there; concurrently served 4 years as a notary for the tribunal of the diocese of Arlington.

Father currently is associate rector of the Basilica of the National Shrine of the Immaculate Conception here in Washington, DC, the seventh largest house of worship in the world. He has charge of all the worship services conducted at the Basilica.

Thank you, Father, for giving us such stirring words this morning.

CUTTING BACK EDUCATION IS BAD BUSINESS

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

Mr. WISE. Mr. Speaker, here we go again today, another temporary spending bill, or CR, continuing resolution, as it is known. The Republican leadership promised to run Congress like a business. What kind of business can operate this way, where it is now in the sixth month of its budget year, the 1996 year, but still has not passed a final 1996 budget, and is now holding hearings on the 1997 budget?

Mr. Speaker, this is the 10th temporary spending bill this year. This one is for a week. We are not sure what is next, perhaps a day, perhaps 3 hours. Maybe just run the Government from lunchtime to quitting time and then vote again.

Mr. Speaker, whether it is 1 month or 1 hour, the fact is this temporary spending bill continues an already extreme message: stiff cuts in vital education programs. In West Virginia, it means 226 teachers and 90 aides laid off in 2 weeks. It is going to mean 6,500 students next year that will not be able to take advantage of the vital title I program. Cutting back education? What kind of business is this?

THE BUDGET DOES MAINTAIN EDUCATION

(Mrs. KELLY asked and was given permission to address the House for 1 minute.)

Mrs. KELLY. Mr. Speaker, my head tells me to balance the budget but my heart tells me to do it compassionately. Despite all the rhetoric that we have heard over the past week, the budget policies we have been fighting for maintain the Federal commitment to our children.

Over the past year, I have had the pleasure to visit schools and child care facilities all over my district. Visits to the John Jay High School, the Fox Lane Middle School, the Poughkeepsie Magnet Schools, the Hawthorne Cedar-Knolls School, and the Katonah Country Children's Center, just to name a few, underscore the importance of our efforts to support all aspects of education and child care.

My colleagues on the other side of the aisle want all of us to believe that we are gutting education, that we are imposing inappropriate cuts to programs which serve our children. Mr. Speaker, I have to ask, how compassionate is it to continue to tax and spend, policies that have left our children a legacy of debt? How compassionate is it to pump millions of dollars into hundreds of programs of education that may actually not work? Compassion is not necessarily measured in dollars and cents, but the manner in which we spend those dollars. It is important. I think this institution may have forgotten that fact.

□ 1015

GOOD LUCK TO SAN JOSE STATE AND SANTA CLARA IN NCAA TOURNAMENT

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

Ms. LOFGREN. Mr. Speaker, today is the first day of March Madness, the NCAA Basketball Tournament, and I am proud to announce that two local teams from Santa Clara County are participating in this event: San Jose State University, which will face off against Kentucky in about an hour, and my law school alma mater, Santa Clara University, which will take on Maryland tomorrow. I share the excitement of all the students from these schools, and I congratulate the team coaches, Stan Morrison and Dick Davey.

I want to take this opportunity, while the national spotlight is focused on our college athletes, to point out that some of these basketball players, and many more of their fans, rely on Federal loans to attend school. The omnibus appropriations bill that just passed the Congress reduces student aid, including Pell grants and Perkins loans, by yet another 13 percent, raising costs for thousands of students in California, and precluding others from even attending college.

Mr. Speaker, I needed help to go to college, and I know that students today need it even more. I also know that this country needs educated employees to compete in the global marketplace. Many Members are rooting for their teams this weekend; I urge them to support the schools that produce these teams as well. Go Spartans. Go Broncos.

WORKING TO KEEP GOVERNMENT RUNNING AND TO PRODUCE A BALANCED BUDGET

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, the 1996 Presidential campaign games are in full swing. While the Republicans continue to work toward a balanced budget to fulfill last year's promise, the President wants Congress to spend an additional $8 billion on a host of Federal programs. Most of these programs are to appease his liberal constituents in order to shore up his tax-and-spend liberal base.

The President has requested $2 million for the Ounce of Prevention Council. This 2-year-old program has not administered one single grant during its existence.

Mr. Speaker, we will do everything we can to keep the Government running and to work with the President to produce a balanced budget, but we will not continue to decorate the national budget like a Christmas tree with the President's pet projects. We will not borrow money from our children's future for this kind of wasteful spending.

SPUTTERING CONGRESS TO LEAVE TOWN WITH WORK UNDONE

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, this is a Congress that operates in spurts, and it is sputtering today as its Members head home for yet another extended weekend with the work of this country not done. The reason that that has occurred, and the reason that this is a Congress of near total failure, is that we have got a Speaker of the House who rejects any meaningful bipartisanship, and we have a whole lot of Members in the Republican Caucus who seem to think that working to achieve common ground to solve the real problems of working families in this country is somehow a sin.

Who bears the brunt of this failed Congress? It is the children of our country. It is the 12,000 Texas children to whom this Republican leadership says, ''No Head Start for you. We will give you the wrong start,'' not the Head Start to be advancing within our society. It is the same Republican leadership that says to over 2,000 prekindergarten students in my home of Austin, TX, ''You get half the kindergarten that you would otherwise get because we are not going to give you educational opportunity.''

We Democrats say more educational opportunities. These Republicans say more education obstacles.

ECONOMIC GROWTH AT WORST POINT IN NATION'S HISTORY

(Mr. KIM asked and was given permission to address the House for 1 minute.)

Mr. KIM. Mr. Speaker, I keep hearing from the White House that our economy is booming. I really have trouble with this. The folk in my district, none of them said our economy is booming. They do not feel this.

The fact is, the economy growth has slowed to 1.47 percent a year, the worst period of growth in our Nation's history. That is the fact. The average family has lost about 1 percent of its buying power since Mr. Clinton took office. The wages rose at the slowest pace in 14 years, and they tell me the economy is booming.

Folks in my district are having difficulty right now trying to make ends meet and every day they are squeezed more and more. They are telling people that the economy is booming? I know it is election time, but I think we should be more honest with the American people.

GOP EDUCATION CUTS FORCE SCHOOLS TO MAKE TERRIBLE CHOICES

(Mrs. SCHROEDER asked and was given permission to address the House

for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, it is springtime in America's schoolhouse but pink azaleas are not going to be sprouting. Instead, pink slips are going to be sprouting for America's teachers.

When you see what the House Republicans are doing, every school district is going to be forced with the following decisions, either fewer teachers and larger classes and cancelled drug education programs and cancelled remedial education programs, or raise local taxes. Those are terrible choices.

Why in the world are the House Republicans insisting upon sacrificing our children's future upon the altar of deficit reduction? That is exactly what they are doing. They have an altar of deficit reduction and they are saying we are just going to have to sacrifice the children's future, because there is no one who says larger classes, fewer teachers, drop drug education, and drop remedial education is the progressive way to go.

Let us stand up. We now know who is for America's kids and who is just kidding. Fight back.

UPCOMING PRODUCT LIABILITY MEASURE PROMISES FREEDOM TO RAW MATERIAL SUPPLIERS OF MEDICAL DEVICES

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

Mr. GEKAS. Mr. Speaker, thousands of Americans even at this moment are benefiting from medical devices that have saved their lives or improved their chances for good health, knee and hip joints and brain shunts and pacemakers, all sorts of ingenious devices that over the years have improved the health care capacity of our Nation.

Yet, they are in danger, these device makers, these wonderful people who are developing these kinds of apparatuses for the improvement of health. They are in danger of losing their capacity to produce them because of suits against the suppliers of the raw materials that go into these medical devices.

Next week we are going to take a giant step in trying to prevent the slowdown of the production of these medical devices by putting in with the product liability measure that we will be considering a safeguard against the raw material suppliers, so that they will feel free to keep supplying these components that make these wonderful medical devices.

CUTS FOR SCHOOLS AND THE SUMMER YOUTH PROGRAM

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, $3.3 billion in cuts for our schools and major cuts for our teachers and for our young children. Then when our young children grow up to try and have a sense of independence and work in the Summer Youth Program, what do the Republicans do? They cut it.

Let me tell Members about a young person in my community. At the age of 2 and shortly after her mother married her stepfather, her family was involved in a car wreck that left her father permanently disabled. As a result of the wreck, this young child was injured so severely that she lost her spleen and left kidney. Yet she participated in the Summer Youth Program.

She lives at home. She keeps a little of her money and the rest of it she gives to her family for their needs. The family is on SSI. She has worked for the Smiley High School, the Texas Children's Hospital. She is trying to make a difference in her life.

There is no Summer Youth Job Program in this budget by the Republicans, no hope for our youth. No schools, no teachers, nothing for our young children and nothing for our youth. What are we talking about? Summer jobs are hope for the future.

HISTORIC PROGRESS TOWARD PEACE IN IRELAND

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

Mr. KING. Mr. Speaker, during the past 2 years, the people of Ireland have made historic progress toward a true and lasting peace. I am a cochairman of the Ad Hoc Committee for Irish Affairs, along with the gentleman from New York [Mr. GILMAN], the gentleman from Massachusetts [Mr. NEAL], and the gentleman from New York [Mr. MANTON].

The Ad Hoc Committee today is issuing a statement for St. Patrick's Day. We are urging that all parties to this process continue on the path toward peace. Specifically, we are calling upon the Irish Republican Army to immediately recommence the cease-fire. We are calling on the British Government to make every good faith effort to answer any questions that parties to the conflict have regarding the recent communique issued in London.

We also call for the commencement of all party talks by June 10 without the imposition of any preconditions by the British Government, and we call upon the President to continue his policy of active and constructive engagement in the Irish peace process. The people of Ireland have come too far to allow recent incidents to deter them on their path toward peace.

Mr. Speaker, on a bipartisan note, which should characterize this policy toward Ireland, I commend the President for issuing a visa to Gerry Adams to enter this country, and I commend Ambassador Jean Kennedy Smith for standing up to the Anglophiles in the State Department.

Mr. Speaker, I include our committee statement for the RECORD, as follows:

CONGRESSIONAL AD HOC COMMITTEE ON IRISH AFFAIRS, ST. PATRICK'S DAY MESSAGE, MARCH 14, 1996

We, the members of the Congressional Ad Hoc Committee on Irish Affairs, ask all Americans to join with us in praying for peace in Ireland as we celebrate this Saint Patrick's Day.

The people of Ireland have worked too hard, and come too far on the road to peace to abandon the remarkable progress made in the past two years. The people of the United States—of Irish descent and otherwise—have shared in the joy of the Irish people at the significant steps forward just as we share in their disappointment and despair at recent setbacks.

To avoid squandering the hard-won gains toward a just and lasting peace for all Ireland, the government of the United States must remain engaged in the Irish peace process, both as an honest broker and as a guarantor of the equity of that process in ensuring that the legitimate aspirations of all parties to the conflict are fully represented. With this goal in mind, the Congressional Ad Hoc Committee on Irish Affairs:

Deplores the recent return to violence by the Irish Republican Army, and urges the IRA to reinstate the ceasefire immediately;

Calls on the British government to make every good faith effort to provide to all concerned political parties explicit clarification of any provisions of the recent joint communique by Prime Minister John Major and Taoiseach John Bruton;

Calls for the commencement of meaningful all-party talks by June 10th, without the imposition of any preconditions by the British government; and

Calls upon the President of the United States to continue his policy of active and constructive engagement in fostering the Irish peace process.

The 104th Congress has worked in bipartisan cooperation to support the Irish peace process. In addition, we have made substantial progress in addressing one of the root causes of the problems in the north of Ireland by moving closer to the historic passage of the MacBride fair employment principles as part of our contribution to the International Fund for Ireland.

We, the Members of the Congressional Ad Hoc Committee on Irish Affairs, are committed to ensuring that the United States continues to use its influence as a force for positive change in Ireland.

BEN GILMAN,
Cochairman.
RICHARD NEAL,
Cochairman.
TOM MANTON,
Cochairman.
PETE KING,
Cochairman.

SPECIAL TRIBUTE TO NEIL SMITH

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

Ms. MCCARTHY. Mr. Speaker, I rise to pay special tribute to one of my constituents. On game days, he wears the number 90 on a red and white jersey and is every quarterback's nightmare. I am speaking of the Kansas City Chiefs all-pro defensive lineman, Neil Smith.

Today I want to take note of Neil Smith's efforts off the field. Instead of sacking quarterbacks, Neil Smith is

stopping illiteracy. He is the national spokesperson for the Foundation for Exceptional Children's ''Yes I Can'' program which encourages disabled children to reach their goals.

But while Neil is working to improve education, the House leadership is making drastic cuts in education programs. In Missouri, title I programs, which help children with learning disabilities, will lose over $19 million—critical funds for students who need extra help in reading, writing and math.

I want to say to the House leadership—it's fourth down, 1 yard to go, and there are 30 seconds on the clock—let's go for it and reinstate the much needed funds for our children.

Thank you, Neil Smith, for sharing your talents and success to help all children achieve their dreams as you have.

PAYING MORE AND GETTING LESS

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

Mr. MICA. Mr. Speaker, let me tell Members what this debate is all about and what the administration and the liberals are talking about in education cuts. They are talking about paying more and getting less.

Let me read, if I may, about the great success of the programs they are talking about and what Republicans are talking about. This just appeared in the newspaper in Florida. Many of Florida's training and vocational education programs that are supposed to give Floridians the skills to find good-paying jobs are not working, according to the report.

State and Federal Governments spend about $1 billion a year on vocational education programs in Florida, more than 1.2 million residents use the programs, but many of the State's programs fail to produce graduates or workers who can earn a decent salary. Most students who enter the programs never graduate.

In all, 37 percent of 347 job training and vocational programs perform poorly, according to the report. Only 20 percent of those who enrolled in high school vocational programs completed them. They want you to pay more and get less, and that is what this argument is about.

NO WAY TO RUN A CONGRESS

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

Ms. DELAURO. Mr. Speaker, when my Republican colleagues took over this institution 15 months ago, they promised to run the House like a business with the best management practices. However, their stewardship looks more like a Arnold Schwarzenegger screenplay.

The victims are everywhere. Because of the incompetence of this House majority, we are operating under a temporary spending plan, and today they want us to vote again on a 1-week extension of this spending plan. It will be the 10th temporary funding bill this year, no way to run a business or the House of Representatives.

Who suffers from this stop-and-go budgeting? Our kids, our children. Local school districts need to start planning now for the new school year, and they do not know what to expect from Washington. They do know that Republicans are slashing over $3 billion from education. My Republican colleagues are leaving children and parents in the dark, and that is wrong.

Let us honor our commitment to education and our kids, and give them the tools that they need to succeed in the 21st century.

TAX AND SPEND IS BACK AGAIN

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

Mrs. SEASTRAND. Mr. Speaker, $8 billion, that sure is a lot of money, and it just happens to be the amount of extra Washington big government spending that President Clinton wants.

Where will this $8 billion come from? If the President has his way, it is going to come right from the pockets of the American taxpayer.

□ 1030

That is right, tax and spend is back again, but do not worry, America, because if you recall, the President said he feels your pain.

You know, I go home every weekend to the central coast of California, and do you realize how many people come to me and say, take more money, take more of my tax dollars and spend it on ineffective Washington programs? Well, you can understand no one does say that to me.

The message from the folks at home is very simple: They are tired of their tax dollars being spent on wasteful spending here in Washington, DC, and they are tired of spending for big government.

It is time for this Congress to say no to higher taxes, and it is time to say no to more government Washington spending.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. KING. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Commerce, Committee on Economic and Educational Opportunities, Committee on Government Reform and Oversight, Committee on International Relations, Committee on the Judiciary, Committee on National Security, Committee on Resources, Committee on Science, Committee on Small Business, Committee on Transportation and Infrastructure, Committee on Veterans' Affairs, and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from New York?

There was no objection.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1996

Mr. LIVINGSTON. Mr. Speaker, pursuant to the order of the House of Wednesday, March 13, 1996, I call up the joint resolution (H.J. Res. 163) making further continuing appropriations for the fiscal year 1996, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of the joint resolution is as follows:

H.J. RES. 163

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 104–99 is amended by striking out ''March 15, 1996'' in sections 106(c), 112, 126(c), 202(c) and 214 and inserting in lieu thereof ''March 22, 1996'', and by inserting in section 101(a) after ''The Department of the Interior and Related Agencies Appropriations Act, 1996'' the following '', H.R. 1977'', and by inserting in section 101(a) after ''The Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, 1996'' the following '', H.R. 2127'', and that Public Law 104–92 is amended by striking out ''March 15, 1996'' in section 106(c) and inserting in lieu thereof ''March 22, 1996''.

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, March 13, 1996, the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Wisconsin [Mr. OBEY] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. LIVINGSTON].

GENERAL LEAVE

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent all Members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 163 and that I may include tabular and extraneous material.

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

There was no objection.

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

(Mr. LIVINGSTON asked and was given permission to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the joint resolution before the House would

extend for 1 week the provisions of Public Law 104–99 and Public Law 104–92, the current temporary funding authorities for a portion of the Government that expire tomorrow night.

The Senate has not yet passed H.R. 3019, the fiscal year 1996 wrapup appropriations bill that we passed a week ago in the House. I understand that the other body will probably conclude their action on this bill today.

Mr. Speaker, I expect that there will be significant differences in the Senate amendments to the House version that will need to be worked out in conference next week. Last week, when we had H.R. 3019 on the floor, I said I expected the White House views to be represented in the conference, and I hope that that will still be the case.

But that will take some time. It cannot be done before tomorrow night, and that is why we are bringing this 1 week extension to the floor.

I understand the Senate will agree with this joint resolution and that the President will sign it. I urge all Members to support this joint resolution. We need to pass this quickly so that we can work on reaching agreement on our fiscal year 1996 appropriations wrapup bill with the Senate and the White House, and we hope to do that as expeditiously as possible so we can move on to the fiscal year 1997 appropriations cycle.

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

Mr. OBEY. Mr. Speaker, I yield myself 7½ minutes.

Mr. Speaker, I honestly do not know quite what to say about this proposition before us. This is both a remarkable and a very frustrating day in the history of this institution as far as I am concerned. It is frustrating to me personally because regardless of the partisan differences which we have had in this House through the years, the Committee on Appropriations and the appropriations process has been a bipartisan exception on most occasions to the partisanship which has sometimes plagued this House. This year it is amazingly different, and it has nothing whatsoever to do with any shortcomings of the chairman of the committee. He has tried his level best to see to it that the committee functions and he has tried his level best to see to it that bipartisanship remains, because this committee, when all of the shouting is over, has the job, the way this House works and the way the Congress works, this committee has the job to try to make things work after all the shouting is over. Yet, for a variety of reasons, we are not going to be allowed to perform that function.

We are now 166 days into the new fiscal year. We are debating, I believe, the 11th continuing resolution. We were supposed to have all of our work done by the 1st of October. But 80 percent of the domestic appropriations of the U.S. Government is still not in law, and we are now considering a 7-day continuation of funding in order to keep the Government open, and probably next week we will have to consider another 7-day continuing resolution.

Stop and go, stop and go, and I think in the process, this House is going to look sillier and sillier and sillier. The main job assigned to the Congress of the United States by the Constitution is to serve as the chief stewards for the public purse and to allocate funding of taxpayers' money. And I am sad to say that on that score this year this body has become virtually dysfunctional. The machinery has stopped. Congress is stuck.

This House has taken a position, at least the majority within this House, has taken a position on insisting on very severe cutbacks in education funding, very severe cutbacks in environmental cleanup funding. That is a position which has not been taken by Republicans in the Senate. It has not been taken by Democrats in the Senate. It has not been taken by the White House. And it has not been taken by the American people. And yet we are stuck because the one caucus, the one group of folks who could change their position and help do something about this impasse will not do it.

Then we see in the Washington Post this morning a column by Robert Novak indicating that a number of freshman Republicans have gone to the gentleman from Texas [Mr. ARMEY], the floor leader, asking him to stand pat against even the modest increases in education that were supported on a bipartisan basis, with only 14 dissenting votes in the Senate, just 2 days ago.

So I think that gives you some idea of what we are up against in trying to do the people's business.

Now the problem is not just that the Congress is looking sillier and sillier on this. The problem is also that that silliness and that obstreperousness is affecting the day-to-day ability of local school districts to function in an orderly way.

I visited a wide variety of schools in my district during the recess, looked at a lot of Federal programs in those school districts. The problem is that those local school districts are being left hung out to dry by this ying-yanging here in the congressional appropriations process.

April is the month that schools are supposed to sign contracts with the people who will be teaching our kids in September. Lots of those school districts do not know who is going to be in the front of the classroom in many of those classrooms. They do not know how they are going to be able to absorb the $3.3 billion reduction in education, the largest education cut in the history of the country.

The Senate is moving somewhat in the President's direction. But this House is still stuck, and I would predict right now flatly that next week we are going to have to go through this entire process again. I think that is a shame. I think it is a shame for your local school districts. I think it is a shame for people who think that at least once in a while Government ought to look like it knows what it is doing.

I certainly think it is a shame for the local school districts in my district who are going to experience continued turmoil and continued unanswered questions. And, frankly, I have had enough of it. I just do not think this ought to continue.

I would call to the leadership of this House to do what everybody knows is going to have to be done if this is going to be resolved. It is not going to do us any good to sit in a conference between the Senate appropriators and the House appropriators next week when we do not know what the House leadership will accept by way of restorations or by way of offsets for education and for environmental funding that is essential to the well-being of this country and the citizens we represent.

Until this House leadership focuses on that question, we are facing the prospect of another Government shutdown. There is no mistake about it. There is absolutely no reason that should happen. But people are going to have to give up their ideological Jihad on this issue if we are to break through this impasse. And so I call upon the House leadership, rather than going to war again, as some of our majority Members of this House appear to want the majority leader to do, I think this is the time to work things out.

So I would urge that proper attention be paid by the leadership of this House before this country stumbles into another shutdown which will further discredit this institution, which all of us are supposed to respect and love.

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

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

Mr. Speaker, it was my hope that we could dispose of this resolution rather quickly, but it appears it is going to be somewhat prolonged. So let me just make the point that the wrapup continuing appropriations bill that we await action upon in the Senate governs four bills with the possibility that they may inject a fifth, the District of Columbia bill, even though it is working its way separately through the entire process. It has likewise been hung up in the Senate. If, in fact, the Senate puts the District of Columbia bill on this final wrapup omnibus bill, that is their right to do so, and we will have to deal with it.

The other four bills are hung up at this late date, and I agree with the gentleman from Wisconsin, that is indeed late, but they have been hung up not because of any inaction of the House of Representatives. In fact, three of those bills worked their way all the way through the entire congressional legislative process, went to the President of the United States before Christmas, and he vetoed them.

Last week we put them in one wrap up bill to work their way through subsequently, with the good hope that the President might work with the Congress and reach some agreement on them. Frankly, no agreement has been reached to date, and the process drags on for those three bills. Those were the Commerce, Justice, State, judiciary bill, the Interior bill, and the VA–HUD bill.

The fourth bill that provides education funding, which, I suspect, is going to be the topic of the next few speakers, is the Labor, Health and Human Services, Education bill that passed this House August 4 of last year. That is the last time we saw it, because it was filibustered by presumably the minority party in the Senate, and that is where it remains today. It never got out of the Senate. Every time somebody tried to bring it up, someone from the minority party would jump up and object to its consideration.

Now, I appreciate the tenor of the comments from my friend from Wisconsin. And, frankly, I am concerned that we are dragging out this process for fiscal year 1996. It detracts from the ability of the House to discuss the problems affecting the fiscal year 1997 appropriations cycle and the future bills inherent in that process become all the more difficult, because we have got to complete them by the end of the summer before the election season kicks in.

□ 1045

So every day, every week that goes by without completing the 1996 cycle, it is just a little less time that we have to devote to 1997. It concerns me greatly.

Mr. Speaker, but, putting the cards on the table, the fault does not lie with the House of Representatives, with either party. The fault lies jointly in the system. Three bills were vetoed by the President, one was filibustered in the Senate, and I am not going to take the blame for that.

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

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I do not think the chairman of this committee ought to take the blame for it. It is not the gentleman's fault and I recognize that. But I do think that it is necessary to understand that the President was representing the overwhelming number of Americans when he decided that it was not correct to cut education funding by over $3 billion; when he decided it was not correct to cut environmental enforcement by 22 percent; when he decided it was not correct to allow massive new timber cutting in the Tongass rain forest; when he decided it was not correct to allow a whole laundry list of environmental and other legislative riders to be added to these bills which have nothing whatsoever to do with budgeting.

So it seems to me that the record is clear that it is this House which is out of step with public opinion and with the needs of the country.

Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, every time I go out, people say, why can this body not be more bipartisan?

I honestly do not think the problem is with this committee. We have just heard from the chairman and ranking member. They are not at each other's neck. Yet for people that watch C–SPAN, this is getting to be like ''Groundhog Day,'' the movie, where every day you get up and go through the whole same Groundhog Day again.

Mr. Speaker, here we are, 6 months into this fiscal year, and this is the 11th continuing resolution. Kind of jump-starting it, week by week, as we sputter along. This one is only going to be for a week. At the rate we are going, we may be down to hours. Who knows, Mr. Chairman? You have the patience of a saint. I do not think these gentlemen are doing this to get time on C–Span either. I think they would just as soon have had this thing done and wrapped up and put away.

What we are really talking about is we have had many times before where the Congress and the President disagreed and there were vetoes, but, you know what? We got together and worked it out. We have got a small minority within a majority refusing to let them get together and work it out, because they say that is capitulation.

So when they say the President will not work with us, what they mean is the President will not capitulate to us. And how can the President? He is the President of all the people. The people are saying we do not want these environmental programs cut, we do not want education cut.

Mr. Speaker, we just saw the leader in the other body come back, who is probably the freshest of all of us. He has been out campaigning. It now appears he has the mantle to carry his party into the presidency. He votes with the 84 people in the Senate who say, ''We ought not to cut education that deeply and we ought not to do that.''

So what we have is a large consensus in the other body, the President, a strong consensus here. But we have a minority holding it back so we cannot do anything but come out week by week with another one of these patch and plaster up over the holes and go on.

We are going to be committed to Groundhog Day forever unless we stand up. I think it is terribly important we realize this is the worst way to run a government, the least efficient, and get on with it.

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

Mr. Speaker, actually, I agree. It is not a great process. I would have loved to have expedited it and been done with it. In fact, I think, had we been able to reach an agreement with the President on the remaining bills not enacted since Christmas, we would have been done with this process.

But back then the President closed the door, he vetoed the bills and then blamed the Congress for turning the Federal employees out on the street, when in fact it was his vetoes that did it. He won the PR wars during the Christmas holidays, no doubt about that. It was a public relations battle. I look back on what happened, and I think the President clearly won the PR wars.

But in negotiating with the administration since then, in trying to reach a resolution on these bills, we have found it singularly impossible to get them to seriously come to grips with the problems with which we are faced in these various bills. After all, in December the President said that he wanted to get the budget under control and that he was in favor of a balanced budget. In February he said that the era of big government is over. About that same time, he was telling us he wanted $4 to $6 billion in additional spending in those bills he had vetoed. Now we are getting the message that anywhere from $8 to $12 billion additional spending is necessary for the same bills.

The fact of the matter is that the signals coming from the White House have been extraordinarily mixed and conflicting, and they have not shown any inclination to come and meet us halfway and settle this problem so we can move on to fiscal year 1997.

Now, as we pointed out yesterday, the fact is that even if you use the President's $8 billion figure that he wants in additional spending, notwithstanding his proclamation that the era of big government is now over, notwithstanding that the fact that the bills in question already appropriate some $160 billion and he wants $8 billion more, when you get into the details of what he is really asking for, you have to scratch your head and say, ''Is this worth hanging up government over?'' Is this worth saying to the Congress, ''If you do not give me my $8 billion, I am going to close down government?'' Is this worth virtually hijacking the Congress and the processes available to us and threatening the closure of the operations if he does not get his way?

I would say no. The point is, when you look at some of the programs that he wants to spend money on, the GLOBE Program, for example, which I know is near and dear to the Vice President's heart, the Global Learning Observation to Benefit the Environment Program. Its goal is to teach youngsters in the United States and foreign countries how to do such things as collect environmental data such as rainfall. Now that is a real significant program.

Then there is the Ounce of Prevention Council. Last year they spent $1.5 million on it, and this year they seek to spend $2 million; and all they did

last year, they are supposed to let out a lot of grants but for some reason, perhaps the closure of Government, they said they were not able to do it. So they put out a nice glossy book, for $1.5 million. Now they want to raise that now to $2 million. Maybe it will be a thicker book.

Then there is the Safe and Drug-free Schools Program, which I think has a marvelous name. Really, who can argue with Safe and Drug-free Schools, unless you find out that, as reported in the Fairfax Journal in May 1995, that in Talbot County, MD, their schools spent grant money on a disk jockey and guitarists for a dance, lumber to build steps for aerobic classes, and school administrators spent more than $175,000 for a retreat at a resort in Michaels, MD.

Additionally, another school district in Texas received a grant for $13. How many bureaucrats had to get together and figure out that this was a really meaningful grant of $13, and how much did that ultimately cost us? Congress would trim that program to $200 million in fiscal year 1996. The President says that is not enough, $200 million is not enough. Maybe we will have a lot more $13 grants in the future if the President gets his way.

He would say that the $8 billion is important because we have to spend more money on loan volume for direct student loan programs. The fact is, when you analyze what he wants to accomplish, you see that it would broaden the loan program for student loans for new institutions, some 481 new institutions, 138 of which are beauty, cosmetology, and barber schools. There is the Acme Beauty College, the California Medical School of Shiatsu, Naomi's Mile High Beauty College, the Ph.D. Hair Academy, and three schools of massage therapy. Now, that would be a real valuable use of taxpayer money.

Then there is the Advanced Technology Program we hear so much about, that the President wants $300 million over the level in our bill. That is mostly corporate welfare. It is taxpayers' dollars going to big companies in order to fund new technologies.

Then there is the trusty old AmeriCorps Program. Get a volunteer and pay them. Of course, the average estimate of cost was some $17,000 to $18,000 per volunteer. That was one thing. Then we found out in Baltimore they paid them $50,000. That is what the cost-per-participant was in Baltimore, $50,000 a volunteer. I know a lot of American citizens who are paying taxes that would probably like to volunteer for that kind of a job at 50 grand apiece.

Well, on and on it goes.

Mr. Speaker, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I think the gentleman made an interesting case. I would want to say that my understanding is that some of the money the President has requested, he has also offered offsets. I think it is unfair to just say he asks for flatout money. He has offered offsets. I think we would want the record to be clear on that.

I think that many of these programs the gentleman is talking about are on the basis they have been block granted, for example the Drug-Free School Programs the gentleman is talking about. Those were block grants to the local communities for people to try and figure out how to spend the money in the best way to get the people's attention.

So I find it a little disconcerting that on the one hand you say we should trust the local officials, but then when we do and they do something and say this works in our neighborhood, then people say they did the wrong thing. So I do not know.

All I am saying is I do think it is very important to say there have been offsets, that I do not think this was just a PR war, and that this President has vetoed fewer bills than any President that has been here since I have been elected.

So I think the press looked at why he vetoed these bills, and I think that is why the people have been on his side.

Mr. OBEY. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I would like to correct some of the statements made by the distinguished chairman of the committee. The President has not asked us to spend more money. What happened is very simple: The majority party in this House decided that they wanted to spend $7 billion more on the Pentagon budget than the President wanted them to spend. The President decided, in the midst of the Bosnia crisis, that while he was opposed to that increase, he would accept the passage of that bill as a good will gesture during budgeted negotiations, as much as he did not want to spend that additional money. So that $7 billion is moved over to the Pentagon.

Now the majority party is insisting that that $7 billion come out of the hide of environmental cleanup enforcement, out of the hide of education, and out of the hide of the Interior appropriations bill. So they have made these cuts in education programs, in job training programs, in drug education programs and the like.

The President said, ''I do not think that is a good idea, folks.'' So he came down here and suggested offsets. I have got a copy of them in my hand. He suggested spending offsets, areas of the budget that could be cut in order to finance the restorations he is looking for in education and training and in the environment.

So, No. 1, get off this idea that he is asking that more money be spent in the aggregate. He has suggested cuts to offset the money. If you do not like where he has taken the offsets, bring up your own list. But do not say the President has not offered ways to offset it.

Let me also point out that what you have got here in my view is a political rather than a substantive problem. Robert Novak's column this morning points out that the majority leader suggested that, and I am reading now, ''There was no hope for the Republican Party if it succumbed to Clinton. Instead of cutting a deal with the President,'' he said, ''Let's fund the government with a series of short-term extensions of spending authority.''

□ 1100

Then he goes on to say it was asserted that there ''would not be much chance for the Republican Party to win the allegiance of Pat Buchanan's followers if the party leadership showed the feather.''

That is what is going on here; it is politics, and, because of that, we are being asked to take huge reductions in education funding.

Now my colleagues can laugh all they want about the GLOBE Program. I visited a GLOBE Program in Chippewa County in my own district and watched those very young kids learn something about climate, learn something about the interconnection of various parts of the globe because of the environmental issue. I think the tiny amount of money spent on that program was well worth teaching those youngsters that we are all connected on this globe.

If we take a look at safe and drug-free schools, I will stipulate, if my colleagues do not like the way, and the gentleman just mentioned six items he did not like, spending for those items. I will happily accept cuts in all of these programs for the dollar amounts of the screw-ups that the gentleman has cited by the local school districts. But I do not grant that because some of the school district in Florida or some other State has screwed up the way they use safe and drug-free school money that my district should not get any, or that my district should not get summer youth because some other district may have screwed up the way they spent it. Fix it up in that locality, do not savage the program; that is the way to deal with it. My local police chief happens to think that safe and drug-free schools is an important program.

As far as student loans are concerned, there is absolutely no reason whatsoever why we ought to raise the cost of going to college for kids in this country by $10 billion over the next 7 years. That is what our colleagues are asking us to do.

Title I; I do not know how many of my colleagues visited title I projects. I think they are crucial to an awful lot of families in my district.

AmeriCorps; my colleagues can laugh all they want about it, but those volunteers help coordinate other neighborhood volunteers to supervise kids who commit the majority of youth crime in this country, majority of violent crimes, between 3 o'clock and 6 o'clock in the afternoons because they are not

supervised. That is one of the things AmeriCorps is trying to correct.

So do not tell Chippewa Falls district, do not tell Wausau, do not tell Colby school districts, or all the other school districts in my district they have got to take a cut because of some political agenda of the majority party. I do not think the country is going to buy that.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 30 seconds, and I would like to then yield to the gentleman from California [Mr. CUNNINGHAM].

I just point out that, as my colleagues know, the gentleman from Pennsylvania [Mr. GOODLING] chairman of the Committee on Economic and Educational Opportunities, pointed out there are 760 education programs. Only 6 percent are actually dedicated to math, reading and science. Now this country spends $26 billion on just the Education Department alone, and by some estimates when we include all the other departments in the Government, we may spend some $200 billion on education, and yet the other side never wants to eliminate a program, they never want to close a program. Lord, do we need 760 education programs?

Mr. Speaker, I yield 2½ minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY], is so enamored with his own opinion he states it as fact, and he is misinformed, first of all, that our schools, in almost every category we score last among the developed nations. Great Britain and Japan score far above us in every category, and in some categories Japan scores twice of our students in scores. We have less than 12 percent of our classrooms, and I laud the President for his ideas and working to get our classrooms upgraded. But we have such a proliferation of dollars with 760 programs spread over 39 programs.

The ranking minority member on the budget agrees that the title I program, the direct lending Government-run program, should not be. A billion dollars just in administration fee capped at 10 percent. GAO estimates a greater cost, of up to $3 billion just to collect the dollars. We took those savings, we increased student loans, we increased Pell grants and so on.

Take a look at HHS, take a look at the Department of Education's recommendation, the Department of Education, not exactly a right wing group. Every study shows that title I and Head Start are not meeting their goals, that you take two students track them along the same lines, and there is no difference, and yet we are spending billions of dollars. Did we kill them? No, but we said is it wrong to ask for quality, is it wrong to ask for performance? And a program has been reduced by 500 percent and is serving less children. Is it wrong for us to manage a program? But if that works in our colleagues' State, just like drug-free schools, that block grant, the State can decide. If Head Start works in our colleagues' State, do it, and fully fund it. If title I, fund it. I support their program. I think it is a great program, and I think it should be funded. But what we are reducing is not cutting. What we are reducing is the bureaucracy here in Washington.

In title I, in Head Start, and in the direct lending program we are reducing the bureaucracy here in Washington, DC, and focusing the dollars down to the local level. We are insisting on quality, we are insisting on parental control to get the dollars down so we can pay teachers more instead of the mess that we have right now where those dollars are being squandered here in Washington, DC. Now my colleagues may want to call that a cut, and I will say, ''Yes, Mr. OBEY, it's a cut, it's a cut of your precious bureaucracy, and that's what you are having a problem with.''

Mr. OBEY. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. I thank the gentleman for yielding this time to me.

Mr. Speaker, the Republican majority can find additional money if they were not so anxious to provide tax breaks for the wealthiest Americans. $17 billion in a windfall to the richest corporations in this country, and would have them pay no tax at all. Come on, that is the shame of this, these cuts to education.

Mr. Speaker, I rise today in opposition to the mind-boggling incompetence of the Republican majority in running this House. Six months into the fiscal year, twice shutting down the Government, threatening to do so for a third time, they have brought to the House floor the 10th stop-gap spending bill, this one for only 1 week. The failure of the Republican leadership to get their act together, to tend to the people's business, has a real impact on my district and virtually every community in America.

I met recently with parents, teachers, and school officials in my district who told me that the proposed $8.6 billion in a cut to Connecticut's basic training skills, reading, writing, arithmetic, not bureaucracy, to reading and math skills. It is going to affect 9,200 kids in my State, the loss of the dollars for safe and drug-free schools, the DARE Program that works.

These are not the priorities of the State of Connecticut or America. These are not the values that we hold dear in this country. Public education has been the great equalizer in this Nation for all kids despite what their economic circumstances have been.

Republicans in the other body have got the message. They voted 86 to 14 to restore education funds. I hope the vote in this House will wake up the people here and say to the Republican revolutionaries, support education, pass long-term legislation that puts the education needs of America's kids first.

Mr. LIVINGSTON. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. PORTER], the distinguished chairman of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations.

(Mr. PORTER asked and was given permission to revise and extend his remarks.)

Mr. PORTER. I thank my distinguished chairman for yielding me the time.

Mr. Speaker, there can be no question but that the majority is just as committed to quality public education for the children of America as anyone in the minority. To suggest otherwise is nonsense. But let us face it, there are many, many Government programs that have not provided that kind of quality and that have wasted taxpayers' money. It is time to review them to see if we can do better, and I know that we can do better.

In higher education, it is suggested by the other side that there is going to be less money for student loans and grants. This is simply not true. There is no child in America that is going to have any less money this year than last year for their higher education. The cuts are in the administration of the programs. We can reduce overhead and do a much, much better job of educating children.

On primary and secondary education, all of the cuts in the House bill would amount to less than three-quarters of 1 percent of the money spend on primary and secondary education in the United States.

The sky is not falling. What we are attempting to do is to prioritize; to look where the money is wisely spent for good results, and to support those areas, and to cut those where the money is not wisely spent or is simply wasted.

With respect to title I and Safe and Drug Free Schools, we would like to have greater targeting so that the money goes where it is needed and does not go to almost every school district in America; many of which do not need it at all.

I would like to see targeting for title I done much more tightly. We do not need the money in New Trier High School in Winnetka IL. It is needed in the inner cities and rural areas where we need to get results.

We also need to look at the programs themselves. Do they work? Are children really able to achieve a place in the work force where they can be productive citizens, or are they unable to read and unable to compute? If the programs are not working, by God let us reform them so that they work.

What we see today is really an issue between the old politics, represented by the other side, of serving one special interest in America after another, and the new politics, which I believe we represent, of getting solid results and make Government work better for people in this country.

H.R. 3019, which passed this House last week, included additional funding for many high priority programs. We are willing to spend more money. Obviously we knew from the very beginning that we would have to move toward the President who has different priorities than the Congress. We are willing to sit down and negotiate these matters out, and if more money is desired in certain areas, fine, let us provide it. But let us not add more to the deficit, for if that is what the President wants to do, and it seems that that is exactly what he wants to do, the answer is no.

Let us not increase taxes. That is not the problem in this country. We are taxed enough. The problem is that we spend too much. We have to spend less and use the money we do spend better.

And finally, no funny money, no short-term fixes that do not work. If my colleagues want to provide some additional revenues that are real and long lasting, we will consider them. If they want to fund programs that they think are priorities and ought to have higher spending levels we are willing to do that right now; but no adding to the deficit, no tax increases, and no funny money.

We can work together to find common ground on this matter. Let us find that common ground, let us make government work better for people, let us get results and let us stop playing the old political games.

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, yes, I support a special interest in the area of education. The special interest I support is kids. They are our Nation's future, and I make absolutely no apology for it. Let me simply say, the facts remain that if we follow you on the reconciliation bill, we will wind up requiring people to spend $10 billion more on interest costs for student loans over the next 7 years because of what they put in the reconciliation bill.

And that is going to benefit the banks. That is not going to benefit students. I have talked to college after college in my district, desperate to see the direct loan program expanded so they can get rid of some of the paperwork under the indirect loans that favor the banks but not the kids.

I would also make the point that if my colleagues do not like the fact the proprietary schools are included in some of these programs, cut them out. I am for that. If my colleagues do not like the way some of the education programs work, cut them out. But then use that money in other education programs of a higher priority. Do not use education cuts to finance a tax cut for rich people. That is not what this country is looking for.

Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. DOGGETT].

□ 1115

Mr. DOGGETT. Mr. Speaker, I agree with my colleague on the Republican side that there is certainly something new about this Congress. Indeed, it has achieved new heights. It has scaled new mountains when it comes to mismanagement, near total and complete mismanagement.

When we look back over the course of the last 14 months of this great new revolutionary Congress, what is there to show for all the effort? Near nothing, somewhere between nothing and next to nothing; a lot of hot air, a lot of rhetoric. But in terms of doing anything that affects the lives of ordinary working people in this country, nothing has been accomplished by this Congress. This year it has been hurry up and stop.

Mr. Speaker, I am really pleased that my Republican colleagues have so much love in their hearts that they needed 3 weeks to celebrate Valentine's Day. I wish they would express a little of it on the floor of this Congress. I wish they would come here and get to work on the problems this country faces. Their great division is not with us, not with the President, it is with their Republican colleagues over in the Senate, who rejected in these past few days their radical cuts in Head Start. What they propose is not a continuing resolution but a continuing nonsolution.

Mr. LIVINGSTON. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. PORTER], chairman of the subcommittee.

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, the gentleman from Wisconsin knows very well that I have been in Congress for 16 years now. During all of that time, his party was in the majority. During all of that time, I have personally opposed a 100-percent guaranteed student loan program. Government should neither guarantee any industry their profit nor should government by left holding the bag for defaults at the 100 percent level.

But guess what; the minority party that was then the majority never changed that law. Today, they are promoting yet another plan that leaves the taxpayers holding 100 percent of the defaults, and it is called the direct lending program.

This program looks good at the beginning, because the defaults are not realized until later on, when they occur. Both programs, the 100-percent guaranteed student loan program and the direct lending program, have the same problem: They leave the taxpayer holding the bag on all defaults.

What we need, Mr. Speaker, and what we are going to get is an 85-percent loan program, where there is participation in the private sector, and where the banks are not guaranteed a profit and must make lending more wisely. If there are defaults, the banks participate in handling than on behalf of the taxpayers. That is the way we should have done it a long time ago. The gentleman's party failed to do it.

Mr. OBEY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, let me simply point out that one of the key leaders in proposing the changes which we now have in student loan programs, including the direct loan program, was that ''well-known left-wing radical,'' the gentleman from Wisconsin [Mr. PETRI], who last time I looked was a Republican. He helped this House lead us into a better mix of student aid. You people are now trying to cap the programs that represented the reforms of just a year ago.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Michigan [Mr. BONIOR], the minority whip.

Mr. BONIOR. Mr. Speaker, I thank my colleague for yielding time to me.

Mr. Speaker, this is the 10th or 11th, depending on how one is counting, continuing resolution that we have had before this House in the last 5 months. We are here halfway through the fiscal year. Five appropriations bills still have not been completed because the Republican leadership cannot get their act together. Every single day, millions of dollars in taxpayer funds are being waived through inefficiency and uncertainty. Now, once again, we are being asked to make the biggest cuts, biggest education cuts in the history of this country.

Mr. Speaker, the value of education has always been embedded in America's national soul. A long time ago mothers used to pour honey on the books of their children so when they went to school they would smell the sweetness of education. When kids were working out in the fields out west, mothers used to bring them in when they would see a teacher come by for the educational benefits that were there.

Mr. Speaker, we just had a little discussion here about student loans. What galls me is the fact that your leaders, the gentleman from South Carolina [Mr. GRAHAM], the gentleman from Georgia [Mr. GINGRICH], got through school on student loans. In fact, if it was not for student loans they would not be where they are today, which is the only good reason, from my perspective, to be against student loans. Nonetheless, they want to pull the ladder up and deny students the opportunity that they had to be successful in our society today.

Mr. Speaker, education is our heritage. It is our heritage. We are living in a time when 70 percent of our kids will never finish college, a time when what one learns will make a big difference on what one is going to earn. Yet, this bill responds by making the biggest cuts in education history. It cuts safe and drug-free schools 25 percent, drastic cuts in the DARE program.

It cuts the school-to-work program, which is just getting off the ground, 18 percent. It cuts title I funding, if we take this out through the whole year, by $1 billion, 40,000 teachers losing their jobs. It kicks millions of kids off of math and reading programs.

Mr. Speaker, I would say to the gentleman, do not tell us we are making

these cuts to give kids a better life. This bill will deny millions of students the skills they need for a better life. Now is the time that teacher contracts are being signed. Now is the time that cities are submitting their school budgets. Now is the time that kids are making their important decisions about where they are going to go to college and if they are going to go to college, but they cannot do that if we keep messing around, week by week, month by month, with their funding, and messing around with their lives.

Mr. Speaker, we all know the President is not going to accept these extreme cuts. He understands that education needs to be a priority in this country. In order to force through an extreme agenda, my colleagues are willing to hang American schools and communities and families out to dry.

In closing, Mr. Speaker, let me just say this. America deserves a break. It deserves a government that is on their side. They do not need a Congress that is going to stand in their way, but that is exactly what this bill does.

I urge my colleagues, vote no on this bill, and let us give our kids the opportunity they deserve, the opportunity that the gentleman and his leaders have had on that side of the aisle. Let us give them the opportunity to be successful and to live the American dream. Vote ''no'' on this resolution.

Mr. LIVINGSTON. Mr. Speaker, I yield myself 7 minutes.

Mr. Speaker, I love the word of the month, ''extremists.'' Republicans are extremists. I must hear it from 43 Democrats a day in one form or another, either on the floor or somewhere on the media.

Mr. Speaker, they are talking about how we are cutting education, knowing full well there are 760-some-odd education programs, only 6 percent of which go to math, reading, or science. But if we want to pare one down, we are extremists, and when we did send a perfectly good bill, trying to pare down some of the inefficiencies, to the Senate, it was the Democrats that filibustered that bill for 9 months. The reason we are here talking about education is because their party filibustered it over in the Senate, and would not let it move.

Mr. Speaker, for crying out loud, let us try to be a little credible. We are not extremists. We are trying to save the American taxpayer money, and make sure that the money is spent on the people who deserve the money, and that is the students.

Mr. Speaker, I heard concern for the kids. Where is the concern for the kids when we are spending billions of dollars, anywhere from $26 billion to $200 billion, on education programs in this country, and yet, since 1972, SAT scores have dropped from a total average of 937 to 902 in 1994; 17-year-olds scored 11 points worse in science than in 1970; in reading, 66 percent of 17-year-olds do not read at a proficient level, and reading scores have fallen since 1992; United States students scored worse in math than all other large countries except Spain; and 30 percent of college freshmen must take remedial education classes.

Mr. Speaker, I hear the compassion, I hear the charges and the labels of extremists, but I do not hear any good that is coming from the billions of taxpayers funds that they have wasted on one redundant, inefficient, unnecessary program after another. If Members want 100 programs, fine, or if they want 200 programs, maybe that is a good idea. But 760 is absurd and obscene.

By the way, I heard earlier a little charge that we are beefing up, building up the military-industrial complex; that we are not cutting defense enough, or that we are building it up too much, spending more than the President wants.

Mr. Speaker, this is the President who stood in the Rose Garden on December 13, 1994—check it out. There was an article in the Washington Times and the Washington Post where he was surrounded by his generals and his admirals, wrapping himself in the flag—and said

> I've got to spend $25 billion more on defense, because the support and logistics and equipment of my troops is going down the tubes. We are putting people who are expected to maneuver tanks on the battlefield out on the training field, and they are working their courses rather than driving tanks because they cannot even afford the gasoline.

We were in a position where planes were crashing, and maintenance for tanks and boats and ships was not being adequately made. Even the President of the United States, this President, who says we are extremists has consistently said, or at least back then said, for all the TV cameras, he needed $25 billion more than was previously appropriated for the Defense Department for concern for our troops.

Since then he has deployed troops to Haiti; he has deployed troops to Bosnia; he has people on alert near China, in the area between China and Taiwan, two carrier battle groups. He has troops going all over the world, and what did he do? Instead of pushing for that $25 billion extra this year he recommends a $12 billion cut on top of his low recommendation last year that we increased by $7 billion. So in effect, there is almost $50 billion difference between what the President said that he needed on defense and what he was willing to give the people in uniform, who are risking their lives every day on behalf of every freedom-loving American citizen.

Mr. Speaker, I say that defense is not an issue, because we did not give the President the cuts he asked for in the fiscal year 1996 bill, and we do not intend to give it to him in the fiscal 1997 bill. In fact, defense is expected to be level funded. Actually, it went down by $400 million in fiscal year 1996 under fiscal year 1995, so defense is not an issue.

The President keeps sending troops all over the world, and yet he just does not want to support them. That is his problem. He can take that to the American taxpayer and to the American voter in November. But the real issue is whether or not the Democrats have ever seen a program that they did not want to fund, or an American taxpayer dollar that they did not want to waste on an unnecessary program.

I have a list of some of the programs that money is in fact being spent on. We talked about the book. This $1.5 million book of the Crime Prevention Council. We talked about the other programs that money was being spent on. The direct loan third-year schools program, that the President wants to expend. He says we are not spending enough money on it. If we do not spend money on these items, he says, we are extreme, we are extremists. We are radicals in Congress.

We are extremists because we do not want to spend money on another 138 hair, beauty, cosmetology, barber schools like Earl's Academy of Beauty. It might be a nice place, but how much taxpayer money should go to it? Or to the International School of Cosmetology; three Columbine Beauty Schools in Colorado; Naomi's Mile Hi Beauty College. I will bet that is a nice one. There is the Ph.D Hair Academy, Hair Arts Academy, BoJack Limited Academy of Beauty Culture, Patsy and Rob's Academy of Beauty, Acme Beauty College, Aladdin Beauty College Number 22. What happened to 1 through 21? I guess they are already getting funded, but now he wants to fund number 22, and we are extremists if we do not go along with it.

There is the Southern Nevada University of Cosmetology; 15 Empire Beauty Schools, beauty schools in Pennsylvania; the Avant Garde College of Cosmetology; the Circle J Beauty School.

These are nice places, but do they deserve so much taxpayer dollars that the President puts a gun to Congress' head and says ''Give me my $8 billion to spend on these foolish things, or else I am going to close the Government down?'' That is essentially what he is saying.

He wants to spend money on the Desert Institute for Healing Arts, the California Medical School of Shiatsu, the Euro Skill Therapeutic Training Center, the Florida Institute of Traditional Chinese Medicine, the Myotherapy Institute of Utah, and three schools of massage therapy. ''If you do not fund these things,'' President Clinton said ''We are going to close the Government down, and it will be the Republicans' fault and they are extremists.'' Give me a break.

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

□ 1130

Mr. OBEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the argument from the other side is we are not doing as well in international comparisons on education as we should, and so what we

ought to do is cut education support by $3.3 billion. That may not be extremist. It is dumb.

The issue is not who did what in the Senate or in the House. The issue is simply whether or not it is smart to run the Government 1 week at a time so that nobody can plan what to do next in every local school district in the country. Again, that may not be extremist. It is dumb.

I would urge you to stop it and recognize we need to fund this Government for a full year at a reasonable level. If you do not like these other programs, reform them.

But I do not see any arguments that you made for cutting back on chapter 1. I do not see any arguments you made for cutting back on school-to-work. It would be kind of nice if we paid some attention to kids in this country who are not going to college. That is what the school-to-work program tries to do. Again, it may not be extremist, but it is dumb to cut those programs.

Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, what is extreme about today's action is that once again the House Republicans are turning their back on America's children. Today the House Republicans are taking a hike on America's education for its children, because today the House Republicans are confirming their position against that of the Senate, where a bipartisan coalition has determined that America's children deserve this support for education.

It is one thing to get up here and read off all these programs of cosmetology. There are no title I children enrolled in those schools. Why are you cutting the title I children? There are no high school children enrolled in those schools. Why are you cutting those children from this program?

That is what is extreme. You talk about one thing and you do another. You ought to go back to your schools, as I do every Monday, and visit with the title I children, visit with the school programs and talk to them.

Then you will understand how extreme your position is, how you are playing Russian roulette every 7 days with the education of our children, with our teachers, with our parents and with our communities. Every 7 days you threaten to shut down the Government. That is what is extreme.

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

Mr. OBEY. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, what this is all about is priorities. What the Democrats are saying is that if we look at this continuing resolution, education, the amount of money that goes to our schools is cut by 13 percent. If we look at the amount of money that goes to environmental protection, it is cut by 22 percent.

The gentleman from Illinois said that this is all about priorities and that is what this is about, priorities. The Democrats are saying that there is insufficient funding, there are too many cuts here in educational programs, back to our schools, environmental programs.

The President was in New Jersey last week. He talked about the Superfund program and how many sites will not be cleaned up, hazardous waste sites, because of these cuts constantly in these continuing resolutions, and it is irresponsible to act this way.

We are now talking about a 1-week CR. How can we continue to operate a government on a 1-week basis? What does that mean to the Federal Government? It means that a tremendous amount of time has to be wasted in just gearing up or gearing down because agencies do not know how much money is going to be available.

When the Republican majority was elected, they were elected to govern, and they have not been governing. They come here with these 1-week resolutions, and it is about time that we said enough is enough. Vote ''no.''

Mr. LIVINGSTON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, earlier it was said that there were cuts in higher education funding. Let me be clear about this. The loan programs are entitlements. They are not in this short-term spending bill at all. The money continues to flow exactly as before.

The work-study program, the TRIO program, the SEOC program, the Perkins loan program are all level funded. The Pell grant program was increased by the largest increase in 1 year in history, to the highest level in history, by this side. That is an increase, not a decrease. The only program that was eliminated is State student incentive grants, exactly as the President had suggested.

Let me say regarding title I, Mr. Speaker, that giving the money for a program that does not work is not good government. The program is not working. What we must do is devise a better use of the money and target it to where it is most needed and make a program that really does work.

Mr. OBEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, when we cut through all the shouting, I think it is easy to see by looking at the actions of other parties who is the odd man out today and who is not.

The Senate 2 days ago, with only 14 dissenting votes—and the last time I looked, the Senate was controlled by the Republican Party, the Majority Leader was a fellow who is going to be the Republican candidate for President. When the Senate acted on this bill, on the Labor-Health-Education-social services funding bill, with only 14 dissenting votes out of 100, they put back $60 million in the Goals 2000 program. They put back $917 million in the school-to-work program. They put back $814 million in title I to teach the most disadvantaged kids in this country. They put back $82 million in vocational education.

The gentleman from Florida says it does not work well in Florida. It works terrifically well in Wisconsin, and we do not want to cripple that program.

They put back $58 million in Perkins loans. They put back $32 million in SSIG. Summer youth, you are wiping out that program, an awful lot of jobs for kids who are going to be on the street instead of learning how to work. School-to-work programs in the Department of Labor $91 million that they are trying to put back. Head Start, $136 million.

We can talk all we want about how some local school district has applied for money and used it in a stupid way. I do not doubt that. It is the job of government to try to cull those out. You talk about the way some proprietary schools have abused these student aid programs. That is why I would like to see most of them largely declared ineligible, unless they can demonstrate they have a solid record of performance.

I pay taxes, just like you do. My constituents pay taxes, just like you do. I deeply resent it when a dime of it is wasted. But I also deeply regret it when Members of this House use some little screw-up somewhere to provide an excuse for obliterating support for chapter I for a million kids in this country who need some help to get ahead.

Now, I just released a report on Monday which showed that the wealthiest one-half of 1 percent of American families in this country saw their net worth grow from $8.5 million in 1983 to $12.5 million in 1989, just in the 1980's alone.

The net worth of 90 percent of American families did not grow by almost $4 million, as it did for the high rollers in this society. The net worth for most families in this country, 90 percent of them, grew by $2,000 in the 1980's. They had a grand total of $29,000 in assets. The best way for most working families to get off the treadmill, to get ahead for their kids, to build a decent future for their kids, is to expand, not contract, educational opportunity.

Now, if you do not like what was done in the past, fix it. You are the majority party. If you want to consolidate those programs and clean them up, do it, and we will try to help you. But do not use some of these local screw-ups as an excuse to gut chapter I for a million kids or to say to hundreds of thousands of kids who are looking for summer jobs, ''Sorry, it's more important go give the wealthiest 1 percent of people in this country another tax cut. You guys worry about your kids some other day''.

That is what you are saying when you are cutting education by over $3

billion. When you come in here and say we ought to cut back on environmental enforcement by 22 percent, that is disgraceful. It destroys the future environment for every family that wants a decent environment. You ought to be ashamed of yourselves. Vote ''no'' on this proposition. It is a silly 1-week, childish game.

Mr. LIVINGSTON. Mr. Speaker, I yield myself the balance of my time.

(Mr. LIVINGSTON asked and was given permission to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, here it is. We ought to be ashamed of ourselves. We are extremist for trying to save the taxpayers money and to not spend money on silly, dumb programs that do not work.

Compassion is not just exclusively on that side. We have got a lot of compassion. We have got compassion for the kids. We have got compassion for the taxpaying citizen, the hard-working American people that want to make sure that if they are going to send their money here, that it is going to be spent wisely

In reality, this should be debate simply about a continuing resolution for 1 week so that we can go try to wrap up this whole other exercise on all these bills, three of which were vetoed by the President and one which was filibustered by their guys in the other body. Now let us not make any more of this than that.

The summer youth jobs program we heard about, that is a total other bill. That is not even in this resolution before us. That issue should be resolved as it was signed by the President in another bill. It is over because it did not work. It was getting money to kids who just did not work, and it did not train them for anything.

The title I program that the gentleman talks about goes to rich school districts that do not need it. It needs to be revamped. When you want to get money to kids that need help, let us not spend it on kids that do not need help.

All we are saying is fix the programs first. You have had 760 programs to do all the wonderful education things you want. You have wasted it, and the SAT scores have plummeted. They have gone down. It is time to take a new look. It does not take a new program. It does not take more money. What it takes is some common sense, and that has been totally lacking over there for the last 40 to 60 years.

I urge the adoption of this poor, measly 1-week bill, and let us get the real bill up next week.

Mr. POSHARD. Mr. Speaker, I rise in strong opposition to this short-term funding bill, both in regards to the substance of the bill and the process under which we are dealing with these very serious issues.

The record on spending issues is clear—I've supported the balanced budget amendment, the line-item veto, and have voted often enough to control spending to make the Concord Coalition Honor Roll. I know we need to control spending.

But there are some serious mistakes being made in this bill and in the appropriations process overall for fiscal year 1996.

I respect my colleagues, Chairman LIVINGSTON and Chairman PORTER, and know that this has been a difficult year for the Education, Labor, HHS appropriations bill. But I have to object to the serious cuts being made in support of education in this country. When I'm home each weekend, I am constantly contacted by the school administrators, teachers, and parents who are concerned about the shrinking support they are receiving for very important education initiatives. And with Eastern Illinois University, Southern Illinois University, Millikin University all in my district and the University of Illinois close by, I am also concerned about our approach to supporting opportunity for our students and families to access the education they need to compete on the job market.

The title I program which helps our school districts serve families of modest incomes is important in my district. The title III program which serves our community colleges is important in my district. We are not doing as well for our communities in these areas as we should.

If we need educational reform, I stand ready to help my colleagues fashion a stronger approach than what may now be in place. If we need to control spending, my record is there in terms of sorting out our priorities and getting return for our investment.

But I oppose funding the Government on a weekly, monthly, or quarterly basis. And I oppose doing so on 75 percent of funding in the previous year. That obscures the very real policy issues we face in education, health care, the environment, and our economy as a whole. I oppose this bill and urge my colleagues to do better in future efforts.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the order of the House of Wednesday, March 13, 1996, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 238, nays 179, not voting 14, as follows:

[Roll No. 62]

YEAS—238

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Moran
Morella
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—179

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Berman
Bevill
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson (IL)
Jackson-Lee (TX)
Jacobs

Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Yates

NOT VOTING—14

Chapman
Collins (IL)
de la Garza
Dickey
Durbin
Greenwood
Lowey
Moakley
Myers
Pelosi
Rangel
Royce
Scott
Stokes

□ 1200

Messrs. BOUCHER, HOLDEN, DICKS, CRAMER, RICHARDSON, ANDREWS, and BARCIA changed their vote from ''yea'' to ''nay.''

Mr. COLLINS of Georgia changed his vote from ''nay'' to ''yea.''

So the joint resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mrs. LOWEY. Mr. Speaker, I would like to state that had I been here for rollcall No. 62, I would have voted ''nay.'' I was detained at a Committee on Appropriations hearing, and, therefore, I missed the vote.

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, I was also detained at the Committee on Appropriations. Had I been present for the vote I would have voted ''nay.''

PERSONAL EXPLANATION

Mr. DICKEY. Mr. Speaker, I have the same request. I was unavoidably detained in my subcommittee and could not make it here at the time. Had I been present I would have voted ''yea.''

THE JOURNAL

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to clause 5 of rule I, the pending business is the question de novo of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

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

RECORDED VOTE

Mr. LAHOOD. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 336, noes 73, answered ''present'' 1, not voting 21, as follows:

[Roll No. 63]

AYES—336

Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Coble
Coburn
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Herger
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
LaTourette
Lazio
Leach
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Norwood
Obey
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Petri
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sanders
Sanford
Sawyer
Scarborough
Schaefer
Schiff
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torres
Towns
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)
Zeliff

NOES—73

Abercrombie
Baldacci
Becerra
Borski
Brown (CA)
Brown (FL)
Clay
Clyburn
Coleman
Costello
DeFazio
English
Ensign
Everett
Fazio
Filner
Flanagan
Foglietta
Frost
Gephardt
Gibbons
Gillmor
Green
Gutknecht
Hastings (FL)
Hefley
Heineman
Hilleary
Hilliard
Hutchinson
Jacobs
Jefferson
Johnson, E.B.
Kennelly
LaFalce
Latham
Levin
Lewis (GA)
Longley
Markey
McDermott
McNulty
Nussle
Oberstar
Olver
Owens
Pallone
Peterson (MN)
Pickett
Pombo
Rush
Sabo
Salmon
Schroeder
Skaggs
Slaughter
Stark
Stenholm
Stockman
Taylor (MS)
Thompson
Thornton
Torkildsen
Torricelli
Velazquez
Vento
Visclosky
Volkmer
Waters
Watt (NC)
Wise
Yates
Zimmer

ANSWERED ''PRESENT''—1

Harman

NOT VOTING—21

Barr
Bilbray
Blute
Chapman
Collins (IL)
de la Garza
Dellums
Durbin
Gutierrez
Hefner
Laughlin
Lewis (CA)
Menendez
Moakley
Myers
Neal
Radanovich
Saxton
Skelton
Stokes
Wilson

□ 1220

Mr. FLAKE changed his vote from ''no'' to ''aye.''

So the Journal was approved.

The result of the vote was announced as above recorded.

CONFERENCE REPORT ON H.R. 956, COMMON SENSE PRODUCT LIABILITY LEGAL REFORM ACT OF 1996

Mr. HYDE submitted the following conference report and statement on the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–481)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), to establish legal standards and procedures for product liability litigation, and for

other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Common Sense Product Liability Legal Reform Act of 1996''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Findings and purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
Sec. 102. Applicability; preemption.
Sec. 103. Liability rules applicable to product sellers, renters, and lessors.
Sec. 104. Defense based on claimant's use of intoxicating alcohol or drugs.
Sec. 105. Misuse or alteration.
Sec. 106. Uniform time limitations on liability.
Sec. 107. Alternative dispute resolution procedures.
Sec. 108. Uniform standards for award of punitive damages.
Sec. 109. Liability for certain claims relating to death.
Sec. 110. Several liability for noneconomic loss.
Sec. 111. Workers' compensation subrogation.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. General requirements; applicability; preemption.
Sec. 205. Liability of biomaterials suppliers.
Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 301. Effect of court of appeals decisions.
Sec. 302. Federal cause of action precluded.
Sec. 303. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) our Nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy;

(2) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services;

(3) the rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the States, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce;

(4) as a result of excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability, consumers have been adversely affected through the withdrawal of products, producers, services, and service providers from the marketplace, and from excessive liability costs passed on to them through higher prices;

(5) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability jeopardize the financial well-being of many individuals as well as entire industries, particularly the Nation's small businesses and adversely affects government and taxpayers;

(6) the excessive costs of the civil justice system undermine the ability of American companies to compete internationally, and serve to decrease the number of jobs and the amount of productive capital in the national economy;

(7) the unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost;

(8) because of the national scope of the problems created by the defects in the civil justice system, it is not possible for the States to enact laws that fully and effectively respond to those problems;

(9) it is the constitutional role of the national government to remove barriers to interstate commerce and to protect due process rights; and

(10) there is a need to restore rationality, certainty, and fairness to the civil justice system in order to protect against excessive, arbitrary, and uncertain damage awards and to reduce the volume, costs, and delay of litigation.

(b) PURPOSES.—Based upon the powers contained in Article I, Section 8, Clause 3 and the Fourteenth Amendment of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce and to uphold constitutionally protected due process rights by—

(1) establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) placing reasonable limits on damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in civil actions;

(4) reducing the unacceptable costs and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; and

(5) establishing greater fairness, rationality, and predictability in the civil justice system.

TITLE I—PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) ACTUAL MALICE.—The term ''actual malice'' means specific intent to cause serious physical injury, illness, disease, death, or damage to property.

(2) CLAIMANT.—The term ''claimant'' means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) CLAIMANT'S BENEFITS.—The term ''claimant's benefits'' means the amount paid to an employee as workers' compensation benefits.

(4) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) COMMERCIAL LOSS.—The term ''commercial loss'' means any loss or damage solely to a product itself, loss relating to a dispute over its value, or consequential economic loss, the recovery of which is governed by the Uniform Commercial Code or analogous State commercial or contract law.

(6) COMPENSATORY DAMAGES.—The term ''compensatory damages'' means damages awarded for economic and non-economic loss.

(7) DURABLE GOOD.—The term ''durable good'' means any product, or any component of any such product, which has a normal life expectancy of 3 or more years, or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(8) ECONOMIC LOSS.—The term ''economic loss'' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(9) HARM.—The term ''harm'' means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss.

(10) INSURER.—The term ''insurer'' means the employer of a claimant if the employer is self-insured or if the employer is not self-insured, the workers' compensation insurer of the employer.

(11) MANUFACTURER.—The term ''manufacturer'' means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who (i) designs or formulates the product (or component part of the product), or (ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes or constructs and designs, or formulates, or has engaged another person to design or formulate, an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(12) NONECONOMIC LOSS.—The term ''noneconomic loss'' means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(13) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(14) PRODUCT.—

(A) IN GENERAL.—The term ''product'' means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state which—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) EXCLUSION.—The term does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam except to the extent that electricity, water delivered by a utility, natural gas, or steam, is subject, under applicable State law, to a standard of liability other than negligence.

(15) PRODUCT LIABILITY ACTION.—The term ''product liability action'' means a civil action

brought on any theory for harm caused by a product.

(16) PRODUCT SELLER.—

(A) IN GENERAL.—The term ''product seller'' means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) EXCLUSION.—The term ''product seller'' does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(17) PUNITIVE DAMAGES.—The term ''punitive damages'' means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future.

(18) STATE.—The term ''State'' means any State of the United States, the District of Columbia, Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) PREEMPTION.—

(1) IN GENERAL.—This Act governs any product liability action brought in any State or Federal court on any theory for harm caused by a product.

(2) ACTIONS EXCLUDED.—A civil action brought for commercial loss shall be governed only by applicable commercial or contract law.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes State law only to the extent that State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by otherwise applicable State or Federal law.

(c) EFFECT ON OTHER LAW.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant;

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product—

(A) if the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) if the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(16)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term ''product liability action'' means a civil action brought on any theory for harm caused by a product or product use.

(d) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this section, but shall be subject to any applicable State law.

SEC. 104. DEFENSE BASED ON CLAIMANT'S USE OF INTOXICATING ALCOHOL OR DRUGS.

(a) GENERAL RULE.—In any product liability action, it shall be a complete defense to such action if—

(1) the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug when the accident or other event which resulted in such claimant's harm occurred; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for such accident or other event.

(b) CONSTRUCTION.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term ''drug'' means any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

SEC. 105. MISUSE OR ALTERATION.

(a) GENERAL RULE.—

(1) IN GENERAL.—In a product liability action, the damages for which a defendant is otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant's harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, a defendant's express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For the purposes of this Act, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) WORKPLACE INJURY.—Notwithstanding subsection (a), and except as otherwise provided in section 111, the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer or any coemployee who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

SEC. 106. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), a product liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(A) the harm that is the subject of the action; and

(B) the cause of the harm.

(2) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file a product liability action not later than 2 years after the date on which the person ceases to have the legal disability.

(b) STATUTE OF REPOSE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), no product liability action that is subject to this Act concerning a product, that is a durable good, alleged to have caused harm (other than toxic harm) may be filed after the 15-year period beginning at the time of delivery of the product to the first purchaser or lessee.

(2) STATE LAW.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 15-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) EXCEPTIONS.—

(A) A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 15 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a) or (b) shortens the period during which a product liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action not later than 1 year after the date of enactment of this Act.

SEC. 107. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action may, not later than 60 days after the service of—

(1) the initial complaint; or

(2) the applicable deadline for a responsive pleading;

whichever is later, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in subsection (c), not later than 10 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filling a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

SEC. 108. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action.

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subsection (a) may not exceed the greater of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), in any action described in subsection (a) against an individual whose net worth does not exceed $500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer that 25 full-time employees, the punitive damages shall not exceed the lesser of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and noneconomic loss; or

(B) $250,000.

For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or sister corporation.

(3) EXCEPTION FOR INSUFFICIENT AWARD IN CASES OF EGREGIOUS CONDUCT.—

(A) DETERMINATION BY COURT.—If the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall determine the additional amount of punitive damages (referred to in this paragraph as the ''additional amount'') in excess of the amount determined in accordance with paragraph (1) to be awarded against the defendant in a separate proceeding in accordance with this paragraph.

(B) FACTORS FOR CONSIDERATION.—In any proceeding under paragraph (A), the court shall consider—

(i) the extent to which the defendant acted with actual malice;

(ii) the likelihood that serious harm would arise from the conduct of the defendant;

(iii) the degree of the awareness of the defendant of that likelihood;

(iv) the profitability of the misconduct to the defendant;

(v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;

(vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;

(vii) the financial condition of the defendant; and

(viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

(I) compensatory and punitive damage awards to similarly situated claimants;

(II) the adverse economic effect of stigma or loss of reputation;

(III) civil fines and criminal and administrative penalties; and

(IV) stop sale, cease and desist, and other remedial or enforcement orders.

(C) REQUIREMENTS FOR AWARDING ADDITIONAL AMOUNT.—-If the court awards an additional amount pursuant to this subsection, the court shall state its reasons for setting the amount of the additional amount in findings of fact and conclusions of law.

(D) PREEMPTION.—This section does not create a cause of action for punitive damages and does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Nothing in this subsection shall modify or reduce the ability of courts to order remittiturs.

(4) APPLICATION BY COURT.—This subsection shall be applied by the court and application of this subsection shall not be disclosed to the jury. Nothing in this subsection shall authorize the court to enter an award of punitive damages in excess of the jury's initial award of punitive damages.

(c) BIFURCATION AT REQUEST OF ANY PARTY.—

(1) IN GENERAL.—At the request of any party the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

SEC. 109. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

In any civil action in which the alleged harm to the claimant is death and, as of the effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 108, but only during such time as the State law so provides. This section shall cease to be effective September 1, 1996.

SEC. 110. SEVERAL LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In a product liability action, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

SEC. 111. WORKERS' COMPENSATION SUBROGATION.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this Act.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this Act, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this Act, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the insurer.

(B) RIGHTS OF INSURER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an insurer shall, in the same manner as any party in the action (even if the insurer is not a named party in the action), have the right to—

(I) appear;

(II) be represented;

(III) introduce evidence;

(IV) cross-examine adverse witnesses; and

(V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is submitted to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Biomaterials Access Assurance Act of 1996''.

SEC. 202. FINDINGS.

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term ''biomaterials supplier'' means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term ''claimant'' means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term ''component part'' means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term ''harm'' means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term ''implant'' means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term ''manufacturer'' means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term ''medical device'' means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term ''raw material'' means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term ''seller'' means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 205(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 301. EFFECT OF COURT OF APPEALS DECISIONS.

A decision by a Federal circuit court of appeals interpreting a provision of this Act (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

SEC. 302. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 303. EFFECTIVE DATE.

This Act shall apply with respect to any action commenced on or after the date of the enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
JAMES SENSENBRENNER, JR.,
GEORGE W. GEKAS,
BOB INGLIS,
ED BRYANT,

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL OXLEY,
CHRISTOPHER COX,
Managers on the Part of the House.

LARRY PRESSLER,
SLADE GORTON,
TRENT LOTT,
TED STEVENS,
OLYMPIA SNOWE,
JOHN ASHCROFT,
J.J. EXON,
JOHN D. ROCKEFELLER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), to establish legal standards and procedures for product liability litigation, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

The conferees incorporate by reference in this Statement of Managers the legislative history reflected in both House Report 104–64, Part 1 and Senate Report 104–69. To the extent not otherwise inconsistent with the conference agreement, those reports give expression to the intent of the conferees. (The conferees also take note of House Report 104–63, Part 1, which contains supplementary legislative history on a related bill.)

SHORT TITLE AND TABLE OF CONTENTS

The conferees, in section 1(a), modified the short title of the House bill to reflect the terms of the conference agreement. The conferees also decided that a table of contents would be helpful and therefore incorporated in section 1(b) the headings of the separate titles and sections of this legislation.

FINDINGS AND PURPOSES

H.R. 956—but not the Senate amendment—included findings and purposes. The conferees decided it was important—in the legislation itself—to delineate the factual basis for congressional action and explain what Congress seeks to accomplish. The language adopted, contained in section 2, generally follows the House-passed bill with some modifications.

Paragraph (1) of the findings in H.R. 956 was not included in the conference agreement because the conferees decided that describing misuses of the civil justice system in very broad terms was unnecessary. That paragraph had been written at a level of generality exceeding other findings. The omission of the paragraph should not be interpreted as reflecting adversely on its accuracy.

Section 2(a)(9) of the conference agreement refers to two constitutional roles of the national government that are directly relevant to this legislation—''to remove barriers to interstate commerce and to protect due process rights.'' Although the latter was not included in H.R. 956's findings, legislative history clearly conveyed the House's recognition of the Federal government's due process related role. The report of the Committee on the Judiciary (House Report 104–64, Part 1) noted: ''Section 5 of the Fourteenth Amendment provides an independent constitutional ground for Congressional legislation limiting awards for punitive damages. Congress is given the authority, under section 5, 'to enforce, by appropriate legislation' the provisions of the Fourteenth Amendment—which include a proscription on state deprivations of 'life, liberty, or property, without due process of law.' '' [p. 8]

Including explicit reference to due process rights in the findings is appropriate if the findings are to more fully reflect our understanding of the constitutional underpinnings for this legislation.

The purposes of this legislation, as delineated in section 2(b), are ''to promote the free flow of goods and services and to lessen burdens on interstate commerce and to uphold constitutionally protected due process rights. . . .'' Upholding due process rights was an important objective the House sought to advance even though explicit reference to it did not appear in H.R. 956's statement of purposes. The Committee on the Judiciary's report (House Report 104-64, Part 1) on H.R. 956 stated: ''The Committee acted to reform punitive damages not only to ameliorate adverse effects on interstate and foreign commerce but also to protect due process rights.'' [page 9] Adding the phrase ''uphold constitutionally protected due process rights'' to the purposes provides a more complete statement of congressional objectives.

DEFINITIONS

Section 101 defines 18 terms for purposes of Title I. One of these terms—compensatory damages—is not defined in either H.R. 956 or the Senate amendment.

APPLICABILITY; PREEMPTION

Section 102 addresses preemption, relationship to State law, and effect on other law.

LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS

Both the House bill and Senate amendment included liability rules applicable to product sellers. Section 103 of the conference agreement is designed to reduce consumer costs and provide fair treatment for product sellers—defined to include those who sell, rent, or lease a product in the course of a business conducted for that purpose. To more fully reflect the application of this section's remedial provisions beyond sellers in the narrow sense of the word, the conference agreement refers to renters and lessors in section 103's title.

As a general rule, liability of product sellers can be predicated on harm resulting from a product seller's (1) failure to exercise reasonable care, (2) breach of its own express warranty, or (3) intentional wrong-doing. The failure to exercise reasonable care requirement for potential liability applies not only to products sold by the product seller—as stated in H.R. 956—but also to products rented or leased by the product seller—as stated in the Senate amendment. The conferees recognize that the unfairness of imputing manufacturer conduct to others applies regardless of whether a product is sold, rented, or leased—and for that reason adopt the Senate language. That language is consistent with the intent of the House to make protections available in a sale situation also available in a rental or lease situation.

Both H.R. 956 and the Senate amendment set forth those limited circumstances in which a product seller can be treated as a manufacturer of a product. One covered situation involves a court determination that ''the claimant would be unable to enforce a judgment against the manufacturer.'' In response to concerns raised after House consideration of the bill that claimants might not learn about such a judicial determination within the period of the statute of limitations—and therefore would be barred unfairly from proceeding against the seller—the Senate included a provision tolling the statute of limitations for limited purposes ''from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.'' The conferees accept this provision because it safeguards a protection for claimants given expression in both bills. Since the conference agreement incorporates a uniform statute of limitations in section 106, the inclusion of this safeguard relating to the time bar is particularly appropriate.

The conference agreement clarifies that State law, rather than the provisions of section 103, govern actions for negligent entrustment. State law, for example, will continue to apply to lawsuits predicated on the alleged negligence involved in giving a loaded gun to a young child or allowing an unlicensed and unqualified minor below driving age to operate an automobile. Similarly, the potential liability of a service station that sells gasoline to an obviously drunk driver will be determined under State law. Section 103(d) gives expression to the interest of each State in setting standards for determining whether conduct within its borders constitutes negligent entrustment.

DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS

Both H.R. 956 and the Senate amendment provide a complete defense to a product liability action in situations in which a claimant, under the influence of alcohol or drugs, is more than fifty percent responsible—as a result of such influence—for the accident or event resulting in the harm he or she sustains. A society that seeks to discourage alcohol and drug abuse should not allow individuals to collect damages when their disregard of such an important societal norm is the primary cause of accidents or events.

The conference committee generally accepts the House formulation in section 104. The conferees did not incorporate the Senate reference to the defendant proving alcohol or drug related facts because the issue of who has the burden of proof on these issues is best left to State law. A requirement for the availability of the defense related to alcohol or drug use, under the Senate amendment, is that the claimant was ''under the influence.'' The House language, which was adopted, is more broadly worded and refers to the claimant being ''intoxicated or . . . under the influence.'' The House provision was accepted because the conferees want to ensure the availability of the defense relating to alcohol or drugs in cases in which State law may consider an individual to be ''intoxicated'' but not necessarily ''under the influence''—perhaps because the latter term does not have legal significance in a particular jurisdiction.

The conferees specifically incorporate the Controlled Substances Act definition of controlled substance in the conference agreement's delineation of what the term ''drug'' means—following the House version in that respect. The Senate amendment was silent in this regard. The reference to the Controlled Substances Act will foster uniformity in decisions by State courts on whether particular substances constitute drugs. A substance that is taken by a claimant in accordance with the terms of a lawfully issued prescription, however, is not considered a drug for purposes of this section. The policy fostered is the denial of recovery to those whose accidents are primarily caused by the abuse of drugs.

Although the use of controlled substances in accordance with the terms of lawfully issued prescriptions can lead to accidents—in circumstances, for example, where one's ability to drive may be impaired—the conferees leave to individual States the responsibility of resolving whether potential recovery is defeated by such conduct. The conference agreement focuses on the most egregious conduct implicating Federal interests—noting the national market for illegal drugs and the transportation of illegal drugs across State lines and in international commerce.

The Senate provision's reference to a drug that ''was not prescribed by a physician for use by the claimant'' does not cover situations in which the terms of a lawfully issued prescription are disregarded—perhaps by consuming excessive quantities. The conferees conclude, however, that individuals who abuse prescription drugs lack sufficient equities to recover for accidents primarily caused by their drug use—and for that reason refer to any controlled substance ''taken by the claimant other than in accordance with the terms of a lawfully issued prescription'', thus opting for the broader House formulation.

Finally, the House version of this section is modified to cover controlled substances ''not legally prescribed for use by the claimant'' in addition to controlled substances ''taken by the claimant other than in accordance with the terms of a lawfully issued prescription.'' The phrase ''not legally prescribed for use by the claimant'' makes unambiguous the requirement that the prescription be for the claimant's own use. A claimant cannot cause an accident after using someone else's prescription, even in accordance with its terms, and recover damages.

The phrase ''legally prescribed'' is a variation on the Senate provision's reference to ''prescribed by a physician.'' The change takes into account the fact that the right to prescribe medication is not limited to physicians in every jurisdiction. The potential applicability of defenses involving drugs should not depend on whether a legally issued prescription comes from a physician or non-physician—particularly in view of the fact that physicians may not be available or accessible in some areas of the country.

MISUSE OR ALTERATION

Both H.R. 956 and the Senate amendment include an important reform—incorporated in section 105 of the conference agreement—designed to assure manufacturers and sellers that they can develop and sell products without undue concern about unknowable and unpredictable liability attributable to claims resulting from the misuse or alteration of their products.

Subsection (a)(1) of section 105 generally follows the House language. Damages will be reduced because of misuse or alteration, however, not only in cases of liability arising under State law—as H.R. 956 provides—but also in possible cases of liability arising under Federal law. Damages are reduced if the defendant establishes the requisite link between a certain percentage of the claimant's harm and specified conduct.

Although the ''preponderance of the evidence'' standard will apply—as the House version explicitly states—the conference agreement deletes reference to this evidentiary standard in section 105(a) in order

to avoid any possible negative inference from the fact that the legislation does not refer to ''preponderance of the evidence'' in other sections. Preponderance of the evidence is the usual standard in civil cases—including product liability cases. The conferees' intent is that courts apply the usual standard in all situations covered by this legislation except where another standard is explicitly mandated.

Subsection (a)(2) follows Senate language. Although this provision appears to state a self-evident proposition—that a use intended by the manufacturer does not constitute a misuse or alteration—it is included to alleviate concerns that some courts might reach a different result.

Subsection (b) follows House language and states the general rule that a claimant's damages will not be reduced because of misuse or alteration by others in the workplace who are immune from suit by the claimant. The rationale is that Federal law should not mandate a reduction in damages for a claimant who cannot collect from an employer or co-employee for misuse or alteration. The conference agreement, however, carves an exception to the general prohibition against such reductions by specifying that damages will not be reduced ''except as otherwise provided in section 111'' of the conference agreement dealing with workers' compensation subrogation.

The conferees intend that, consistent with normal principles of law, this section shall supersede State law concerning misuse or alteration of a product only to the extent that State law is inconsistent with this section. The deletion of language in the Senate amendment on this point was intended merely to avoid any possible inference that it is not intended to be the case in other sections of the legislation.

STATUTE OF LIMITATIONS

The fact that consumers generally do not live in the States in which the products they purchase and use are manufactured creates confusion and uncertainty for manufacturers when the law allows determinations of whether product liability actions are barred by a statute of limitations to vary from jurisdiction to jurisdiction. This uncertainty and unpredictability ultimately means higher prices for consumers. In addition, it is unfair to deny the potential for a remedy to an injured party living in one State that may be available to an injured party using the same product in another State. The conferees conclude that uniformity is needed and agree that two years is a reasonable limitation on the period of time for the filing of a lawsuit by an injured individual—regardless of where he or she may reside. This decision is reflected in the language contained in section 106(a).

The conferees expect that in most cases legal actions will be brought within two years of the accident or injury, because generally individuals have knowledge—or can be charged with knowledge—of the resulting harm and its cause at the time of an injury. An inflexible rule linking the running of the statute of limitations to the time of injury, however, would be unfair to those few injured parties who could not—despite the exercise of reasonable care—discover the harm and its cause. To address the exigencies of those situations, the conferees adopted the language of the Senate amendment referencing the date ''on which the claimant discovered or, in the exercise of reasonable care, should have discovered'' the harm and its cause.

STATUTE OF REPOSE

Both the House bill and Senate amendment included provisions to protect manufacturers against stale claims that arise many years after a product's first intended use. A statute of repose would allow U.S. manufacturers to compete with foreign companies that have entered the American marketplace in recent years and face no liability exposure for very old products. Section 106(b) advances U.S. competitiveness, preserves and expands employment opportunities here at home, and protects American consumers from the higher prices for goods and services that result from excessive litigation related expenses, inflated settlement offers, and increased liability insurance rates.

The statute of repose contained in the conference agreement will, for durable goods, generally bar product liability actions that are not filed within 15 years of a product's delivery. The time of delivery refers to the date that the product reaches its first purchaser or lessee who was not engaged in the business of selling or leasing the product or of using the product as a component in the manufacture of another product. The only exceptions to the statute of repose that courts appropriately can recognize are those explicitly provided for in section 106(b)(3) itself. The 15 year time period is taken from the House bill.

Section 106(b) adopts Senate language making the time bar applicable only to durable goods. Section 106(b)(2) is also language from the Senate amendment. It provides for deferring to State law time bars—on actions covered by this legislation—that are shorter than 15 years. The conferees believe that States should remain free to impose time limits of less than 15 years—a concept given expression in section 106(b)(2). Such State limitations are not inconsistent with the objectives of section 106(b)—including fostering a more conducive environment for U.S. companies to compete in the global marketplace. Furthermore, nothing in the conference agreement is to be interpreted to preempt state statutes of repose which may apply to goods other than durable goods as defined in this agreement.

Section 106(c) is a transition provision that permits product liability actions to be brought within one year of the date of enactment in situations in which the application of the statute of repose (or statute of limitations) shortens the period otherwise available under State law. The provision protects potential claimants by affording them a fair and reasonable opportunity to adjust to time limitations contained in section 106.

ALTERNATIVE DISPUTE RESOLUTION

Section 107 incorporates a provision of the Senate amendment dealing with alternative dispute resolution.

PUNITIVE DAMAGES

The requirement of ''conscious, flagrant indifference to the rights or safety of others'' in section 108(a) makes it clear that punitive damages may be awarded only in the most serious cases. Punitive damages are not intended as compensation for injured parties. Rather, they are intended to punish and to deter wrongful conduct.

The conferees understand that punitive damages can be awarded in cases of intentional harm. For this reason, it was not felt necessary to express the concept explicitly. Thus, the conference agreement does not retain the language contained in the House passed bill regarding conduct ''specifically intended to cause harm.''

Section 108(b) imposes a limitation on punitive damages—with a special rule applicable to individuals of limited net worth and businesses or entities with small numbers of employees. The limitation on punitive damages cannot be disclosed to the jury. A punitive damage award may be appealed even if it falls within the limitation. Nothing in the bill prevents a trial court (and each reviewing court) from reviewing punitive damage awards individually and determining whether the award is appropriate under the particular circumstances of that case.

Although the conferees establish a mechanism for awarding additional punitive damages in limited circumstances (''egregious conduct'' on the part of the defendant and a punitive damages jury verdict insufficient to punish such egregious conduct, or to deter the defendant), it is anticipated that occasions for additional awards will be very limited indeed. Findings of fact and conclusions of law relating to the award of additional punitive damages are designed both to ensure that judges carefully consider such decisions and to facilitate appellate review. The court may not enter an award of punitive damages in excess of the amount of punitive damages originally assessed by the jury. The additional award provisions do not apply in cases covered by section 108(b)(2)—actions against an individual whose net worth does not exceed $500,000 or against entities that have fewer than 25 full-time employees.

Section 108(c)(1) clarifies that a separate proceeding on punitive damages—pursuant to a bifurcation request of any party—shall be held subsequent to the determination of the amount of compensatory damages. This order of proceedings, consistent with the intent of both the House and Senate, is being made explicit to avoid any possible confusion. A determination of punitive damages first can adversely and unfairly influence financial markets and result in inappropriate pressure on defendants to settle. Punitive damages expressed as a multiple of compensatory damages to be determined later may not result in any liability if a different jury considering compensatory damages decides in favor of the defendant. This potential verdict for a defendant, however, may come too late because of the realities of the business world.

The conferees clarify in section 108(c)(2) that it is improper not only to offer evidence—but also to raise arguments or contentions—relevant only to a claim of punitive damages in the compensatory damages proceeding, because of the potential prejudicial effects. The conferees' objective is to avoid infecting determinations of liability—or the amount of compensatory damages—with such irrelevant information.

LIABILITY FOR CLAIMS INVOLVING DEATH

Section 109 incorporates a provision of the Senate amendment designed to address a situation unique to one State.

SEVERAL LIABILITY FOR NONECONOMIC LOSS

The language of section 110 on several liability for noneconomic loss in product liability cases substantially follows the Senate amendment. The rule of several liability for noneconomic loss applies to all product liability actions nationwide.

The conference agreement, based on the Senate amendment, clearly states that in allocating noneconomic damages to a defendant, ''the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, *whether or not such person is a party to the action*.'' [Emphasis added] The Senate formulation reflected here is fully consistent with the intent of the House as expressed in Report Number 104-64, Part 1: ''[T]he trier of fact will determine the proportion of responsibility of each person responsible for the claimant's harm, without regard to whether or not such person is a party to the action.'' pp. 13–14. Persons who may be responsible for the claimant's harm include, but are not necessarily limited to, defendants, third-party defendants, settled parties, nonparties, and persons or entities that cannot be tried (e.g., bankrupt persons, employers and other immune entities).

The House passed version specified that the section ''does not preempt or supersede any State or Federal law to the extent that such law would further limit the application of the theory of joint liability to any kind of damages.'' The conferees have not included this language in the conference report itself because it is superfluous and self-evident. Reference is made to it in the statement of managers, however, to rebut any possible negative inference from its omission. The quoted language itself reflects the conference agreement's intent.

WORKERS' COMPENSATION SUBROGATION

Section 111(a)(1)(A) provides that, in any product liability action involving a workplace injury, an insurer shall have a right of subrogation. Section 111(a)(1)(B) provides that, to assert a right of subrogation, an insurer must provide the court with written notice that it is asserting a right of subrogation. Section 111(a)(1)(C) states that the insurer need not be a necessary party to the product liability action. Thus, an employee can pursue a product liability action against a manufacturer without regard to the insurer's participation in the action. This section focuses on eliminating unsafe workplaces and is, therefore, applicable in all actions where employer or coemployee fault for a claimant's harm is at issue. Conversely, section 111 does not apply in cases where the product liability defendant chooses not to raise employer or coemployer fault as a defense.

Section 111(a)(2)(A) preserves the right of an insurer to assert a right of subrogation against payment made by a product liability defendant, without regard to whether the payment is made as part of a settlement, in satisfaction of a judgment, as consideration for a covenant not to sue, or for any other reason. ''Claimant's benefits'' is defined in section 101(3) and is a broad term which includes the total workers' compensation award, including compensation representing lost wages, payments made by way of an annuity, health care expenses, and all other payments made by the insurer for the benefit of the employee to compensate for a workplace injury.

Section 111(a)(3) provides the mechanism for increased workplace safety. Under section 111(a)(3)(A), a product liability defendant may attempt to prove to the trier of fact that the claimant's injury was caused by the fault of the claimant's employer or a coemployee. The term ''employer fault'' means that the conduct of the employer or a coemployee was a substantial cause of the claimant's harm or contributed to the claimant's harm in a meaningful way; it is more than a *de minimus* level of fault. Section 111(a)(3)(C)(i) provides that, if the trier of fact finds by clear and convincing evidence that the claimant's injury was caused by the fault of the claimant's employer or a coemployee, the product liability damages award and, correspondingly, the insurer's subrogation lien shall be reduced by the amount of the claimant's benefits. In no case shall the employee's third-party damage award reduction exceed the amount of the subrogation lien. Thus, the amount the injured employee would receive remains totally unaffected. The Act merely provides that the insurer will not be able to recover workers' compensation benefits it paid to the employee if it is found by clear and convincing evidence that the claimant's harm was caused by the fault of the employer or a coemployee.

BIOMATERIALS

Title II of the conference agreement contains the ''Biomaterials Access Assurance Act of 1996.'' A similar title passed both as a part of the House bill and the Senate amendment. Title II is intended to provide a defense to suppliers of materials or parts which are used to manufacture implantable medical devices. The definition of ''medical device'' in existing law, which is incorporated by reference into Title II, would limit this defense to a device which does not ''achieve any of its principal intended purposes through chemical action within or on the body of man * * *'' , in short, devices which do not contain drugs.

Newly patented devices, and others now in development, are manufactured from ''parts'' intended to be covered by Title II, but also contain an active ingredient or drug. The purpose of such devices is long term (up to one year) release of such materials into the body. Such devices can introduce medications affecting numerous bodily functions, previously only available by regular injections or oral dosages.

The conferees adopted a new definition which brings the ''parts,'' but not the active ingredients, used in such ''combination products'' (as that term is used in section 503(g) of the Act) within the purview of this section. This will ensure that the development and availability of such devices will not be impaired because of the same liability concerns affecting the availability of materials for other types of implants.

COURT OF APPEAL DECISIONS

Section 301 describes the precedential effect of certain Federal appellate decisions. It is based on a provision of the Senate amendment.

FEDERAL CAUSE OF ACTION

Both H.R. 956 and the Senate amendment include provisions on preclusion. Section 302 incorporates the language of the House bill.

EFFECTIVE DATE

The effective date provision of H.R. 956 references actions commenced ''after'' the enactment date. Corresponding Senate provisions refer to actions ''on or after'' the date of enactment and clarify that the effective date is without regard to whether the relevant harm or conduct occurred before the enactment date. The conferees, in section 303, accept the ''on or after'' formulation and the clarifying clause from the Senate amendment.

From the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
JAMES SENSENBRENNER, Jr.,
GEORGE W. GEKAS,
BOB INGLIS,
ED BRYANT,

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

TOM BLILEY,
MICHAEL OXLEY,
CHRISTOPHER COX,
Managers on the Part of the House.

LARRY PRESSLER,
SLADE GORTON,
TRENT LOTT,
TED STEVENS,
OLYMPIA SNOWE,
JOHN ASHEROFT,
J.J. EXON,
JOHN D. ROCKEFELLER,
Managers on the Part of the Senate.

COMPREHENSIVE ANTITERRORISM ACT OF 1995

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to House Resolution 380 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2703.

□ 1224

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2703) to combat terrorism, with Mr. LINDER in the chair.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 13, 1996, amendment No. 7 printed in House Report 104–480 offered by the gentleman from California [Mr. DOOLITTLE] had been disposed of.

The unfinished business is the demand for a recorded vote on amendment No. 10 offered by the gentleman from North Carolina [Mr. WATT] on which further proceedings were postponed and on which the ''noes'' prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 10 offered by Mr. WATT of North Carolina:

Page 151, strike line 6 and all that follows through line 25 on page 176.

The CHAIRMAN. Pursuant to the order of the House of Wednesday, March 13, 1996, it is now in order for an additional period of debate on the amendment.

The gentleman from North Carolina [Mr. WATT] and a Member opposed each will be recognized for 5 minutes, and then the request for a recorded vote will be pending.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. HYDE. May I be recognized in opposition, Mr. Chairman?

The CHAIRMAN. The gentleman from Illinois [Mr. HYDE] will be recognized for 5 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to thank my colleague, the gentlewoman from Idaho [Mrs. CHENOWETH], for joining me as a cosponsor of this amendment.

Mr. Chairman, there is no Constitution which protects liberals or conservatives. It protects every single citizen, it confirms the concept that democracy is about government of the people, by the people, and for the people. Habeas corpus confirms the proposition that our Constitution and democracy is about government of the people, by the people, and for the people; it is our buffer between ourselves and the government that we have constituted.

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

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

Mr. WATT of North Carolina. Mr. Chairman, I yield the balance of my

time to the gentlewoman from Idaho [Mrs. CHENOWETH], and I ask unanimous consent that she be allowed to control the time.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

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

Mr. Chairman, I do not offer this amendment because I am perfectly satisfied with the way Federal habeas corpus works now. Far from it. I think we need reform legislation that moves the death penalty cases along so that we do not take years to complete them. And my heart goes out to the victims of these horrible crimes that we heard about during the debate of this amendment, but the effects of this title are not limited to death penalty cases. Most of them covered noncapital cases as well, including cases where citizens were wrongfully prosecuted for exercising their constitutional rights to keep and bear arms. This provision, the provision in this bill, goes well beyond anything that would merely speed up the death penalty process. In some cases it destroys our cherished rights to habeas corpus completely.

I would point out to my colleagues that this title is not the language passed in the House, H.R. 729. This is the Senate language and, among other things, it dramatically cuts time limits in half for habeas corpus filings.

□ 1230

This limited period could be entirely consumed in the State process, through no fault of the prisoner or his counsel, resulting in an absolute ban on filing a petition in Federal court to plead rights guaranteed under the Constitution overlooked or ignored in the State court decisions.

Title IX is an attack on article 1, section 9 of our Constitution, which guarantees, and I quote, ''The privilege of the writ of habeas corpus shall not be suspended, unless when in the cases of rebellion or invasion, the public safety may require it.''

Mr. Chairman, I do not think we are facing an invasion or rebellion. Title IX also threatens the judicial powers granted under article 3 of the Constitution. This bill forces the Federal courts to defer to erroneous State court rulings on Federal constitutional matters. It also prevents the Federal courts from hearing evidence necessary to decide Federal constitutional questions by prohibiting evidentiary hearings in Federal court, and forcing them to defer to previous judgments made by State courts. This title would violate the oldest constitutional mission laid out for Federal courts, to stand as a court of last resort on Federal constitutional issues.

Mr. Chairman, just yesterday I received a letter from a parent whose child was killed in the Oklahoma City bombing. He wrote:

We understand that while habeas corpus may not be a household word in Oklahoma or anywhere else in America, it is something for which our founders fought to enshrine in the Constitution, as the fail-safe, safety net provision that ensures all our rights and liberties.

This father went on to write:

We have actually learned what is contained in this massive bill, we know that the last thing our family wants * * * is for this legislation—so crippling of Americans' constitutional liberties—to be passed in our daughter's name and memory. Julie certainly would not want this. And we, and all Americans, have already been terrorized more than enough; we do not need this legislation to terrorize us still further by taking from us our constitutional freedoms.

Mr. Chairman, it was Benjamin Franklin who once said, ''They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.'' Mr. Chairman, I believe the American people want and deserve freedom. Americans love their liberty. They did not elect us to take away their liberty.

Mr. Chairman, while I very much appreciate those who put this bill together, and I respect them very deeply, I do feel that this is a problem that we must correct, because it will not just affect the death row inmates. It will affect everyone who is brought before a State court, and whose Federal constitutional rights that have been guaranteed under the Constitution will be violated.

Hon. HELEN CHENOWETH,
Representative, Idaho,
Washington, DC.
Hon. MELVIN WATT,
Representative, North Carolina,
Washington, DC.

DEAR REPRESENTATIVES: I understand you have offered an amendment to strike the habeas corpus package from the bill you are being called to vote upon today. I am sorry I missed you when I was in Washington briefly last week.

As the father of someone murdered by the Oklahoma City bomb, I want to thank you for offering your wise amendment, and tell you about my and my family's horror that Congress is contemplating passing a bill such as the one you will be called upon to vote on this week, a so-called ''effective death penalty and antiterrorism'' bill.

We have actually learned what is contained in this massive bill, we know that the last thing our family wants (and Julie was my precious 23 year, only daughter and my best friend) is for this legislation so crippling of Americans' constitutional liberties to be passed in her name and memory. Julie certainly would not want this. And we, and all Americans, have already been terrorized more than enough; we do not need this legislation to terrorize us still further by taking from us our constitutional freedoms.

I find it telling that I, like the other family members in Oklahoma City, was approached very early in my grief by people asking: ''would you be in favor of anti-terrorism legislation.'' No explanation was given as to what such legislation would look like, or what it would do to our fundamental rights. In the throes of my loss, and with such an abstract concept presented about the bill, as you might imagine my response was like that of so many other family members who were brought here last week to be used as advocates for this bill I am sure they still do not understand: ''Of course, anything to combat such horrible acts as the one which took my Julie from me.''

Only a few weeks ago did I learn from my niece, who just happens to be a lawyer capable of understanding this massive and technical legislative proposal, what is actually in this bill.

Moreover, I know personally what legislators must certainly know, from the mouths of federal officials themselves: they have all the legislative tools they need to fight terrorism and bring terrorists to justice.

It utterly galls us as a family so devoted to my daughter that we and our loss is being used as a political football for politicians eager to posture themselves as ''tough'' on crime to reap some political advantage, and to do the bidding of already powerful agencies who have demonstrated their inability to responsibly exercise the enormous powers they already possess.

The ''good faith'' wiretap provisions and the habeas reform provisions in particular are not known or understood by the families who have been used to lobby on behalf of this bill.

We know that meaningful, independent habeas court review of unconstitutional convictions is an essential fail-safe device in our all too human system of justice. And we have learned that this package of ''reforms'' you are being asked to vote for would raise hurdles so high to such essential review to utterly ensure injustices of wrongful conviction will go unremedied. This is true in all cases, not just life and death ones. And we consider this a direct threat to us and our loved ones still living who may well find themselves the victim of abusive or mistaken law enforcement and prosecutor conduct and unconstitutional lower court decisions. Two wrongs have never made a right.

We understand that while habeas corpus may not be a household word, in Oklahoma or anywhere else in America, it is something for which our founders fought to enshrine in the Constitution as the fail-safe, safety net provision that ensures all of our rights and liberties—including the First, Second, Fourth, and all of the other precious Amendments and other parts of the Constitution.

Please forgive such a long letter. But I feel that Julie's memory and our rights are literally in the balance, and in your hands and the hands of your colleagues.

You have our wholehearted gratitude for standing firm against this bill, which I understand only has a much worse Senate companion awaiting it should it pass the House. I continue to educate other family members here about this terrible bill and why they really cannot want Congress to pass this bill, if only they know what is in it. (One family member even told me recently that she understood habeas corpus to be an anti-terrorism investigation tool!) I pray you will continue your efforts to educate your colleagues in the same way. And I hope you will share this letter with your many colleagues whom we simply could not visit in our limited time in Washington.

Sincerely,

BUD WELCH.

On behalf of Julie Welch and the surviving Welch/Burton family of Oklahoma City.

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

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, there is no one in this House for whom I have more respect and admiration than the gentlewoman from Idaho [Mrs. CHENOWETH]. I certainly have enormous

respect for the gentleman from North Carolina [Mr. WATT] as well. But I must strenuously resist the motion that is before the House.

Mr. Chairman, this is exactly the same bill that passed the Senate. I do not think it is ungenerous to remind the gentlewoman that she signed the contract for America. In fact, her signature is the 11th one from the top on page 172. Part of that undertaking, that solemn undertaking, was habeas corpus reform. That is what we have here today.

Mr. Chairman, first of all, please do not think that those of us advocating something that the Republican Party, and discerning Democrats, have advocated for 10 years, to my knowledge, habeas corpus reform, in any way demeans or derogates our respect for and love and dedication to the Constitution. It is the abuse of the writ of habeas corpus that we direct our legislation toward, not its uses, its proper uses.

Mr. Chairman, what do we ask? What is this terrible, tyrannical, oppressive reform that we are trying to saddle on all these innocent people who have been convicted of crimes that range up to the death penalty or less? First of all, we require that all claims be brought in a single petition. The time limit, not ad infinitum, indefinitely, into the next millennium, is 1 year after the Supreme Court of the United States has rejected a direct appeal, however long that takes. Subsequent petitions for habeas will be allowed if the convicted defendant can show cause for not including the particular new claim he is filing in his first petition.

Government suppression of evidence or newly discovered evidence proving innocence are grounds for a new appeal. That is not very tyrannical. Deference is given to State courts' legal decisions if they are not contrary to established Supreme Court precedent. That is to avoid relitigating endlessly the same issues. There is a system of State courts. We give them deference, provided their decisions are not contrary to Supreme Court precedent.

A prisoner, a convicted person, can rebut a presumption by clear and convincing evidence. Today the average time of habeas corpus closure is about 10 years. The families of the victims are the forgotten people in this situation. John Wayne Gacy, Members must be sick of hearing his name, I see his face, because I represented where he lived and where they found 27 bodies buried in his house: 14 years and 52 separate appeals. My God, what an outrage that is.

There are many cases like that. William Bonan, 16 years, guilt never in doubt; Kermit Smith, 14 years. From the time he was sentenced until he was executed, 46 different judges considered his case, and it went to the Supreme Court five different times.

Mr. Chairman, habeas corpus is one of the most important bulwarks we have in our Constitution protecting people from an overreaching government, but we cannot tolerate the abuse. We must think of justice which, if it is delayed, is justice denied. We have been moving toward reforming, not extirpating, not deforming, reforming habeas corpus, so justice, justice, justice, might be done, not only to the convicted accused, who has gone up the State system, up the Federal system, and back again, but to the families of the victims.

Therefore, Mr. Chairman, I respectfully urge Members to reject the amendment of the gentleman and the gentlewoman.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, briefly, I just wanted to accept as debatable the reasons that the gentleman has advanced, but to suggest that because the gentlewoman signed a Contract With America she was irrevocably bound in matters of this manner I think is taking the case too far.

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from North Carolina [Mr. WATT] on which further proceedings were postponed, and on which the noes prevailed by voice vote.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 283, not voting 13, as follows:

[Roll No. 64]

AYES—135

Abercrombie
Ackerman
Baldacci
Barrett (WI)
Barton
Becerra
Beilenson
Berman
Bishop
Bonilla
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Calvert
Campbell
Chenoweth
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Cooley
Coyne
Crapo
DeFazio
DeLauro
Dellums
Dicks
Dixon
Doggett
Dornan
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hall (OH)
Hastings (FL)
Hilliard
Hinchey
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Miller (CA)
Minge
Mink
Mollohan
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Pomeroy
Rahall
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scarborough
Schiff
Schroeder
Scott
Serrano
Skaggs
Slaughter
Smith (WA)
Stark
Stockman
Studds
Stupak
Thompson
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—283

Allard
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Collins (GA)
Combest
Condit
Costello
Cox
Cramer
Crane
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Weldon (FL)

Weldon (PA)	Wicker	Zeliff
Weller	Wolf	Zimmer
White	Young (AK)	
Whitfield	Young (FL)	

NOT VOTING—13

Archer	de la Garza	Stokes
Chapman	Durbin	Watts (OK)
Coburn	Franks (NJ)	Wilson
Collins (IL)	Menendez	
Cremeans	Moakley	

□ 1256

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Watts of Oklahoma against.

Messrs. HERGER, BARCIA, and SMITH of Texas changed their vote from ''aye'' to ''no.''

Messrs. GUTIERREZ, MINGE, and POMEROY changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WATTS of Oklahoma. Mr. Chairman, on rollcall No. 64. I was detained unavoidably. Had I been present, I would have voted ''no.''

The CHAIRMAN. It is now in order to consider amendment No. 17 printed in House Report 104–480.

AMEMDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the nature of a substitute offered by Mr. CONYERS:

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Crimes Associated With Terrorism Act of 1996''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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

TITLE I—CRIMINAL ACTS

Sec. 101. Protection of Federal employees.
Sec. 102. Prohibiting material support to terrorist organizations.
Sec. 103. Modification of material support provision.
Sec. 104. Acts of terrorism against children.
Sec. 105. Conspiracy to harm people and property overseas.
Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 107. Expansion and modification of weapons of mass destruction statute.
Sec. 108. Addition of offenses to the money laundering statute.
Sec. 109. Expansion of Federal jurisdiction over bomb threats.
Sec. 110. Clarification of maritime violence jurisdiction.
Sec. 111. Possession of stolen explosives prohibited.

TITLE II—INCREASED PENALTIES

Sec. 201. Penalties for certain explosives offenses.
Sec. 202. Increased penalty for explosive conspiracies.
Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 204. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.

TITLE III—INVESTIGATIVE TOOLS

Sec. 301. Study of tagging explosive materials, detection of explosives and explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
Sec. 302. Requirement to preserve record evidence.
Sec. 303. Detention hearing.
Sec. 304. Reward authority of the Attorney General.
Sec. 305. Protection of Federal Government buildings in the District of Columbia.
Sec. 306. Study of thefts from armories; report to the Congress.

TITLE IV—NUCLEAR MATERIALS

Sec. 401. Expansion of nuclear materials prohibitions.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 501. Definitions.
Sec. 502. Requirement of detection agents for plastic explosives.
Sec. 503. Criminal sanctions.
Sec. 504. Exceptions.
Sec. 505. Effective date.

TITLE VI—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Removal procedures for alien terrorists.

TITLE VII—AUTHORIZATION AND FUNDING

Sec. 701. Firefighter and emergency services training.
Sec. 702. Assistance to foreign countries to procure explosive detection devices and other counter-terrorism technology.
Sec. 703. Research and development to support counter-terrorism technologies.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of State licensing requirements for the purchase and use of high explosives.
Sec. 802. Compensation of victims of terrorism.
Sec. 803. Jurisdiction for lawsuits against terrorist States.
Sec. 804. Compilation of statistics relating to intimidation of government employees.
Sec. 805. Victim restitution Act.

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

''§ 1114. Protection of officers and employees of the United States

''Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.''.

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting '', or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or'' after ''assaults, kidnaps, or murders, or attempts to kidnap or murder''.

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—The chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

''§ 2339B. Providing material support to terrorist organizations

''(a) OFFENSE.—Whoever, within the United States knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows or should have known is a terrorist organization that has been designated under this section as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) TERRORIST ORGANIZATION DEFINED.—

''(1) DESIGNATION.—For purposes of this section and the Crimes Associated With Terrorism Act of 1996 and title V of the Immigration and Nationality Act, the term 'terrorist organization' means a foreign organization designated in the Federal Register as a terrorist organization by the Secretary of State in consultation with the Attorney General, based upon a finding that the organization engages in, or has engaged in, terrorist activity that threatens the national security of the United States.

''(2) PROCESS.—At least 3 days before designating an organization as a terrorist organization through publication in the Federal Register, the Secretary of State, in consultation with the Attorney General, shall notify the Committees on the Judiciary of the House of Representatives and the Senate of the intent to make such designation and the findings and the basis for designation. The Secretary of State, in consultation with the Attorney General, shall create an administrative record prior to such designation and may use classified information in making such a designation. Such classified information is not subject to disclosure so long as it remains classified, except as provided in paragraph (3) for the purposes of judicial review of such designation. The Secretary of State, in consultation with the Attorney General, shall provide notice and an opportunity for public comment prior to the creation of the administrative record under this paragraph.

''(3) JUDICIAL REVIEW.—Any organization designated as a terrorist organization under the preceding provisions of this subsection may, not later than 30 days after the date of the designation, seek judicial review thereof in any United States Court of Appeals of competent jurisdiction. The court shall hold unlawful and set aside the designation if the court finds the designation to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, not supported by a preponderance of the evidence, contrary to constitutional right, power, privilege, or immunity, or not in accord with the procedures required by law. Such review shall proceed in an expedited manner. Designated organizations shall have the opportunity to call witnesses and present evidence in rebuttal of such designation. During the pendency of the court's review of the designation, the prohibition against providing material support to the organization under this section shall not apply unless the court finds that the Government is likely to succeed on the merits of the designation. For the purposes of this section, any classified

information used in making the designation shall be considered by the court, and provided to the organization, under the procedures provided under title V of the Immigration and Nationality Act.

''(4) CONGRESSIONAL AUTHORITY TO REMOVE DESIGNATION.—The Congress reserves the authority to remove, by law, the designation of an organization as a terrorist organization under this subsection.

''(5) SUNSET.—Subject to paragraph (4), the designation under this subsection of an organization as a terrorist organization shall be effective for a period of 2 years from the date of the initial publication of the terrorist organization designation by the Secretary of State. At the end of such period (but no sooner than 60 days prior to the termination of the 2-year designation period), the Secretary of State, in consultation with the Attorney General, may redesignate the organization in conformity with the requirements of this subsection for designation of the organization.

''(6) OTHER AUTHORITY TO REMOVE DESIGNATION.—The Secretary of State, in consultation with the Attorney General, may remove the terrorist organization designation from any organization previously designated as such an organization, at any time, so long as the Secretary publishes notice of the removal in the Federal Register. The Secretary is not required to report to Congress prior to so removing such designation.

''(c) DEFINITIONS.—As used in this section, the term—

''(1) 'material support or resources' has the meaning given that term in section 2339A of this title; and

''(2) 'terrorist activity' means any act in preparation for or in carrying out a violation of section 32, 37, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2331(1)(A), 2332, 2332a, or 2332b of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2339a the following new item:

''2339b. Providing material support to terrorist organizations.''.

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

''§ 2339A. Providing material support to terrorists

''(a) OFFENSE.—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 in preparation for or in carrying out, a violation of section 32, 37, 81, 175, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, 2332a, 2332b, or 2340 of this title or section 46502 or 6012 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than ten years, or both.

''(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.''.

SEC. 104. ACTS OF TERRORISM AGAINST CHILDREN.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

''§ 2332b. Acts of terrorism against children

''(a) PROHIBITED ACTS.—

''(a) Whoever intentionally commits a Federal crime of terrorism against a child, shall be fined under this title or imprisoned for any term of years or for life, or both. This section does not prevent the imposition of any more severe penalty which may be provided for the same conduct by another provision of Federal law.

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

''(1) the term 'Federal crime of terrorism' means an offense that—

''(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

''(B) is a violation of—

''(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

''(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

''(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49; and

''(2) the term 'child' means an individual who has not attained the age of 18 years.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

''2332b. Acts of terrorism against children.''.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

''§ 956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

''(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

''(2) The punishment for an offense under subsection (a)(1) of this section is—

''(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

''(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

''(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.''.

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

''956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.''.

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and later found in the United States'';

(2) so that paragraph (2) reads as follows:

''(2) There is jurisdiction over the offense in paragraph (1) if—

''(A) a national of the United States was aboard the aircraft;

''(B) an offender is a national of the United States; or

''(C) an offender is afterwards found in the United States.''; and

(3) by inserting after paragraph (2) the following:

''(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking '', if the offender is later found in the United States,''; and

(2) by inserting at the end the following: ''There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.''.

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

''(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''; and

(2) in subsection (c), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting ''''national of the United States','' before ''and''; and

(2) in subsection (e), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting ''''national of the United States','' before ''and''; and

(2) in subsection (d), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''; and

(2) by adding at the end the following: ''For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' before ''the offender is later found in the United States''; and

(2) by inserting ''; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))'' after ''the offender is later found in the United States''.

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, 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 the following at the end:

''(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''AGAINST A NATIONAL OR WITHIN THE UNITED STATES'' after ''OFFENSE'';

(B) by inserting '', without lawful authority'' after ''A person who'';

(C) by inserting ''threatens,'' before ''attempts or conspires to use, a weapon of mass destruction''; and

(D) by inserting ''and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce'' before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking ''section 921'' and inserting ''section 921(a)(4) (other than subparagraphs (B) and (C))'';

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

''(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;'';

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

''(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life.''.

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking ''or extortion;'' and inserting ''extortion, murder, or destruction of property by means of explosive or fire;''.

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after ''an offense under'' the following: ''section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),'';

(2) by inserting after ''section 215 (relating to commissions or gifts for procuring loans),'' the following: ''section 351 (relating to Congressional or Cabinet officer assassination),'';

(3) by inserting after ''section 793, 794, or 798 (relating to espionage),'' the following: ''section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),'';

(4) by inserting after ''section 875 (relating to interstate communications),'' the following: ''section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),'';

(5) by inserting after ''1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),'' the following: ''section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),'';

(6) by inserting after ''section 1203 (relating to hostage taking),'' the following: ''section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),'';

(7) by inserting after ''section 1708 (theft from the mail),'' the following: ''section 1751 (relating to Presidential assassination),'';

(8) by inserting after ''2114 (relating to bank and postal robbery and theft),'' the following: ''section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),''; and

(9) by striking ''of this title'' and inserting the following: ''section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332c (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code''.

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking ''commerce,'' and inserting ''interstate or foreign commerce, or in or affecting interstate or foreign commerce,''.

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''and the activity is not prohibited as a crime by the State in which the activity takes place''; and

(2) in clause (iii), by striking ''the activity takes place on a ship flying the flag of a foreign country or outside the United States,''.

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

''(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.''.

TITLE II—INCREASED PENALTIES

SEC. 201. PENALTIES FOR CERTAIN EXPLOSIVES OFFENSES.

(a) INCREASED PENALTIES FOR DAMAGING CERTAIN PROPERTY.—Section 844(f) of title 18, United States Code, is amended to read as follows:

''(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

''(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

''(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be more than 45 years; and

''(3) if death results to any person other than the offender, the offender shall be subject to imprisonment for any term of years, or for life.''.

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking ''fined under this title or imprisoned not more than five years, or both'' and inserting ''imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both''.

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3295. Arson offenses

''No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.''.

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

''3295. Arson offenses.''.

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.''.

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting ''or conspires'' after ''attempts''.

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking ''or attempted kidnapping'' both places it appears and inserting '', attempted kidnapping, or conspiracy to kidnap''.

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking ''or attempted murder'' and inserting '', attempted murder, or conspiracy to murder''.

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking ''and 1113'' and inserting '', 1113, and 1117''.

(4) Section 175(a) of title 18, United States Code, is amended by inserting ''or conspires to do so,'' after ''any organization to do so,''.

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting ''or conspiring'' after ''attempting''.

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting ''or conspiring to commit'' after ''committing''.

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(o) Whoever knowingly transfers any explosive materials, knowing that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.''.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Secretary of the Treasury, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Secretary of the Treasury deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report that contains the results of the study required by this section. The Secretary shall make the report available to the public.

(c) LIMITATION.—The study under this section shall not include black powder or smokeless powder among the explosive materials it concerns.

SEC. 302. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

''(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.''.

SEC. 303. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting ''(not including any intermediate Saturday, Sunday, or legal holiday)'' after ''five days'' and after ''three days''.

SEC. 304. REWARD AUTHORITY OF THE ATTORNEY GENERAL.

(a) IN GENERAL.—Title 18, United States Code, is amended by striking sections 3059 through 3059A and inserting the following:

''§ 3059. Reward authority of the Attorney General

''(a) The Attorney General may pay rewards and receive from any department or agency, funds for the payment of rewards under this section, to any individual who provides any information unknown to the Government leading to the arrest or prosecution of any individual for Federal felony offenses.

''(b) If the reward exceeds $100,000, the Attorney General shall give notice of that fact to the Senate and the House of Representatives not later than 30 days before authorizing the payment of the reward.

''(c) A determination made by the Attorney General as to whether to authorize an award under this section and as to the amount of any reward authorized shall not be subject to judicial review.

''(d) If the Attorney General determines that the identity of the recipient of a reward or of the members of the recipient's immediate family must be protected, the Attorney General may take such measures in connection with the payment of the reward as the Attorney General deems necessary to effect such protection.

''(e) No officer or employee of any governmental entity may receive a reward under this section for conduct in performance of his or her official duties.

''(f) Any individual (and the immediate family of such individual) who furnishes information which would justify a reward under this section or a reward by the Secretary of State under section 36 of the State Department Basic Authorities Act of 1956 may, in the discretion of the Attorney General, participate in the Attorney General's witness security program under chapter 224 of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the items relating to section 3059 and 3059A and inserting the following new item:

''3059. Reward authority of the Attorney General.''.

(c) CONFORMING AMENDMENT.—Section 1751 of title 18, United States Code, is amended by striking subsection (g).

SEC. 305. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 306. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''nuclear material'' each place it appears and inserting ''nuclear material or nuclear byproduct material'';

(2) in subsection (a)(1)(A), by inserting ''or the environment'' after ''property'';

(3) so that subsection (a)(1)(B) reads as follows:

''(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;'';

(4) in subsection (a)(6), by inserting ''or the environment'' after ''property'';

(5) so that subsection (c)(2) reads as follows:

''(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;'';

(6) in subsection (c)(3), by striking ''at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and'';

(7) by striking ''or'' at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking ''nuclear material for peaceful purposes'' and inserting ''nuclear material or nuclear byproduct material'';

(9) by striking the period at the end of subsection (c)(4) and inserting ''; or'';

(10) by adding at the end of subsection (c) the following:

''(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.'';

(11) in subsection (f)(1)(A), by striking ''with an isotopic concentration not in excess of 80 percent plutonium 238'';

(12) in subsection (f)(1)(C) by inserting ''enriched uranium, defined as'' before ''uranium'';

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

''(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;'';

(15) by striking ''and'' at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

''(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.''.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

''(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

''(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

''(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

''(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

''(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

''(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

''(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

''(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.''.

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

''(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

''(m)(1) it shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

''(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

''(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

''(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

''(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

''(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.''.

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

''(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.''.

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''(l), (m), (n), or (o) of section 842 and subsections'' after ''subsections'';

(2) in subsection (a)(1), by inserting ''and which pertains to safety'' before the semicolon; and

(3) by adding at the end the following:

''(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

''(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

''(A) research, development, or testing of new or modified explosive materials;

''(B) training in explosives detection or development or testing of explosives detection equipment; or

''(C) forensic science purposes; or

''(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.''.

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. REMOVAL PROCEDURES FOR ALIEN TERRORISTS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended—

(1) by adding at the end of the table of contents the following:

''TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

''Sec. 501. Definitions.
''Sec. 502. Establishment of special removal court.
''Sec. 503. Application for initiation of special removal proceeding.
''Sec. 504. Consideration of application.
''Sec. 505. Special removal hearings.
''Sec. 506. Appeals.'';

and

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

''TITLE V—SPECIAL REMOVAL PROCEDURES FOR ALIEN TERRORISTS

''DEFINITIONS

''SEC. 501. In this title:

''(1) The term 'alien terrorist' means an alien described in section 241(a)(4)(B).

''(2) The term 'classified information' has the meaning given such term in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.).

''(3) The term 'national security' has the meaning given such term in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App.).

''(4) The term 'special removal court' means the court established under section 502(a).

''(5) The term 'special removal hearing' means a hearing under section 505.

''(6) The term 'special removal proceeding' means a proceeding under this title.

''ESTABLISHMENT OF SPECIAL REMOVAL COURT

''SEC. 502. (a) IN GENERAL.—The Chief Justice of the United States shall publicly designate 5 district court judges from 5 of the United States judicial circuits who shall constitute a court which shall have jurisdiction to conduct all special removal proceedings.

''(b) TERMS.—Each judge designated under subsection (a) shall serve for a term of 5 years and shall be eligible for redesignation, except that the four associate judges first so designated shall be designated for terms of one, two, three, and four years so that the term of one judge shall expire each year.

''(c) CHIEF JUDGE.—The Chief Justice shall publicly designate one of the judges of the special removal court to be the chief judge of the court. The chief 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.

''(d) EXPEDITIOUS AND CONFIDENTIAL NATURE OF PROCEEDINGS.—The provisions of section 103(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(c)) shall apply to proceedings under this title in the same manner as they apply to proceedings under such Act.

''APPLICATION FOR INITIATION OF SPECIAL REMOVAL PROCEEDING

''SEC. 503. (a) IN GENERAL.—Whenever the Attorney General has classified information that an alien is an alien terrorist, the Attorney General, in the Attorney General's discretion, may seek removal of the alien under this title through the filing with the special removal court of a written application described in subsection (b) that seeks an order authorizing a special removal proceeding under this title. The application shall be submitted in camera and ex parte and shall be filed under seal with the court.

''(b) CONTENTS OF APPLICATION.—Each application for a special removal proceeding shall include all of the following:

''(1) The identity of the Department of Justice attorney making the application.

''(2) The approval of the Attorney General or the Deputy Attorney General for the filing of the application based upon a finding by that individual that the application satisfies the criteria and requirements of this title.

''(3) The identity of the alien for whom authorization for the special removal proceeding is sought.

''(4) A statement of the facts and circumstances relied on by the Department of Justice to establish that—

''(A) the alien is an alien terrorist and is physically present in the United States, and

''(B) with respect to such alien, adherence to the provisions of title II regarding the deportation of aliens would pose a risk to the national security of the United States.

''(5) An oath or affirmation respecting each of the facts and statements described in the previous paragraphs.

''(c) RIGHT TO DISMISS.—The Department of Justice retains the right to dismiss a removal action under this title at any stage of the proceeding.

''CONSIDERATION OF APPLICATION

''SEC. 504. (a) IN GENERAL.—In the case of an application under section 503 to the special removal court, a single judge of the court shall be assigned to consider the application. The judge, in accordance with the rules of the court, shall consider the application and may consider other information, including classified information, presented under oath or affirmation. The judge shall consider the application (and any hearing thereof) in camera and ex parte. A verbatim record shall be maintained of any such hearing.

''(b) APPROVAL OF ORDER.—The judge shall enter ex parte the order requested in the application if the judge finds, on the basis of such application and such other information (if any), that 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 terrorist, and

''(2) adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk to the national security of the United States.

''(c) DENIAL OF ORDER.—If the judge denies the order requested in the application, the judge shall prepare a written statement of the judge's reasons for the denial.

''SPECIAL REMOVAL HEARINGS

''SEC. 505. (a) IN GENERAL.—In any case in which the application for the order is approved under section 504, a special removal hearing shall be conducted under this section for the purpose of determining whether the alien to whom the order pertains should be removed from the United States on the grounds that the alien is an alien terrorist. Consistent with section 506, the alien shall be given reasonable notice of the nature of the charges against the alien and a general account of the basis for the charges. 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.

''(b) USE OF SAME JUDGE.—The special removal hearing shall be held before the same judge who granted the order pursuant to section 504 unless that judge is deemed unavailable due to illness or disability by the chief judge of the special removal court, or has died, in which case the chief judge shall assign another judge to conduct the special removal hearing. 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.

''(c) RIGHTS IN HEARING.—

''(1) PUBLIC HEARING.—The special removal hearing shall be open to the public.

''(2) RIGHT OF COUNSEL.—The alien shall have a right to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent the alien. 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, United States Code. 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.

''(3) INTRODUCTION OF EVIDENCE.—The alien shall have a right to introduce evidence on the alien's own behalf.

''(4) EXAMINATION OF WITNESSES.—The alien shall have a reasonable opportunity to examine the evidence against the alien and to cross-examine any witness.

''(5) RECORD.—A verbatim record of the proceedings and of all testimony and evidence offered or produced at such a hearing shall be kept.

''(6) DECISION BASED ON EVIDENCE AT HEARING.—The decision of the judge in the hearing shall be based only on the evidence introduced at the hearing.

''(d) SUBPOENAS.—

''(1) REQUEST.—At any time prior to the conclusion of the special removal 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.

''(2) PAYMENT FOR ATTENDANCE.—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 from funds appropriated for the enforcement of title II.

''(3) NATIONWIDE SERVICE.—A subpoena under this subsection may be served anywhere in the United States.

''(4) WITNESS FEES.—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.

''(e) TREATMENT OF CLASSIFIED INFORMATION.—The judge shall examine in camera and ex parte any item of classified information for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States. With respect to such evidence, the Attorney General shall also submit to the court a summary prepared in accordance with subsection (f).

''(f) SUMMARY OF CLASSIFIED INFORMATION.—

''(1) The information submitted under subsection (e) shall contain a summary of the information that does not pose a risk to the national security.

''(2) The judge shall approve the summary if the judge finds that the summary will provide the alien with substantially the same ability to make his defense as would disclosure of the specific classified information.

''(3) The Attorney General shall cause to be delivered to the alien a copy of the summary approved under paragraph (2).

''(g) DETERMINATION OF DEPORTATION.—If the judge determines that the summary described in subsection (f) will provide the alien with substantially the same ability to make his defense as would the disclosure of the specific classified evidence, a determination of deportation may be made on the basis of the summary and any other evidence entered in the public record and to which the alien has been given access. If the judge does not approve the summary, a determination of deportation may be made on the basis of any other evidence entered in the public record and to which the alien has been given access. In either case, such a determination will be made when the Attorney General proves, by clear, convincing, and unequivocal evidence that the alien is subject to deportation because such alien is an alien as described in section 241(a)(4)(B).

''APPEALS

''SEC. 506. (a) APPEALS BY ALIEN.—The alien may appeal a determination under section 505(f) or 505(g) to the United States Court of Appeals for the circuit where the alien resides by filing a notice of appeal with such court not later than 30 days after the determination is made.

''(b) APPEALS BY THE UNITED STATES.—The Attorney General may appeal a determination made under section 504, or section 505(f) or 505(g) to the Court of Appeals for the circuit where the alien resides, by filing a notice of appeal with such court not later than 20 days after the determination is made under any one of such subsections.

''(c) TRANSMITTAL OF CLASSIFIED INFORMATION.—When requested by the Attorney General, the classified information in section

506(e) shall be transmitted to the court of appeals under seal.''.

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting ''crimes involving terrorism,'' before ''driving while intoxicated''; and

(2) by inserting a comma after ''driving while intoxicated''.

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting ''are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or'' before ''are States not having''.

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''or'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; or''; and

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

''(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that—

''(A) an action under this paragraph shall not be maintained unless the act upon which the claim is based occurred while the individual bringing the claim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act); and

''(B) the court shall decline to hear a claim under this paragraph if the foreign state against whom the claim has been brought establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process.''; and

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

''(e) For purposes of paragraph (7) of subsection (a)—

''(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

''(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

''(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.''.

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ''; or''; and

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

''(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.''.

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking ''or (5)'' and inserting ''(5), or (7)''; and

(B) by striking ''used for the activity'' and inserting ''involved in the act''.

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 805. VICTIM RESTITUTION ACT.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law'' and inserting ''shall order''; and

(ii) by adding at the end the following: ''The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.'';

(B) by adding at the end the following:

''(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to 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)(B) by striking ''impractical'' and inserting ''impracticable'';

(3) in subsection (b)(2) by inserting ''emotional or'' after ''resulting in'';

(4) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

''(5) 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'';

(5) in subsection (c) by striking ''If the court decides to order restitution under this section, the'' and inserting ''The'';

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

''(d)(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 restitution 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. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

''(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.

''(e) 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.

''(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

''(g)(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 to 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.

''(h) 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; and

''(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; 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.

''(i) 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.

''(j) 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.

''(k) 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 of this title; or

''(B) in the same manner as a judgment in a civil action; and

''(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

''(l) 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 thereof 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.''.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. CONYERS] and a Member opposed each will control 30 minutes.

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

□ 1300

Mr. CONYERS. Mr. Chairman, I yield myself 1½ minutes.

Mr. Chairman, we now are down to one antiterrorist crime bill before this body, and that is the one that is now before us in the form of substitute brought forth by myself, the gentleman from New York [Mr. NADLER], and the gentleman from California [Mr. BERMAN], both members of the Committee on the Judiciary.

I say that we are down to one, because the Committee on the Judiciary reported out a bill that the majority supported, and many of us had an alternative view. As of yesterday afternoon we are now down to one antiterrorist bill, and that is the substitute offered by myself, the gentleman from New York, and the gentleman from California.

What else remains is a low-grade crime bill, cats and dogs from the Committee on the Judiciary that have been pasted together, commissions, blue-ribbon, at hat, and other things that have nothing to do with fighting terrorism.

Mr. Chairman, what we have now is the only antiterrorist bill before the House of Representatives in the form of a substitute. We have, in addition to many groups that have already been with us, the American Jewish Committee, the American Jewish Congress, we had the Union of American Hebrew Congregations.

Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. NADLER], who is a cosponsor of the substitute.

Mr. NADLER. Mr. Chairman, some of us were opposed to the Hyde bill, as originally written, the Hyde-Barr bill, because although we shared the goal of opposing terrorism, we shared the goal of stopping fundraising for terrorist organizations, such as Hamas or Hezbollah, in the United States, we shared the goal of expeditiously deporting aliens engaged in terrorism, we were very concerned about what we perceived and believed to be the overbroad nature of the bill that would

enhance the power of the Federal Government and decrease the civil liberties of law-abiding American citizens.

Many of the provisions of the Barr amendment that passed yesterday took out the provisions that concerned us. But, in my opinion, the Barr amendment went somewhat too far in that it took out the provisions that deal with terrorism. It took out the provisions that say you cannot raise funds in the United States for terrorist organizations abroad, and it took out the provision that enables the expeditious deportation of alien terrorists.

The substitute that we have here today agrees with the Barr amendment in removing from the bill all the provisions that the Barr amendment removes with respect to wiretapping, enhanced power for the FBI, and so forth. But it restores the two key antiterrorist provisions, albeit with greater protections for civil liberties than in the Hyde amendment.

Specifically, it restores the provision that says you cannot raise funds for terrorist organizations. It provides civil liberties protection in that it gives a meaningful judicial review to an organization that says we are not a terrorist organization even if the Secretary of State thinks we are. It enables that organization to have a hearing in court, an expedited hearing. It gives them the right to bring in their own evidence, their own witnesses to rebut what the Secretary of State says. It gives them proper due process.

It restores the provision, unlike the original bill, it restores the provision that says that we will have an expedited proceeding, too, for the alien terrorists. But it gives that alleged alien terrorist more due process than the original bill. It says if the Government wants to use secret evidence against that person, it can do so only if a court agrees that it is giving the accused a summary of that evidence of sufficient detail to enable him to prepare a defense as good as if he had the evidence itself revealed to him. And if the Government thinks it cannot do that, it is too dangerous to reveal even a summary, then it cannot use the evidence; the same provisions as in the existing Classified Information Procedure Act, which we use with respect to spies and espionage and organized crime.

The same balance is struck for civil liberties and for the right of the prosecution. With those two provisions restored and with proper civil liberties provisions, we have a decent bill. The choice, for Members, is now very clear: If you want an antiterrorist bill that actually targets the antiterrorist activity, you must support the Conyers-Berman-Nadler substitute. If you want to stop terrorist organizations from raising funds in the United States in order to carry out acts of cruel and cowardly terrorism throughout the world, you must support the Conyers-Berman-Nadler substitute.

If you want to give the Federal Government support the ability to get alien terrorists out of the country expeditiously, you must support the Conyers-Berman-Nadler substitute. If you voted for the Barr amendment yesterday because you were concerned about the rights of individual law-abiding individual Americans, concerned about the unchecked power of big government, you must vote for the Conyers-Nadler-Berman substitute. To protect those rights and finish the job of cleaning up the bill.

Our President, Mr. Chairman, is in the Middle East today pledging this Nation to take the lead in the worldwide fight against terrorism. He is pledging our resources, our experience, and most of all our commitment and our leadership. This House cannot, on the very same day, say, sorry, we cannot be bothered.

It is a disgrace. It is a betrayal at the very moment that the civilized world is facing a truly monumental challenge. Terrorism knows no borders, and our response must similarly be as broad and tough as the situation demands.

This bill, as amended yesterday, does not do the job. It is no longer an antiterrorism bill. It no longer even pretends to stop groups like Hamas or Hezbollah from raising funds in the United States. It no longer gives us the ability to get alien terrorists out of the country expeditiously. It no longer gives us the ability to get alien terrorists out of the country expeditiously.

The organizations that have worked so hard to move forward the fight against terrorism agree and are supporting this substitute.

Mr. Chairman, when a bomb goes off and kills children in Jerusalem, the return address should not be the United States. When a militant terrorist like Sheik Rakhman tries to blow up the World Trade Center and plot assassinations in our streets, our Government needs the tools to throw him out of the country.

We need to respect civil liberties and of individual rights. While the Hyde-Barr bill went too far in the other direction, trampling on the rights of individuals, the Barr amendment goes too far in the other direction, cutting or eliminating the key antiterrorist provisions.

For my colleagues on the other side of the aisle, I say we may have disagreed on this or that provision but if you supported the Barr amendment because you were concerned about civil liberties, look at this amendment carefully, because every concern, every concern addressed by the Barr amendment is addressed in our substitute.

If you voted against the Barr amendment, our substitute achieves the law enforcement goals in terms of antiterrorism that you wanted. We can achieve results without sacrificing the rights of law-abiding citizens. Let us not turn our backs on the opportunity to enact legislation that will fight terrorism at its core.

The American people want an antiterrorism bill. The Barr amendment is not an antiterrorism bill. If we pass up this opportunity to stand up to the terrorists, we will have failed today, and that would be nothing less than shameful.

I urge my colleagues to support the Conyers-Nadler-Berman substitute and not to give up the fight against terrorism.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. NADLER. I yield to the gentleman from Michigan.

Mr. CONYERS. I just want to tell you that that statement combines all of our work for months on the committee, and it effectively recaptures what went on on the floor yesterday and gives everyone a chance to come back together on this antiterrorist bill.

Mr. NADLER. Reclaiming my time, I certainly agree. I thank the gentleman.

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

Mr. GEKAS. Mr. Chairman, I take it the gentleman believes the death penalty is a proper circumstance with which a jury should grapple in a terrorism case. Is that correct?

Mr. NADLER. Reclaiming my time, I do not believe——

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. HYDE. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS]. Perhaps they can carry on this fascinating colloquy.

Mr. GEKAS. Mr. Chairman, support of the Conyers-Nadler-Berman amendment is opposition to the imposition of the death penalty in cases of terrorism. The World Trade Center fiasco that took so many lives and cost so much money and created so much havoc would be beyond the reach of American citizens sitting as a jury to determine whether or not a death penalty should apply. In fact, there was no death penalty at the time of the World Trade Center tragedy, neither on the Federal level or on the State level.

At any rate, if we vote for this amendment, we eviscerate habeas corpus reforms that we on this side of the aisle are trying to impose so that the death penalty, which is approved by the American people by an 80-percent margin, will also be complemented by a swift execution, using that word wisely, a swift execution of the sentence.

We need deterrence. Deterrence can only be accomplished by a swift carrying out of the sentence. The people on death row should be given one chance and one chance alone, not 11 years' worth of chances to fight their death sentence, and after that, justice must prevail.

A jury, remember, has found that individual guilty of tragic, heinous, horrible crimes, killed people, and now he seeks mercy while we seek justice. We need to defeat the Conyers-Nadler-Berman measure and revert to the reforms that we have in the main bill, which

will allow a just finalization of a death sentence.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from New York.

Mr. NADLER. Mr. Chairman, I am not going to debate the habeas corpus provisions. The fact of the matter is, as I recall, we already passed that bill on the floor of this House. I disapproved of it, but it is a separate debate, a separate question. What is involved in this amendment, what is involved in this amendment is doing what the terrorism bill, to have a provision, the most important thing, inviting terrorism, which is to stop the fundraising here of terrorist groups. The habeas corpus bill passed in a different bill.

Mr. HYDE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida [Mr. MCCOLLUM].

(Mr. MCCOLLUM asked and was given permission to revise and extend his remarks.)

Mr. MCCOLLUM. Mr. Chairman, I thank the chairman for yielding time to me.

I think that the gentleman from New York has made a significant contribution by this amendment. I do not question he has worked very hard on it.

There are parts of this with which I agree and I agree very strongly, such as those parts that try to correct what I think were mistakes that were made, probably without knowledge or intent, yesterday by some of our colleagues in voting to change provisions that effectively nullify the ability to eliminate fundraising by terrorist organizations in the United States. I certainly commend the gentleman for the efforts to try to resurrect it.

However, I must oppose the amendment because I believe that we do need in this legislation to use the terrorism bill, the bill that we call now the death penalty bill, in order to finally get to the President's desk an effective death penalty provision; that is, a provision that will at long last finally provide that relief so that we do not have these seemingly endless appeals that death row inmates have.

That is as equally important to the question of terrorists and terrorism and fighting terrorism as it is to the general populace for other types of crimes, in fact, may be even more important in this area. We need to send a message that when you commit a terrorist act in this country, you are really going to get the death penalty for doing it and that, in fact, you are going to have that carried out in a reasonably short period of time so that there is an effective message being sent, one that says when you do it, it is going to happen, one that is with swiftness and certainty of punishment, which is the basic structure of deterrence in criminal justice.

That is why I think the habeas corpus provisions that the gentleman would not provide for, among other things that he omits from this proposed substitute, are critical to this legislation and why I cannot support this particular alternative amendment, even though I do find features about it that I concur with.

□ 1315

I find that we sometimes do not recognize the fact that terrorists committing those kind of acts commit the most grievous kind of crime. And if they are committing them against American citizens, if they are bringing acts over here such, as the World Trade Center, and we know of a number of others that have been tried but have not been publicized, because, thank goodness, they were stopped by our law enforcement community before they happened, when we have those kind of acts, there is noting that is more important to be deterred than that kind of activity.

Now, it may not deter, having the death penalty, an effective death penalty, everybody who wants to come in here and commit some major act, for a group who are a messianic totalitarian movement, such as I think the radical Muslim elements are in Iran and the Sudan. But it might deter some people who might be otherwise aid and abet and help them become part of that here, and it might be an important message to send to governments and other people in the world.

So I think having the habeas corpus reforms, the reforms that say finally at long last we are going to provide for limited opportunity to go into Federal court after you have exhausted all of your regular appeals from a death penalty case, and provide in one bite at the apple and only one bite at the apple the chance to raise all of your procedural concerns over the case that you were tried under in the death penalty situation, where at one bite of the apple you get the opportunity to raise the question of whether you had a good attorney or not, whether you had the jury property selected or whether there were other constitutional defects, I think where if we can just give that one bite at the apple, which this provision in the bill today does in our habeas corpus reforms, we can then have a fair procedure, one that gives due process to everybody who is convicted and sentenced to death, and, at the same time, provides a truly effective death penalty that puts swiftness and certainty of punishment back in and deterrence into the criminal justice system in this area.

I believe it must be part of this bill, because it is the only vehicle we have reasonably available now that we think can go through the other body, go to the President's desk, and get it signed into law.

The gentleman strikes the criminal alien provisions in this bill, and those are also important to the terrorist issue, because often times we find that terrorists or would-be terrorists are criminal aliens and we are not deporting them in a proper fashion. We do not have the right procedures for that. They are allowed to stick around here a long time. The sooner we get them out of the country, the better procedures we have for that, the less likely we are to have that element in this country either create the actual acts of terrorism or directing them in some manner. We need to kick these people out of the country and have the procedures to do that. The gentleman in his substitute does not provide for the criminal alien provisions for criminal alien deportation that are in the underlying bill.

Mr. Chairman, I thank the gentleman for yielding me the time. I again must oppose this substitute, saying that there are features in it I concur in, but two major provisions are eliminated. I must say vote no on this substitute.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER], the ranking member of the Committee on the Judiciary.

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman from Michigan for yielding me time. Mr. Chairman, I want to say I think every one of us as we drove home last night were absolutely shaken by what we heard happened in Scotland. I think if you look at the world's newspapers, you will find the entire world was shaken by that.

Now, at this moment it appears that was not a terrorist, just somebody who was crazy. But I have got to tell you that every terrorist on the planet had to look at that and think, aha, if you go after children, this is really something.

I would say to Members of this Chamber, if you do not do anything else, vote for this amendment on just the basis that we say in here acts of terrorism against children are going to have a much higher penalty. I think that is a very important provision in this. We ought to say after Scotland today, and say it loud and say it clear, that the whole globe ought to reach together to protect its children against any idiot terrorist that might be thinking this is a way to get a nation's attention, because we say yesterday how that brings everyone to their knees.

Now, this substitute I also think says some very important things. You know, we all get shaken and angered by terrorists, and the issue is we cannot stampede the Constitution at the same time. Very often I have disputes with the gentleman from Illinois who is the chairman of this committee. But he was eloquent on the floor yesterday, eloquent, talking about the fact that if we do not at least do this, we may as well forget this and call it the pro-terrorist or terrorist status quo act, because we have gutted the things that have to do with fighting terrorism in here.

You hear it all goes off to habeas corpus. That was another issue, in another bill. We dealt with it on this floor. This is about terrorism, and are we going to get serious or not.

When I hear people saying they do not trust the American Government, they do not trust the FBI, they do not trust the State Department, no. We are Americans, we should not totally trust anything. But this bill has the balance. If the State Department makes up a designation of terrorist associations, that has the right to judicial review. We have the balance in there. If we do not have this, we are denied the right to even know what they are.

It says in here that if you are contributing money to a terrorist group, an international terrorist group, you will not be held accountable unless we know you knew it was a terrorist group. But at least that stops some of it. That is the kind of common sense this bill makes. And for any American citizen to say you cannot have a balance between terrorism and the Constitution, that is wrong. If we cannot be tough on terrorism, and yet do we have to yank away everybody's constitutional rights? I do not think so.

But I must say, put all of that aside and at least, if nothing else, you ought to vote for this for section 104. Because it we cannot stand up and speak against terrorism against children and say that will not be tolerated, we have lost the whole message.

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from California [Mr. COX].

Mr. COX of California. Mr. Chairman, I just heard the gentlewoman from Colorado say that the death penalty is another issue; we do not need to deal with the death penalty in this year. The death penalty is the essence of this bill. In fact, the name of the bill is the Effective Death Penalty and Public Safety Act.

Why then should we amend the Effective Death Penalty and Public Safety Act to take out the death penalty, to gut the death penalty provisions? We might then just call this gutted bill the ''no more death penalty act.''

In California we have had only three executions of convicted first degree murderers since the 1960's. One of those three convictions was of a man named Robert Alton Harris. Earlier last year I came to the floor with what I called the Robert Alton Harris bill. It was approved by an enormous bipartisan majority of this House. The purpose of this substitute would be to gut the bill of those provisions that would give us an effective death penalty.

President Bill Clinton supports the provisions that this substitute would strike out. Let me read from what the President said recently on television.

Bill Clinton said:

> In death penalty cases, it normally takes eight years to exhaust the appeals. It is ridiculous. If you have multiple convictions, it could take even longer. So there is a strong sense in the Congress I think among Members of both parties that we need to get down to sort of one clear appeal. We need to cut the time delay on the appeals dramatically. And it ought to be done in the context of this terrorism legislation, so that it would apply to any prosecutions brought against anyone indicted in Oklahoma. I think it ought to be done.

So said President Clinton.

Those who say that the death penalty has no place in this bill, it is another issue, and want us to pass this substitute to gut the bill, are just wrong. There is a big bipartisan majority in this House in favor of the provisions. We voted before strongly in their support. Let us do it again. Let us defeat this amendment.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman for yielding me time. I am sorry to take a minute. I am sorry the gentleman would not yield. This provision on habeas corpus that I was talking about was not even in the bill when it left the Committee on the Judiciary. I find it interesting that people now come to the floor and say this was the gut of the bill. If this was the core of the bill, somebody forgot to tell the Committee on the Judiciary, because it was not in the bill when it left the Committee on the Judiciary.

The part that was in the bill when it left the Committee on the Judiciary is now gone, because the NRA said: No, no, no, that is too strong. We cannot have the Federal Government looking at the militia groups and do that. We do not trust the Federal Government. Take all those things out.

All of a sudden this has now become habeas corpus reform. The President is right. There should be habeas corpus reform. I agree with that. Many of us agree with that. We do not say totally gut it and we say do not put habeas corpus reform in and call that a terrorism bill.

Let us be really clear about this. I think that that is the issue, and that is what we are trying to say. Let us be perfectly clear and let us not try to clutter this up. What this is doing is leaving terrorism unchecked and not giving them authority that the President asked for.

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER], former chairman of the Subcommittee on Crime.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, I rise in support of this amendment, unfortunately. I say unfortunately because this would not be, frankly, my ideal amendment in terms of fighting terrorism. I do not think it is strong enough. I much preferred the amendment of the gentleman from Illinois.

So why would I rise in support of this amendment? Very simply, because now we are faced with a choice of a rather diluted, mild amendment, and nothing at all.

This is such an unfortunate day in this body. I find it amazing that our President is over in the Middle East with all the world leaders negotiating to toughen up the world response to terrorism, and last night this body pulled the rug out from under him by supporting the Barr amendment.

I find it utterly amazing that the Hamas has found a new best friend in America, the NRA, and anyone who went along with this horrible amendment.

There is no question in my mind that the Hyde amendment was balanced, and it was fair, and it would do the job. The Conyers-Nadler amendment is, in my judgment, not as good. I find myself in the position of opposing it yesterday because we had a good, strong bill, and now supporting it today because there is nothing else.

Mr. Chairman, when we look at why people are frustrated with Congress, when we look at what is wrong with this body, here it is: 98 percent of America says do something real about terrorism. Do something real, because you do not need to be a genius. With great common sense they have seen what happened at the World Trade Center, they have seen what happened in Oklahoma City. They realize that both internationally and domestically the world has changed. And because of one interest group that has so many Members in this body quaking in their boots, there was a 180-degree reversal.

Mr. Chairman, I want to pay my respects, first, to the gentleman from Michigan [Mr. CONYERS], the gentleman from New York [Mr. NADLER], and the gentleman from California [Mr. BERMAN]. They did what they believed was right. They are moving forward in a way I disagree with, but in a way that had integrity.

I want to pay my respects to the gentleman from Illinois [Mr. HYDE], the gentleman from Florida [Mr. MCCOLLUM], the gentleman from North Carolina [Mr. HEINEMAN], and the gentleman from Texas [Mr. COMBEST], and so many of the others who had the courage to vote ''no'' yesterday on the Barr amendment.

But for the general outcome in this body today, I can think of nothing short of the word disgraceful. I just wish that every Member who voted for the amendment, the Barr amendment, which truly eviscerated this bill, has to live with the consequences. I hope they do not. I hope there is nothing that will make them doubt what they did. But, unfortunately, knowing what I know about terrorism in America from my briefings and research, the terrorist danger in America, I am afraid they will all have to.

This is not a great day for this House of Representatives. This is not a great day for the future of this country. If we cannot all pull together, if we cannot avoid the forces of the far right and the far left pulling us apart, then we cannot be the greatest country in the world in the 21st century.

So I support the Conyers-Nadler amendment, albeit reluctantly and unfortunately, because it is the only thing we have left.

Mr. HYDE. Mr. Chairman, I am pleased to yield 2 minutes to the distinguished gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I rise in opposition to this bill and would adopt the comments of the gentleman from Florida [Mr. MCCOLLUM], also.

I think, on balance, what persuades me to vote against this amendment is the fact that the death penalty, the habeas corpus reform, is not included in that particular amendment. The operative word in this bill, in the title of this act, I believe, is the word ''effective.'' The complete name is the Effective Death Penalty and Public Safety Act.

Mr. Chairman, the operative word is ''effective.'' We have a death penalty right now in this country, but it is not used very effectively, and not sufficiently, as the gentleman from Pennsylvania [Mr. GEKAS] said, to act as a deterrent to people who might commit these types of crimes, even crimes that would be similar to what occurred in Scotland yesterday against these children.

□ 1300

These types of people, if convicted, need to face the death penalty, and it needs to be an effective death penalty, not one where they can drag out the process for 8 years, or 10 years, for 17 years or longer. They need to have swift justice to be an effective deterrent. And what the habeas corpus, the death penalty reforms that are included in this core bill, that are still in that bill, what they provide for, among other things, that would accomplish a effective death penalty in this case, include establishing a 1-year limitation in which they can file. The convicted, the person who has already been through the jury trial and been convicted, it gives them a year to file a habeas corpus petition, not years and years and years like the present law allows, and it prohibits Federal judges who consider these petitions for habeas corpus death penalty relief, it prohibits them from considering them unless they were filed by a person convicted in a State court and that person has exhausted their remedies.

I will bring my remarks to a conclusion by simply adding that we need this in this bill, and to vote for the amendment would take out the effective death penalty provisions we need so much in this reform, and I urge my colleagues to vote against this amendment.

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

Mr. CONYERS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. BERMAN], one of the gentlemen who helped develop the Conyers-Nadler substitute, and therefore this measure is entitled the Conyers-Nadler-Berman.

Mr. BERMAN. Mr. Chairman, I thank my ranking member for yielding me this time.

Mr. Chairman, I voted to report the original Hyde bill out of committee. I have trouble with some of the provisions in the bill, but I emphatically believe that a compelling case has been made that Federal law enforcement agencies need to be granted expanded means to attack the scourge of terrorism, both international and domestic.

I believe that our freedoms as well as those enjoyed by the citizens of other democratic nations cannot survive if we do not create new tools to apprehend and punish those who committed crimes with the intent of intimidating, coercing, or retaliating against government conduct. Our ultimate objective must be, of course, to prevent such crimes from being committed in the first place. The most recent appalling attacks in Jerusalem and Tel Aviv only reinforce my deeply held conviction that our democratic Government must be given new means to fight international and domestic terrorism.

But the bill before us today is not the bill I voted for in the Committee on the Judiciary. First of all, the Republican majority decided to jam into this bill, in the name of fighting terrorism, their long-sought objective of, for all intents and purposes, abolishing the ancient writ of habeas corpus. Former Attorneys General Levi, Katzenbach, Richardson, Civiletti, each of them has written to us saying that nothing is more deeply rooted in America's legal traditions and conscience. The writ of habeas corpus is the guarantor of our constitutional rights, the bedrock of our Federal system which has always provided an independent Federal court review of the constitutionality of State court prosecutions.

Shame on those who invoke the names of innocents slaughtered in Oklahoma City or Jerusalem in their quest to obliterate the writ of habeas corpus. I cannot support lawlessness in the police station or the courtroom anymore than I want to tolerate it in the hands of terrorists.

The substitute, the Conyers-Nadler-Berman substitute, deletes the habeas corpus provisions to which I profoundly object.

In addition, second, we now have the passage of the Barr amendment which has deleted the very antiterrorism provisions which do belong in this bill. The Barr amendment deletes the prohibition on fund-raising for terrorist organizations. And can my colleagues believe this? It deletes the expedited removal of alien terrorists from this country.

For those who have concerns about some of these provisions, the answer is not to gut them as the Barr amendment did, but rather to include and improve them, as Mr. CONYERS has done. I want to express my very deep gratitude to Mr. CONYERS for his willingness to include these provisions in this substitute and for his willingness, with his deep concern for civil liberties, to balance and apply that in the context of our need to do more on terrorism.

We provide in this substitute for judicial review of the designation of an organization as terrorist. We provided for the expedited removal of alien terrorists under existing procedures for dealing with classified information which preserve a defendant's right to counsel and to confront the evidence against him or her.

I also strongly support the provision in the Conyers substitute which deletes impediments in current law to the ability of Federal law enforcement organizations to initiate investigations of suspected material support to terrorists. I believe that the scourge of terrorism requires a careful recalibration from time to time of the balance between civil liberties concerns and law enforcement authority.

In this case, I believe that speech on behalf of terrorist organizations can be, not necessarily are, but they can be, an indication that the individual is engaged in material support for terrorist activities. Under certain circumstances I believe it is appropriate for investigations to be opened, not to be prosecuted for that speech, not be thrown in jail, but for merely an investigation to be opened.

I am concerned that the current law bars such investigations unless the evidence of terrorist activities virtually suffices to commence prosecution. That means people who should be prosecuted would not be

I have a proud record of support, I believe, for civil liberties. When the opponents of this legislation and all of its excessive forms have pointed out potential infringements of civil liberties, I have listened. As the American Jewish Committee has so eloquently stated, the war on terrorism must be and can be carried out without undermining our most fundamental protection. But when these same organizations that opposed the original bill of the gentleman from Illinois [Mr. HYDE] and supported the Barr amendment go so far as to minimize the very threat of terrorism itself, they lose all credibility.

Ours is a living constitution which has thrived for two centuries because in its strengthened vibrancy it has accommodated the realities of modern American life. One of those realities tragically is terrorism.

Mr. Chairman, I urge my colleagues to vote for the Conyers substitute. It wages war on terrorism while preserving precious American rights. Should the substitute fail, I will be voting against H.R. 2703, and I urge my colleagues to do so as well.

Mr. HYDE. Mr. Chairman, I yield myself 10 minutes.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. Chairman, it is kind of deja vu to hear the four Attorneys General routinely trotted out by the opposition. They have been referred to as the four horsemen of Swan Lake. But we also have our retinue of Attorneys General who disagree with them, led by Griffin

Bell, William Barr, Richard Thornburg, the late William French Smith. But I have a celebrity to trump all of those Attorneys General on the subject of habeas corpus, and his name is President Clinton.

Mr. Chairman, he said on June 5 of last year, 2 days before the Senate passed the identical bill overwhelmingly that we seek to pass in this legislation; here is what the President, Mr. Clinton, said on ''Larry King Live.'' He said in death penalty cases it normally takes 8 years to exhaust the appeals. It is ridiculous. And, if you have multiple convictions, it could take even longer. So there is a strong sense in the Congress, I think among members of both parties, we need to get down to sort of one clear appeal. We need to cut the time delay on the appeals dramatically, and that ought to be done in the context of this terrorism legislation so that it would apply to any prosecutions brought against anyone indicted in Oklahoma, and I think this ought to be done.

Now that is the head man. So I just serve warning. Anytime my colleague brings out Mr. Katzenbach, Mr. Richardson, Mr. Civiletti, and Mr. Levi, I am going to bring out the President, so just be fairly warned.

Now I want to make it very clear——

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. Yes, of course.

Mr. CONYERS. Mr. Chairman, that means the gentleman will not be mentioning these other run-of-the-mill Attorneys General that——

Mr. HYDE. I may do that, although they are not run-of-the-mill, they are superb legal giants.

Mr. Chairman, I want to make it clear that this is still a good bill despite the Barr amendment yesterday, which disappointed me, but the bill still is a very good bill and worthy of support. We have habeas reform. If we can defeat the Nadler-Conyers-Berman amendment that is offered now, we have victim restitution, we have criminal alien deportation improvements, we require marking plastic explosives to allow for more effective detection. If we had that, Pan Am 103 might well never have occurred. We prohibit the possession, importation, and sale of nuclear materials, reform asylum laws to stop their manipulation by foreign terrorists. Not most importantly, but very importantly, we authorize lawsuits by Americans against foreign nations responsible for State-sponsored activity. That is amending the Foreign Sovereign Immunities Act. We provide for the expedited expulsion of illegal aliens from the United States, yes, and we protect Federal employees and Federal Government buildings because if someone is murdered, it becomes a death penalty.

Now the Conyers-Nadler-Berman substitute is another gutting amendment. There are——

Mr. NADLER. Mr. Chairman, will the gentleman yield for a moment?

Mr. HYDE. I would say to the gentleman from New York [Mr. NADLER], I am just getting wound up, but go ahead. I would rather the gentleman interrupt me now than later.

Mr. NADLER. Before the gentleman gets into the analysis of the amendment, I just wanted to ask with what the gentleman said about the bill, as amended a moment ago, the gentleman said on the floor yesterday, and I quote: ''We have a real threat, we either do something about it or take a pass and pretend we are. With the Barr amendment, this is not an antiterrorism bill.'' Unquote.

Does the gentleman think that is no longer correct?

Mr. HYDE. Well, yes, that was an overstatement on my part out of the depths of my dismay that I was losing. But on sober reflection, I think it is an antiterrorism bill, not as robust as I would like it to be, but still worthwhile.

Now there are a number of things in the Conyers-Nadler-Berman substitute that I like and could support. Unfortunately our colleagues have lumped them together with eliminating habeas corpus reform, and that, of course, destroys any balance and makes it not worthwhile.

For example, under the Conyers amendment and the amendment of the gentleman from New York [Mr. NADLER], current law which would permit the imposition of the death penalty for somebody who bombed a Federal building where death resulted, that is rewritten. It cannot be done now under the Conyers amendment.

Just let me finish my statement. I will yield to the gentleman shortly.

Now, the Conyers amendment would not impose the death penalty. He has rewritten this law for someone who uses a biological toxin that results in another's death. Oh, the gentleman from Michigan [Mr. CONYERS] provides a life sentence, but not the death penalty. Now, somebody who kills somebody using biological toxin certainly qualifies for the death penalty in my book. Mr. CONYERS strikes the criminal alien deportation improvements, which we have in this bill, we passed those earlier, and we are repassing them here. They passed 380 to 20 last February. So as tempting as it is to support the designation of terrorist organizations, and we should be able to do that, I hope to goodness we get to do that, I hope we can do that in conference. But that morsel of good public policy is not worth throwing away habeas corpus reform or the ability to impose the death penalty on someone who bombs a Federal building, as they did in Oklahoma City.

□ 1345

Mr. Chairman, I yield to the gentleman from North Carolina [Mr. WATT].

Mr. WATT of North Carolina. Mr. Chairman, the point I wanted to make is the House passed this habeas reform in another context. That bill has been passed by the House and can stand on its own. We have been under the impression that this was an antiterrorism bill. I am surprised that the gentleman is not anxious to get some of the antiterrorism provisions back into the bill.

Mr. HYDE. I am anxious, but I am not anxious to ever go on record as rejecting something we have been looking for, for 10 years and working toward, and that is habeas corpus reform.

Also, Mr. Chairman, I am still puzzled by the gentleman's unwillingness, and I do not say inability, but unwillingness to see that habeas corpus law applies to murderous terrorists. They depend on habeas corpus, an indefinite prolongation of habeas corpus proceedings, so they never get the sentence executed.

Mr. WATT of North Carolina. Mr. Chairman, if the gentleman will continue to yield, I want to be clear, I have never said habeas is completely irrelevant to terrorism.

Mr. HYDE. I misconstrued the gentleman. I misconstrued the gentleman. I humbly apologize.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, the gentleman is the chairman of the Committee on the Judiciary, still, and will be until the end of the year.

Mr. HYDE. At least.

Mr. CONYERS. The idea of us now going back into habeas, the gentleman from North Carolina has just reminded us that we have already passed a habeas bill overwhelmingly.

Mr. HYDE. Taking my time back, I thought the gentleman had something new to add to this debate. The gentleman is repeating what the gentleman from North Carolina [Mr. WATT] said, and he said it better.

Mr. CONYERS. Mr. Chairman, why does the gentleman need to have habeas here if we have already done it?

Mr. HYDE. To make sure that it passes.

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

Mr. CONYERS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Texas, Ms. SHEILA JACKSON-LEE, a distinguished member of the Committee on the Judiciary.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman from Michigan [Mr. CONYERS] for yielding time to me, and I thank the gentleman from New York [Mr. NADLER] and the gentleman from California [Mr. BERMAN] for a reasoned response to the reason that I am in the well of the House.

I would say to the gentleman from Illinois [Mr. HYDE], the chairman of the committee, there is no doubt of his deep and abiding commitment to this

process. I respect his comments yesterday, in fact, of his disappointment with the passage of the Barr amendment. I think, frankly, we might have been heading in the right direction.

I think the gentleman realizes that I supported this legislation in committee, because I have firsthand experience with the tragedy of terrorism, the loss of life of a member of my community in Pan American 103. I also have grappled over the last 48 hours with the tragedy of the loss in Scotland, I believe, of some 16 children. It is certainly not in our jurisdiction, but that is a terrorist act.

If I vote for anything, Mr. Chairman, this time it has to be focused on the victims. With the passage of the Barr amendment, I feel that we have severely undermined this so-called terrorist legislation. Mr. Chairman, we have a situation that cop-killing bullets are still out on the streets, and we have minimized the study that was to go forward in not studying the ammunition, which is terrorist in its own sense, to a certain extent, as it freely flows throughout this Nation. Now we just simply want to say ''We will look at it if we see a cop being killed.''

The Conyers-Nadler-Berman bill does something that is near and dear. It adds a provision that cites particularly acts of terrorism against children, and makes it a specific crime to target children when engaging in any of the activities that have been included in this legislation. That is a victim's bill that deals with terrorism.

Mr. Chairman, additionally, it allows an extension of Federal jurisdiction to cases involving overseas terrorism, to include cases where a U.S. national was on a plane, or the perpetrator is a U.S. national, or the offender is subsequently found in the United States, and cases involving foreign dignitaries.

Mr. Chairman, I know full well what it means to travel overseas, many of us do, but in particular I work with a youth group who goes overseas to dangerous areas every summer. I want them to be exposed to this world, but I also want them to be protected against terrorist acts. The Nadler-Conyers-Berman legislation that is before us is the right way to go. Their bill also extends the law regarding weapons of mass destruction to include threatened use of weapons of mass destruction, as well as cases involving a U.S. national outside of the United States.

Mr. Chairman, let me add one more point about victims' rights in this instance. There is a question when a tragedy happens, how do you address the grievance. The grievance is that if you survive it, you either have the opportunity to sue and/or pursue your grievance in a court of law. This legislation that I am supporting specifies jurisdiction of U.S. courts over lawsuits brought against terrorists.

Mr. Chairman, Federal courts would lose the power to correct unconstitutional incarceration. This bill brings with it the increased risk that innocent persons would be held in prison in violation of the Constitution and—even executed—because the bill imposes unreasonably short time limits for filing a claim of habeas corpus relief, limits almost all petitioners to only one round of Federal review and requires the petitioner meet an extremely high clear an convincing burden of proof in order to secure relief. We must punish to the fullest extent of the law those who commit terrorist acts against our Nation, against our Nation, against innocent children. However, I equally believe that we must consider the bill before us and firmly support the constitutional rights such as freedom of assembly, freedom from unreasonable search and seizure, due process of law, and the right of privacy. I have concerns about racial, ethnic, and religious bigotry that may increase with the misuse of the powers of this bill. These fundamental rights are essential to our liberty as Americans.

The Conyers-Nadler-Berman bill is the right anti-terrorist legislation.

Mr. HYDE. Mr. Chairman, I am pleased to yield 3 minutes to the learned gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I do appreciate being noted as learned, being a Hoosier, I would say to my fellow Illinois chairman of the committee.

Mr. Chairman, I was intrigued by the comments of my colleague who was just in the well. Often we hear about these cop-killer bullets. It is interesting. I would like to know why. Any bullet out there, no matter what you call it, if you point it at the right time, can kill someone with the same lethal effect as a knife or a tire iron, if you want to whop somebody up side the head. The real assault weapon, Mr. Chairman, is the thug. That is what the real assault weapon is.

What we have now, Mr. Chairman, are international groups that commit acts of terror indiscriminately, cowardly acts of terror, who form these groups throughout the world. They have increased their lethality in how they operate, so it used to be in the 1970's and 1980's it was the highjackings and hostage takings. Now they have become more sophisticated. Now there are bombings, and that is how they operate, but they are more cowardly in what they do, because the lethality of their actions now is against the innocents.

So we see, whether it is the World Trade Center bombings and others that have operated throughout the world, we, the United States, want to take a responsible role not only here domestically, within our own borders, but internationally, with our neighbors throughout the world. Mr. Chairman, I think that is pretty important.

I am extraordinarily disappointed when we do not give the tools and the resources to law enforcement to meet those goals. Why we gut a bill, and for some reason say we should be more frightened of our own Government; wait a minute, Mr. Chairman. I believe in good government. Why do we form governments? We form governments to take care of people. If people are living in fear, there is not freedom. There is not liberty. That is what we cherish most in our own country.

We want to give the power and authority to the FBI to go after these thugs, when these illegal aliens come into the country, and then we do not want to give, whether it is roving wire taps and things to go after them; why? Then when we do come after them, they flee from the Philippines to Pakistan, and finally we catch up with them, as in the World Trade Center case.

Mr. Chairman, I understand the chairman. I do not want to ever say he is ambivalent, but I noticed the remarks from yesterday and the remarks from today, to support this bill. I am going to support this bill. When the Senate has theirs, we are going to go to conference and we are going to give them the tools necessary to make this an effective bill, and we will come back to the floor then at that time.

However, let me make a closing comment with regard to this thing about let us throw out habeas corpus reform and talk about victims' rights. To me, that just blows my mind. Those who coddle and hug the thugs do not want to be for an effective death penalty, yet we are going to talk about victims' rights? We need in this country a good balance in sentencing guidelines between education, prevention, restitution, retribution, and deterrence, and the rights to victims are extraordinarily important.

Mr. CONYERS. Mr. Chairman, I yield 30 seconds to our colleague, the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Chairman, I appreciate the gentleman's passion on the issue. The whole question of terrorism is, of course, to prohibit terrorists, but it is to prohibit terrorist acts on victims. This legislation includes specific language targeted to children. Who can deny that? This is the better bill, the stronger bill, the Nadler-Conyers-Berman bill. It actually addresses victims, who are in fact the recipients of terrorist acts. We cannot deny that.

Mr. BUYER. My only question, Mr. Chairman, is does the gentlewoman support an effective death penalty?

Ms. JACKSON-LEE of Texas. I have never disagreed with it.

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

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I begin by throwing away my Chairman HYDE's remarks of yesterday. He did not mean it. It was a moment of passion. He was maybe even ticked off, as we say. He said, ''With the Barr amendment, this is not an antiterrorism bill.'' On reflection today and maybe talking with the Speaker, what the heck, we have to do the best with what we have. Were I in his position, maybe I would have to say the same thing.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, it is my experience that in the depths of disappointment, things sometimes look darker than they really should, but I feel better today. I thank the gentleman.

Mr. CONYERS. We are delighted to find that the gentleman is moving right along.

Now, Mr. Chairman, for the law lesson. These have to come on the Committee on the Judiciary, between lawyers.

All right, class, turn to title 18, U.S.C. 111. What you will find is that the murder penalty exists for a whole list of crimes. Also, class, turn to 18 U.S.C. 119, the murder penalty. Also, class, turn to 18 U.S.C., and staffers for Members, turn to that, also, 18 U.S.C. 1117. The last lesson for the afternoon, turn finally to 18 U.S.C. 1114.

OK. What do these four laws provide? Murder, in the first instance, willful, deliberate, and premeditated killing will get you the death penalty, I say to the gentleman from Illinois [Mr. HYDE], and my Republican friends, in the United States of America. It will also, under the second title I cited, for foreign murder of U.S. nationals, that will get the death penalty.

You can also get the death penalty—not whether we like it or how we voted for it, what our philosophy is, this is the law. Conspiracy to murder will get you the death penalty. Also, the murder of an officer or employee of the United States, my fourth illustration, will get you the death penalty.

If Members do not believe the instructor in this class, go to the current Attorney General of the United States, who explains for everybody who will not do their homework that the Oklahoma bombers, if convicted, will get the death penalty.

Mr. Chairman, I would ask the gentleman to tell me, if habeas was so important, why was it left out of the Hyde-Barr bill when it came to the floor? The answer is they had antiterrorism on their minds. So we have, even though my dear friend, the gentleman from Illinois, is feeling much better today, we still have a baloney sandwich without any meat in it. We only have the Conyers-Nadler-Berman substitute to deal with.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I was queried on the House floor about my beliefs with regard to the death penalty, and I said an effective death penalty, but the clarification was really meant to track what the gentleman has just said.

This bill deals with offenses that require the death penalty on certain offenses dealing with terrorism, which is in the Conyers-Nadler bill. Habeas is not the death penalty. It is justice. We want to make sure that for victims of all kinds, we need to have justice. Habeas does not deal with answering the question of terrorism.

Mr. Chairman, I would ask, is that what the gentleman is saying at this point?

Mr. CONYERS. The assistant law professor from Texas is precisely on point.

Ms. JACKSON-LEE of Texas. I am trying. I thank the gentleman.

Mr. CONYERS. Mr. Chairman, let us look at the nature of the people that we have castigated for months and months that commit these heinous offenses. Suicide bombers, are they looking for which habeas we are using and whether it exists, since, as we have just learned now, habeas has nothing to do with whether the death penalty exists? Habeas is the protections—constitutional—that are given to you if you are under the death penalty.

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I do not think so. Members of the other side, I do not think that suicide bombers care what we do with habeas or what we do not do with it.

But why let them raise funds in the United States? That is in my bill. We prevent them from raising funds to get the bombs to blow up Americans.

Please, we have a very serious, important matter that requires us to bring our common sense and leave our political partisanship outside the door. This is an incredibly important matter. I hope that all of us will recognize that we only have one measure that deals with antiterrorism, and it is the substitute which we will shortly vote on. I urge your favorable consideration of this provision.

Mr. HYDE. Mr. Chairman, I yield myself such time as I may consume. I am waiting for the Speaker, who would like to close debate, and he should be here imminently.

Meanwhile, I would like to respond to Professor CONYERS, who gave us an interesting lecture on criminal law, simply to say that his amendment, section 201, reads, ''whoever damages or destroys or attempts to damage or destroy, by means of fire or an explosive, any person or real property in whole or in part, owned, possessed, used by, leased to the United States or any department or agency thereof, or any institution or organization receiving Federal financial assistance.''

What is the penalty that the gentleman has inculcated in his amendment? Not ''shall be in prison for not more than 25 years, or both,'' but ''if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years.'' Then, skipping another paragraph and getting to the end game here, ''if death results to any person other than the offender, the offender shall be subject to imprisonment for any term of years or for life.''

I do not see the death penalty in here in section 201 of title II. I see life. If you kill somebody by bombing a Federal building, now the professor has indicated elsewhere in the code death penalties are provided for. May well be. I have not thumbed through that part of the code recently.

But I wonder why he introduced this amendment providing for life imprisonment if you kill somebody by blowing up a Federal building, which is what happened in Oklahoma City. The gentleman surely does not do things idly or without purpose. I suspect the gentleman wants to get into law his well-known dislike for the death penalty, and I understand that. That is a perfectly respectable, legitimate position to have, but it should be noted that his amendment does away with the death penalty for bombing a Federal building.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, will the gentleman promise to do his homework after I do this one more time? I mean, suicide bombers do not care about the Conyers provision or the Hyde provision. Suicide bombers are not afraid of habeas corpus, sir. They have no concern. The problem is that these are madmen who do not obey or care about laws.

The reason I cited the gentleman four specific death penalty amendments is to suggest to him that for all of those reasons, the Attorney General of the United States is right in telling us that upon conviction, the Oklahoma bombers will get the death penalty, regardless of your view or my view on habeas corpus.

Mr. HYDE. Your amendment notwithstanding. Well, I really appreciate that.

Mr. CONYERS. How will habeas corpus deter a single terrorist act? Tell me that.

Mr. HYDE. How does what, sir, habeas corpus deter a single terrorist?

Mr. CONYERS. How will habeas corpus of any kind deter a single terrorist act?

Mr. HYDE. I presume the professor is referring to habeas corpus reform, because habeas corpus would not deter anybody from anything. The reform might.

Mr. CONYERS. Well, will reform? Tell me how.

Mr. HYDE. I will leave that to the distinguished Speaker of the House.

Mr. CONYERS. Who has not heard our debate. Maybe.

Mr. HYDE. But the gentleman knows that sure punishment and swift punishment is a deterrence, and that is the answer to the gentleman's question.

Mr. CONYERS. Suicide bombers are afraid of sure and swift deterrence, right?

Mr. HYDE. I thank the gentleman for his illuminating comment.

Mr. Chairman, I am pleased to yield the balance of my time to the distinguished Speaker of the House.

The CHAIRMAN. The gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. GINGRICH. Mr. Chairman, I thank the distinguished gentleman from Illinois for yielding me the time, and I think that this is a very important pair of votes that are coming up.

Let us be very clear where we are. There was a very large conference in the Middle East yesterday in which leaders from all over the world said they are opposed to terrorism. Political leaders are going to get up all over the world and say ''We are opposed to terrorism.''

The question is, is there a reasonable and prudent way to both safeguard individual liberties and at the same time make certain that we are able to combat terrorism before it does incalculable damage to innocent people? In addition, are there legitimate and reasonable ways in a free society to suppress violent crime, and to deal with people who commit crimes so unspeakable that they have in fact earned the death penalty by the very barbarity of their behavior?

That is what these votes are really all about. They are about, first of all, the question is there a prudent and reasoned way for a free people to govern themselves so they both protect their liberties against a capricious state, a search which has been going on in the English-speaking world since the English civil war and the Star Chambers, and which we have worked on now for over 340 years, and at the same time, is there a way to make certain that those so barbaric, those so outside the bounds of civilization, whether acting as an individual killer or acting as a part of an organized group deliberately using terror for political purposes, that we as a people can combat them.

There are two provisions I particularly want to focus on because they seem to be of some controversy. The first is having an effective, enforceable death penalty. Let me just say that no citizen who has looked at some of the barbaric acts committed tragically by Americans against Americans, at serial murderers, at people who have engaged in acts of deliberate, vicious, wanton brutality, no citizen who believes in the death penalty would want to vote against this bill, because without this bill the death penalty remains ineffective.

In Georgia, our attorney general, Mike Bowers, pointed out that he was in law school when certain murderers were put on death row, and because of the current interminable frivolous appeals process, he had gone through law school, passed the bar exam, been in private practice, served as a district attorney, in what is now his third term as the attorney general of Georgia, and these same murderers were still sitting on death row filing a new appeal.

Clearly justice delayed is justice denied. Clearly the families of victims who have seen these horrible things done deserve to know that this society can move effectively.

As somebody who believes in Federalism and allowing the States to make decisions, when you learn that it is Federal law that blocks the States having an effective death penalty, it is Federal law which gives every defense attorney in the country infinite excuses for simply buying time. In the State of California, there are provisions here that cost the State over $1 million per person given the death penalty just having to fight the frivolous lawsuits.

First of all, I would say to my friends, if you want an effective death penalty, then you want to vote ''no'' on the Conyers substitute and you want to vote ''yes'' on final passage, and there should be no mistake about it, because that is the only way to make sure that we get an effective death penalty.

There is a second part I want to mention. I want to be really clear. We are wrestling with what, I think, is a very hard problem. How do we give the Government enough power to protect us without giving the Government power to coerce, power to invade our liberties? How do we protect our personal freedoms while at the same time protecting our personal freedoms? Because that is what we are trying to do. We want to protect our freedom against the State being capricious and we want to protect our freedom against terrorists who would destroy our lives.

I would urge a ''no'' vote on the Conyers substitute and a ''yes'' vote on final passage because I think that this bill has been improved, and I think when it goes to conference it will be improved even more. I know that my good friend, the gentleman from Georgia, has been working even today on making specific provisions to find a way to block Hamas from being able to raise money in the United States while killing people in Israel.

Let me draw this very clearly. We want to be capable, within our Constitution and protecting our liberties, to block terrorist groups. We want to be capable of tracking potential terrorists while protecting our liberties.

That requires very careful drawing of the lines, because on the one hand you want to give the FBI, you want to give the Central Intelligence Agency, you want to give the powers of the state enough strength to do that which is necessary to protect us. On the other hand, you do not want to give them the ability in an arbitrary and inappropriate way to exercise those powers to hurt people.

I want to first of all commend the gentleman from Georgia [Mr. BARR], a former U.S. attorney in his own right, a prosecutor, a man who has had cases where he has brought people to justice who have done evil things, because he has worked very diligently. I believe that with his help that the chairman, Mr. HYDE, in conference, is going to be able to develop exactly the right thing.

I would say to my friends who are worried and say they are going to vote ''no'' because as currently written this bill will not cut off Hamas, the only effective way to get a bill to cut off Hamas from funding, to block aid to the terrorists, is to vote ''yes'' for this bill to send it to conference. This bill should be passed in the House. We should go to conference.

Frankly, our goal should be to get this bill out of conference before the first anniversary of the Oklahoma City bombing. I believe it is going to take a difficult conference. I think it can be done. I, for one, am not at all ashamed of the fact that it is hard to write this bill correctly.

The challenge of a free society—I want to come back to this because it is at the core of what we are wrestling with—the challenge of a free society is to have a government strong enough to protect us from danger and carefully enough constrained to not itself be a danger. That is what we are wrestling with.

If you vote ''no'' on Conyers and ''yes'' on final passage, you are voting for an effective, enforceable death penalty. You are voting for effective steps to stop terrorism. You are voting for the prudent, correct steps in the right direction, preserving civil liberties and preserving our safety at the same time.

I commend the gentleman from Illinois, who has done an outstanding job of bringing this bill to the floor. I think this bill is a substantial step in the right direction. I urge all of my colleagues, vote ''no'' on Conyers and vote ''yes'' on final passage, for a safer and a freer world.

Mr. CARDIN. Mr. Chairman, again we are presented with a missed opportunity. H.R. 2703, as it was presented for a final passage vote, contains virtually no provisions necessary to aid law enforcement in stopping terrorist attacks which is the stated purpose of the legislation.

I would have supported H.R. 2703 as it was reported by the Committee on the Judiciary. Unfortunately, the Barr amendment, as adopted, stripped the bill of its most important provisions including sections that might have helped protect law enforcement from killer bullets, helped trace explosives, and allowed law enforcement to trace terrorists' phone calls.

In addition, the Barr amendment gutted the bill's sections requiring swift expulsion of foreign terrorists and the amendment weakened efforts to eliminate domestic fundraising support of terrorism overseas. For example, nothing in this bill would prevent Hamas, a terrorist group located in and around Israel, from fundraising in the United States.

Had the Barr amendment failed, I would not have supported the Conyers-Nadler amendment. The Conyers-Nadler amendment removed important habeas corpus language and necessary law enforcement measures. The bill, as reported by the Judiciary Committee, is stronger than the Conyers-Nadler substitute. However, once the Barr amendment passed, I voted for the Conyers-Nadler substitute because it put a number of key provisions back into the bill.

I opposed the Watt-Chenoweth amendment because it would have eliminated the bill's restrictions on habeas corpus appeals to Federal courts by death row prisoners. Habeas corpus reform is long overdue and, although not directly related to fighting terrorism, it is an important measure to pass.

Mr. Chairman, I am extremely disappointed in the present form of H.R. 2073. Terrorism threatens innocent people, both in America and abroad. I hope that many of the significant measures in H.R. 2703, as reported by the Judiciary Committee, will be restored by the conference committee so that I will be able to support the conference report.

Mr. CRANE. Mr. Chairman, it was with regret that I cast a ''no'' vote today on final passage of H.R. 2703, the Effective Death Penalty and Public Safety Act. In previous years as a member of the minority party in Congress, I regularly voted ''no'' on Democrat legislation which I believed to be inconsistent with my views of a limited Federal Government. I am proud to say that in the 104th Congress I have cast many more ''aye'' votes than ''no.'' However, today I must oppose H.R. 2703, as amended. While my vote puts me at odds with my party leadership, I remain obligated first to my constituents and my convictions.

I know that this antiterrorism legislation was drafted with the best intentions. The domestic terrorist attack in Oklahoma City, along with the bombing of the World Trade Center in New York City were reprehensible acts. I recognize too that American citizens abroad have been victims of terrorist attacks simply because of their nationality. Furthermore, the most fundamental responsibility of government is to provide for the common defense of its citizens. However, I cannot justify a needless expansion of Federal law enforcement authority for these worthy purposes.

Accordingly to a report prepared by the Congressional Research Service, the list of current Federal antiterrorist laws is 17 pages long. I could accept a measured modification of current law to deal with specific deficiencies, but object to this overbearing legislation because it will trample on constitutionally protected rights of Americans.

Before further expanding Federal laws, I believe that Congress ought to first review the Federal Government's role in law enforcement. In particular, a comprehensive oversight of all Federal law enforcement agencies, especially the Bureau of Alcohol, Tobacco and Firearms, to investigate abuses of authority is overdue. I, along with many Republican colleagues, fought against the omnibus crime bill passed and signed into law by President Clinton during the last Democrat-controlled Congress. Until we act to repeal some of these needless and dangerous laws, I cannot support further expansion of Federal authority in law enforcement.

While this stance may put me at odds with some, letters and phone calls from my constituents were overwhelming in their opposition to this legislation. On behalf of them, and my convictions, I had no alternative but to oppose H.R. 2703. I can only hope that my colleagues will keep these points in mind as the bill proceeds to conference with the other body.

Mrs. VUCANOVICH. Mr. Chairman, I would like to speak in favor of H.R. 2703, the Effective Death Penalty and Public Safety Act. In the wake of the tragic bombing in Oklahoma City last April 19, the Congress realized a need to reform the terrorism and death penalty laws currently on the books. We did not rush into action on this bill, and many changes have been made to ensure that the bill would establish tougher statutes to allow Federal law enforcement officials to more effectively prevent and punish acts of domestic terrorism while still respecting the rights of our citizens. The end result is a tough, comprehensive bill of which we should all be proud.

I support the inclusion of the language in the Barr amendment, which goes the extra mile to ensure the protection of Americans' personal rights. The Barr amendment removes the provision calling for a study of the ''cop-killer'' ammunition. Instead, the amendment provides for a more balanced and appropriate study on law enforcement safety issues. The amendment would also delete the onerous wiretap provisions. I have heard from many Nevadans who were concerned about the potential for government intrusion in their lives.

H.R. 2703 also includes much needed habeas corpus reforms. Delays in death penalty cases of more than a decade are common, making abuse of the habeas corpus system the most significant factor in States' inability to implement credible death penalties. The reforms included in the legislation sets very strict time limits, and includes very strong States' rights provision that lessen the amount of Federal intrusion caused by expansive reviews of State court convictions and sentences, particularly in capital cases.

I hope all of my colleagues can join with me today in supporting the new and improved version of H.R. 2703.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 129, noes 294, not voting 8, as follows:

[Roll No. 65]

AYES—129

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Berman
Bishop
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Dicks
Dixon
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E.B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
McNulty
Meehan
Meek
Miller (CA)
Mink
Mollohan
Morella
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Pomeroy
Rahall
Rangel
Reed
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stockman
Studds
Stupak
Thompson
Thornton
Torres
Towns
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates

NOES—294

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer

Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Chapman
Collins (IL)
de la Garza
Durbin
Hall (OH)
Menendez
Moakley
Stokes

□ 1431

Ms. PRYCE, Mr. COBURN, and Mr. DELAY changed their vote from ''aye'' to ''no.''

Mr. WILLIAMS changed his vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOBSON) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2703) to combat terrorism, pursuant to House Resolution 380, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

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

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONYERS moves to recommit the bill H.R. 2703 to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 229, noes 191, not voting 12, as follows:

[Roll No. 66]

AYES—229

Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barton
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunning
Burton
Buyer
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cox
Cramer
Cunningham
Danner
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gilman
Gingrich
Goodlatte
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Heineman
Hobson
Hoke
Holden
Horn
Houghton
Hunter
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, Sam
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
Lantos
Largent
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Martini
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McKeon
McNulty
Metcalf
Meyers
Miller (FL)
Molinari
Montgomery
Moorhead
Myers
Myrick
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Petri
Pomeroy
Porter
Portman
Pryce
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Solomon
Spence
Spratt
Stenholm
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (FL)
Zimmer

NOES—191

Abercrombie
Ackerman
Allard
Baker (CA)
Barcia
Barrett (WI)
Bartlett
Bass
Becerra
Beilenson
Bentsen
Berman
Bonilla
Bonior
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Burr
Campbell
Cardin
Chenoweth
Clay
Clayton
Clyburn
Coleman
Collins (MI)
Conyers
Cooley
Costello
Coyne
Crane
Crapo
Cremeans
Cubin
DeFazio
DeLauro
Dellums
Dickey
Dicks
Dingell
Dixon
Doggett
Doolittle
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Funderburk
Furse
Gejdenson
Gephardt
Gillmor
Gonzalez
Goodling
Gordon
Graham
Green
Gutierrez
Hastings (FL)
Hastings (WA)
Hayworth
Hefner
Herger
Hilleary
Hilliard
Hinchey
Hoekstra
Hostettler
Hoyer
Hutchinson
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
LaFalce
LaHood
LaTourette
Levin
Lewis (GA)
Lewis (KY)
Lofgren
Lowey
Maloney
Manzullo
Markey
Martinez
Matsui
McCarthy
McDermott
McInnis
McIntosh
McKinney
Meehan
Mica
Miller (CA)
Minge
Mink
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Nethercutt
Neumann
Ney
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Pombo
Poshard
Rahall
Rangel
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Scarborough
Schroeder
Schumer
Scott
Seastrand
Serrano
Shadegg
Skaggs
Skeen
Slaughter
Smith (WA)
Souder
Stark
Stearns
Stockman
Studds
Stump
Tate
Thompson
Thornton
Thurman
Torres
Towns
Velazquez
Vento
Visclosky
Walsh
Wamp
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wynn
Yates
Young (AK)
Zeliff

NOT VOTING—12

Callahan
Chapman
Collins (IL)
de la Garza
Durbin
Gibbons
Hall (OH)
Meek
Menendez
Moakley
Quillen
Stokes

1453

The Clerk announced the following pair:

On this vote:

Mr. Quillen for, with Mr. Stokes against.

Mr. STUPAK changed his vote from ''no'' to ''aye,''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CALLAHAN. Mr. Speaker, on rollcall No. 66, I was detained in a meeting in the Rayburn Room and therefore was not present for the vote. Had I been present, I would have voted ''aye.''

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just passed.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENT TO S. 735, COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

Mr. HYDE. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendment to S. 735, the Clerk be authorized to correct section numbers, cross references and punctuation, and to make such stylistic, clerical, technical, conforming and other changes as may be necessary to reflect the actions of the House in amending the bill, and be instructed to change page 6, line 1, to read: ''Where the person knows is a terror.''

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, reserving the right to object, I know the gentleman would have inquired of the minority on this technical change, and we have reviewed it and have no objection to this change.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

PERSONAL EXPLANATION

Mr. SAM JOHNSON of Texas. Mr. Speaker, on March 12, 1996, I was unavoidably detained from the House floor due to election in the State of Texas. Had I been present, I would have voted on the following: On rollcall vote No. 56, ''aye''; on rollcall vote No. 57, ''aye''; on rollcall vote No. 58, ''aye''; and on rollcall vote No. 59, ''aye.''

COMPREHENSIVE TERRORISM PREVENTION ACT OF 1995

Mr. HYDE. Mr. Speaker, pursuant to section 3 of House Resolution 380, I call up the Senate bill (S. 735) to prevent and punish acts of terrorism, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 735

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 ''Comprehensive Terrorism Prevention Act of 1995''.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

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

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

Sec. 101. Increased penalty for conspiracies involving explosives.
Sec. 102. Acts of terrorism transcending national boundaries.
Sec. 103. Conspiracy to harm people and property overseas.
Sec. 104. Increased penalties for certain terrorism crimes.
Sec. 105. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 106. Penalty for possession of stolen explosives.
Sec. 107. Enhanced penalties for use of explosives or arson crimes.
Sec. 108. Increased periods of limitation for National Firearms Act violations.

TITLE II—COMBATING INTERNATIONAL TERRORISM

Sec. 201. Findings.
Sec. 202. Prohibition on assistance to countries that aid terrorist states.
Sec. 203. Prohibition on assistance to countries that provide military equipment to terrorist states.
Sec. 204. Opposition to assistance by international financial institutions to terrorist states.
Sec. 205. Antiterrorism assistance.
Sec. 206. Jurisdiction for lawsuits against terrorist states.
Sec. 207. Report on support for international terrorists.
Sec. 208. Definition of assistance.
Sec. 209. Waiver authority concerning notice of denial of application for visas.
Sec. 210. Membership in a terrorist organization as a basis for exclusion from the United States under the Immigration and Nationality Act.

TITLE III—ALIEN REMOVAL

Sec. 301. Alien terrorist removal.
Sec. 302. Extradition of aliens.
Sec. 303. Changes to the Immigration and Nationality Act to facilitate removal of alien terrorists.
Sec. 304. Access to certain confidential immigration and naturalization files through court order.

TITLE IV—CONTROL OF FUNDRAISING FOR TERRORISM ACTIVITIES

Sec. 401. Prohibition on terrorist fundraising.
Sec. 402. Correction to material support provision.

TITLE V—ASSISTANCE TO FEDERAL LAW ENFORCEMENT AGENCIES

Subtitle A—Antiterrorism Assistance

Sec. 501. Disclosure of certain consumer reports to the Federal Bureau of Investigation for foreign counterintelligence investigations.
Sec. 502. Access to records of common carriers, public accommodation facilities, physical storage facilities, and vehicle rental facilities in foreign counterintelligence and counterterrorism cases.
Sec. 503. Increase in maximum rewards for information concerning international terrorism.

Subtitle B—Intelligence and Investigation Enhancements

Sec. 511. Study and report on electronic surveillance.
Sec. 512. Authorization for interceptions of communications in certain terrorism related offenses.
Sec. 513. Requirement to preserve evidence.

Subtitle C—Additional Funding for Law Enforcement

Sec. 521. Federal Bureau of Investigation assistance to combat terrorism.
Sec. 522. Authorization of additional appropriations for the United States Customs Service.
Sec. 523. Authorization of additional appropriations for the Immigration and Naturalization Service.
Sec. 524. Drug Enforcement Administration.
Sec. 525. Department of Justice.
Sec. 526. Authorization of additional appropriations for the Department of the Treasury.
Sec. 527. Funding source.
Sec. 528. Deterrent against Terrorist Activity Damaging a Federal Interest Computer.

TITLE VI—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

Sec. 601. Filing deadlines.
Sec. 602. Appeal.
Sec. 603. Amendment of Federal Rules of Appellate Procedure.
Sec. 604. Section 2254 amendments.
Sec. 605. Section 2255 amendments.
Sec. 606. Limits on second or successive applications.
Sec. 607. Death penalty litigation procedures.
Sec. 608. Technical amendment.

Subtitle B—Criminal Procedural Improvements

Sec. 621. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 622. Expansion of territorial sea.
Sec. 623. Expansion of weapons of mass destruction statute.
Sec. 624. Addition of terrorism offenses to the RICO statute.
Sec. 625. Addition of terrorism offenses to the money laundering statute.
Sec. 626. Protection of current or former officials, officers, or employees of the United States.
Sec. 627. Addition of conspiracy to terrorism offenses.
Sec. 628. Clarification of Federal jurisdiction over bomb threats.

TITLE VII—MARKING OF PLASTIC EXPLOSIVES

Sec. 701. Findings and purposes.
Sec. 702. Definitions.
Sec. 703. Requirement of detection agents for plastic explosives.
Sec. 704. Criminal sanctions.
Sec. 705. Exceptions.
Sec. 706. Investigative authority.
Sec. 707. Effective date.
Sec. 708. Study and requirements for tagging of explosive materials, and study and recommendations for rendering explosive components inert and imposing controls on precursors of explosives.

TITLE VIII—NUCLEAR MATERIALS

Sec. 801. Findings and purpose.
Sec. 802. Expansion of scope and jurisdictional bases of nuclear materials prohibitions.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. Prohibition on distribution of information relating to explosive materials for a criminal purpose.
Sec. 902. Designation of Cartney Koch McRaven Child Development Center.
Sec. 903. Foreign air travel safety.
Sec. 904. Proof of citizenship.
Sec. 905. Cooperation of fertilizer research centers.
Sec. 906. Special assessments on convicted persons.
Sec. 907. Prohibition on assistance under Arms Export Control Act for countries not cooperating fully with United States antiterrorism efforts.

Sec. 908. Authority to request military assistance with respect to offenses involving biological and chemical weapons.
Sec. 909. Revision to existing authority for multipoint wiretaps.
Sec. 910. Authorization of additional appropriations for the United States Park Police.
Sec. 911. Authorization of additional appropriations for the Administrative Office of the United States Courts.
Sec. 912. Authorization of additional appropriations for the United States Customs Service.
Sec. 913. Severability.
TITLE X—VICTIMS OF TERRORISM ACT
Sec. 1001. Title.
Sec. 1002. Authority to provide assistance and compensation to victims of terrorism.
Sec. 1003. Funding of compensation and assistance to victims of terrorism, mass violence, and crime.
Sec. 1004. Crime victims fund amendments.

TITLE I—SUBSTANTIVE CRIMINAL LAW ENHANCEMENTS

SEC. 101. INCREASED PENALTY FOR CONSPIRACIES INVOLVING EXPLOSIVES.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.''.

SEC. 102. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) REDESIGNATION.—(1) Chapter 113B of title 18, United States Code (relating to torture) is redesignated as chapter 113C.

(2) The chapter analysis of title 18, United States Code, is amended by striking ''113B'' the second place it appears and inserting ''113C''.

(b) OFFENSE.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332a the following new section:

''§ 2332b. Acts of terrorism transcending national boundaries

''(a) PROHIBITED ACTS.—

''(1) Whoever, in a circumstance described in subsection (b), commits an act within the United States that if committed within the special maritime and territorial jurisdiction of the United States would be in violation of section 113(a), (1), (2), (3), (6), or (7), 114, 1111, 1112, 1201, or 1363 shall be punished as prescribed in subsection (c).

''(2) Whoever threatens, attempts, or conspires to commit an offense under paragraph (1) shall be punished under subsection (c).

''(b) JURISDICTIONAL BASES.—

''(1) This section applies to conduct described in subsection (a) if—

''(A) the mail, or any facility utilized in interstate commerce, is used in furtherance of the commission of the offense;

''(B) the offense obstructs, delays, or affects interstate or foreign commerce in any way or degree, or would have obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

''(C) the victim or intended victim is the United States Government or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

''(D) the structure, conveyance, or other real or personal property was in whole or in part owned, possessed, or used by, or leased to the United States, or any department or agency thereof;

''(E) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

''(F) the offense is committed in places within the United States that are in the special maritime and territorial jurisdiction of the United States.

''(2) Jurisdiction shall exist over all principals, coconspirators, and accessories after the fact, of an offense under subsection (a) if at least one of the circumstances described in paragraph (1) is applicable to at least one offender.

''(c) PENALTIES.—

''(1) Whoever violates this section shall, in addition to the punishment provided for any other crime charged in the indictment, be punished—

''(A) if death results to any person, by death, or by imprisonment for any term of years or for life;

''(B) for kidnapping, by imprisonment for any term of years or for life;

''(C) for maiming, by imprisonment for not more than 35 years;

''(D) for assault with intent to commit murder or any other felony or with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

''(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

''(F) for attempting or conspiring to commit the offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

''(G) for threatening to commit the offense, by imprisonment for not more than 10 years.

''(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section.

''(d) LIMITATION ON PROSECUTION.—No indictment for any offense described in this section shall be sought by the United States except after the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, has made a written certification that, in the judgment of the certifying official—

''(1) such offense, or any activity preparatory to its commission, transcended national boundaries; and

''(2) the offense appears to have been intended to coerce, intimidate, or retaliate against a government or a civilian population, including any segment thereof.

''(e) INVESTIGATIVE RESPONSIBILITY.—Violations of this section shall be investigated by the Federal Bureau of Investigation. Nothing in this section shall be construed to interfere with the authority of the United States Secret Service under section 3056, or with its investigative authority with respect to sections 871 and 879.

''(f) EVIDENCE.—In a prosecution under this section, the United States shall not be required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

''(g) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over—

''(1) any offense under subsection (a); and

''(2) conduct that, under section 3, renders any person an accessory after the fact to an offense under subsection (a).

''(h) DEFINITIONS.—As used in this section—

''(1) the term 'commerce' has the meaning given such term in section 1951(b)(3);

''(2) the term 'facility utilized in interstate commerce' includes means of transportation, communication, and transmission;

''(3) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(4) the term 'serious bodily injury' has the meaning given such term in section 1365(g)(3); and

''(5) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law.''.

(c) TECHNICAL AMENDMENT.—The chapter analysis for Chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a, the following new item:

''2332b. Acts of terrorism transcending national boundaries.''.

(d) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended—

(1) by striking ''any offense'' and inserting ''any noncapital offense'';

(2) by striking ''36'' and inserting ''37'';

(3) by striking ''2331'' and inserting ''2332'';

(4) by striking ''2339'' and inserting ''2332a''; and

(5) by inserting ''2332b (acts of terrorism transcending national boundaries),'' after ''(use of weapons of mass destruction),''.

(e) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting ''or section 2332b'' after ''section 924(c)''.

(f) EXPANSION OF PROVISION RELATING TO DESTRUCTION OR INJURY OF PROPERTY WITHIN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.—Section 1363 of title 18, United States Code, is amended by striking ''any building, structure or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping'' and inserting ''any structure, conveyance, or other real or personal property''.

SEC. 103. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of title 18, United States Code, is amended to read as follows:

''§ 956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country

''(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons is located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States, shall, if he or any such other person commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in paragraph (2).

''(2) The punishment for an offense under paragraph (1) is—

''(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

''(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

''(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons is located, to injure or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if he or any such other person commits an act within the jurisdiction

of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 45 of title 18, United States Code, is amended by striking the item relating to section 956 and inserting the following:

''956. Conspiracy to kill, kidnap, maim, or injure certain property in a foreign country.''.

SEC. 104. INCREASED PENALTIES FOR CERTAIN TERRORISM CRIMES.

(a) IN GENERAL.—Title 18, United States Code, is amended—

(1) in section 114, by striking ''maim or disfigure'' and inserting ''torture (as defined in section 2340), maim, or disfigure'';

(2) in section 755, by striking ''two years'' and inserting ''five years'';

(3) in section 756, by striking ''one year'' and inserting ''five years'';

(4) in section 878(a), by striking ''by killing, kidnapping, or assaulting a foreign official, official guest, or internationally protected person'';

(5) in section 1113, by striking ''three years or fined'' and inserting ''seven years''; and

(6) in section 2332(c), by striking ''five'' and inserting ''ten''.

(b) PENALTY FOR CARRYING WEAPONS OR EXPLOSIVES ON AN AIRCRAFT.—Section 46505 of title 49, United States Code, is amended—

(1) in subsection (b), by striking ''one'' and inserting ''10''; and

(2) in subsection (c), by striking ''5'' and inserting ''15''.

SEC. 105. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(n) Whoever knowingly transfers an explosive material, knowing or having reasonable cause to believe that such explosive material will be used to commit a crime of violence (as defined in section 924(c)(3)) or drug trafficking crime (as defined in section 924(c)(2)) shall be imprisoned for not less than 10 years, fined under this title, or both.''.

SEC. 106. PENALTY FOR POSSESSION OF STOLEN EXPLOSIVES.

Section 842(h) of title 18, United States Code, is amended to read as follows:

''(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, pledge, or accept as security for a loan, any stolen explosive material that is moving in, part of, constitutes, or has been shipped or transported in, interstate or foreign commerce, either before or after such material was stolen, knowing or having reasonable cause to believe that the explosive material was stolen.''.

SEC. 107. ENHANCED PENALTIES FOR USE OF EXPLOSIVES OR ARSON CRIMES.

Section 844 of title 18, United States Code, is amended—

(1) in subsection (e), by striking ''five'' and inserting ''10'';

(2) by amending subsection (f) to read as follows:

''(f)(1) Whoever maliciously damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any building, vehicle, or other personal or real property in whole or in part owned or possessed by, or leased to, the United States, or any department or agency thereof, shall be imprisoned for not less than 5 years and not more than 20 years. The court may order a fine of not more than the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed.

''(2) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes personal injury to any person, including any public safety officer performing duties, shall be imprisoned not less than 7 years and not more than 40 years. The court may order a fine of not more than the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed.

''(3) Whoever engages in conduct prohibited by this subsection, and as a result of such conduct directly or proximately causes the death of any person, including any public safety officer performing duties, shall be imprisoned for a term of years or for life, or sentenced to death. The court may order a fine of not more than the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed.''.

(4) in subsection (h)—

(A) in the first sentence by striking ''5 years but not more than 15 years'' and inserting ''10 years''; and

(B) in the second sentence by striking ''10 years but not more than 25 years'' and inserting ''20 years''; and

(5) in subsection (i)—

(A) by striking ''not more than 20 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,'' and inserting ''not less than 5 years and not more than 20 years, fined the greater of $100,000 or the cost of repairing or replacing any property that is damaged or destroyed'';

(B) by striking ''not more than 40 years, fined the greater of a fine under this title or the cost of repairing or replacing any property that is damaged or destroyed,'' and inserting ''not less than 7 years and not more than 40 years, fined the greater of $200,000 or the cost of repairing or replacing any property that is damaged or destroyed''; and

(C) by striking ''7 years'' and inserting ''10 years''.

SEC. 108. INCREASED PERIODS OF LIMITATION FOR NATIONAL FIREARMS ACT VIOLATIONS.

Section 6531 of the Internal Revenue Code of 1986 is amended—

(1) by redesignating paragraphs (1) through (8) as subparagraphs (A) through (H), respectively; and

(2) by amending the matter immediately preceding subparagraph (A), as redesignated, to read as follows: ''No person shall be prosecuted, tried, or punished for any criminal offense under the internal revenue laws unless the indictment is found or the information instituted not later than 3 years after the commission of the offense, except that the period of limitation shall be—

''(1) 5 years for offenses described in section 5861 (relating to firearms and other devices); and

''(2) 6 years—.''.

TITLE II—COMBATING INTERNATIONAL TERRORISM

SEC. 201. FINDINGS.

The Congress finds that—

(1) international terrorism is among the most serious transnational threats faced by the United States and its allies, far eclipsing the dangers posed by population growth or pollution;

(2) the President should continue to make efforts to counter international terrorism a national security priority;

(3) because the United Nations has been an inadequate forum for the discussion of cooperative, multilateral responses to the threat of international terrorism, the President should undertake immediate efforts to develop effective multilateral responses to international terrorism as a complement to national counterterrorist efforts;

(4) the President should use all necessary means, including covert action and military force, to disrupt, dismantle, and destroy international infrastructure used by international terrorists, including overseas terrorist training facilities and safe havens;

(5) the Congress deplores decisions to ease, evade, or end international sanctions on state sponsors of terrorism, including the recent decision by the United Nations Sanctions Committee to allow airline flights to and from Libya despite Libya's noncompliance with United Nations resolutions; and

(6) the President should continue to undertake efforts to increase the international isolation of state sponsors of international terrorism, including efforts to strengthen international sanctions, and should oppose any future initiatives to ease sanctions on Libya or other state sponsors of terrorism.

SEC. 202. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620F the following new section:

''SEC. 620G. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT AID TERRORIST STATES.

''(a) PROHIBITION.—No assistance under this Act shall be provided to the government of any country that provides assistance to the government of any other country for which the Secretary of State has made a determination under section 620A''.

''(b) WAIVER.—Assistance prohibited by this section may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

''(1) a statement of the determination;

''(2) a detailed explanation of the assistance to be provided;

''(3) the estimated dollar amount of the assistance; and

''(4) an explanation of how the assistance furthers United States national interests.''.

SEC. 203. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

The Foreign Assistance Act of 1961 (22 U.S.C. 151 et seq.) is amended by adding immediately after section 620G the following new section:

''SEC. 620H. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT PROVIDE MILITARY EQUIPMENT TO TERRORIST STATES.

''(a) PROHIBITION.—

''(1) IN GENERAL.—No assistance under this Act shall be provided to the government of any country that provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for the purposes of 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

''(2) APPLICABILITY.—The prohibition under this section with respect to a foreign government shall terminate 1 year after that government ceases to provide lethal military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

''(b) WAIVER.—Notwithstanding any other provision of law, assistance may be furnished to a foreign government described in subsection (a) if the President determines that furnishing such assistance is important to the national interests of the United States

and, not later than 15 days before obligating such assistance, furnishes a report to the appropriate committees of Congress including—

''(1) a statement of the determination;

''(2) a detailed explanation of the assistance to be provided;

''(3) the estimated dollar amount of the assistance; and

''(4) an explanation of how the assistance furthers United States national interests.''.

SEC. 204. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by inserting after section 1620 the following new section:

''SEC. 1621. OPPOSITION TO ASSISTANCE BY INTERNATIONAL FINANCIAL INSTITUTIONS TO TERRORIST STATES.

''(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

''(b) DEFINITION.—For purposes of this section, the term 'international financial institution' includes—

''(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund;

''(2) wherever applicable, the Inter-American Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund; and

''(3) any similar institution established after the date of enactment of this section.''.

SEC. 205. ANTITERRORISM ASSISTANCE.

(a) FOREIGN ASSISTANCE ACT.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–2) is amended—

(1) in subsection (c), by striking ''development and implementation of the antiterrorism assistance program under this chapter, including'';

(2) by amending subsection (d) to read as follows:

''(d)(1) Arms and ammunition may be provided under this chapter only if they are directly related to antiterrorism assistance.

''(2) The value (in terms of original acquisition cost) of all equipment and commodities provided under this chapter in any fiscal year shall not exceed 30 percent of the funds made available to carry out this chapter for that fiscal year.''; and

(3) by striking subsection (f).

(b) ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVES DETECTION DEVICES AND OTHER COUNTERTERRORISM TECHNOLOGY.—(1) Subject to section 575(b), up to $3,000,000 in any fiscal year may be made available—

(A) to procure explosives detection devices and other counterterrorism technology; and

(B) for joint counterterrorism research and development projects on such technology conducted with NATO and major non-NATO allies under the auspices of the Technical Support Working Group of the Department of State.

(2) As used in this subsection, the term ''major non-NATO allies'' means those countries designated as major non-NATO allies for purposes of section 2350a(i)(3) of title 10, United States Code.

(c) ASSISTANCE TO FOREIGN COUNTRIES.—Notwithstanding any other provision of law (except section 620A of the Foreign Assistance Act of 1961) up to $1,000,000 in assistance may be provided to a foreign country for counterterrorism efforts in any fiscal year if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

SEC. 206. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking the period at the end of paragraph (6) and inserting ''; or'' and

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

''(7) not otherwise covered by paragraph (2) in which money damages are sought against a foreign government for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18, United States Code) for a person carrying out such an act, by a foreign state or by any official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that—

''(A) the claimant must first afford the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration; and

''(B) an action under this paragraph shall not be maintained unless the act upon which the claim is based—

''(i) occurred while the individual bringing the claim was a national of the United States (as that term is defined in section 101(a)(2) of the Immigration and Nationality Act); and

''(ii) occurred while the foreign state was designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 App. U.S.C. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).''; and

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

''(e) For purposes of paragraph (7)—

''(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991 (28 U.S.C. 350 note);

''(2) the term 'hostage taking' has the meaning given such term in Article 1 of the International Convention Against the Taking of Hostages; and

''(3) the term 'aircraft sabotage' has the meaning given such term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.''.

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting '', or''; and

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

''(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.''.

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking ''or (5)'' and inserting ''(5), or (7)''; and

(B) by striking ''used for the activity'' and inserting ''involved in the act''.

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 207. REPORT ON SUPPORT FOR INTERNATIONAL TERRORISTS.

Not later than 60 days after the date of enactment of this Act, and annually thereafter in the report required by section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), the Secretary of State shall submit a report to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that includes—

(1) a detailed assessment of international terrorist groups including their—

(A) size, leadership, and sources of financial and logistical support;

(B) goals, doctrine, and strategy;

(C) nature, scope, and location of human and technical infrastructure;

(D) level of education and training;

(E) bases of operation and recruitment;

(F) operational capabilities; and

(G) linkages with state and non-state actors such as ethnic groups, religious communities, or criminal organizations;

(2) a detailed assessment of any country that provided support of any type for international terrorism, terrorist groups, or individual terrorists, including countries that knowingly allowed terrorist groups or individuals to transit or reside in their territory, regardless of whether terrorist acts were committed on their territory by such individuals;

(3) a detailed assessment of individual country efforts to take effective action against countries named in section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), including the status of compliance with international sanctions and the status of bilateral economic relations; and

(4) United States Government efforts to implement this title.

SEC. 208. DEFINITION OF ASSISTANCE.

For purposes of this title—

(1) the term ''assistance'' means assistance to or for the benefit of a government of any country that is provided by grant, concessional sale, guaranty, insurance, or by any other means on terms more favorable than generally available in the applicable market, whether in the form of a loan, lease, credit, debt relief, or otherwise, including subsidies for exports to such country and favorable tariff treatment of articles that are the growth, product, or manufacture of such country; and

(2) the term ''assistance'' does not include assistance of the type authorized under chapter 9 of part 1 of the Foreign Assistance Act of 1961 (relating to international disaster assistance).

SEC. 209. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking ''If'' and inserting ''(1) Subject to paragraph (2), if''; and

(3) by inserting at the end the following paragraph:

''(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of excludable aliens, except in cases of intent to immigrate.''.

SEC. 210. MEMBERSHIP IN A TERRORIST ORGANIZATION AS A BASIS FOR EXCLUSION FROM THE UNITED STATES UNDER THE IMMIGRATION AND NATIONALITY ACT.

Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

(1) in clause (i)—

(A) by striking ''or'' at the end of subclause (I);

(B) by inserting ''or'' at the end of subclause (II); and

(C) by inserting after subclause (II) the following new subclause:

''(III) is a member of a terrorist organization or who actively supports or advocates terrorist activity,''; and

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

''(iv) TERRORIST ORGANIZATION DEFINED.—As used in this subparagraph, the term 'terrorist organization' means an organization that engages in, or has engaged in, terrorist activity as designated by the Secretary of State, after consultation with the Secretary of the Treasury.''.

TITLE III—ALIEN REMOVAL

SEC. 301. ALIEN TERRORIST REMOVAL.

(a) TABLE OF CONTENTS.—The Immigration and Nationality Act is amended by adding at the end of the table of contents the following:

''TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

''501. Definitions.
''502. Applicability.
''503. Removal of alien terrorists.''.

(b) ALIEN TERRORIST REMOVAL.—The Immigration and Nationality Act is amended by adding at the end the following new title:

''TITLE V—ALIEN TERRORIST REMOVAL PROCEDURES

''SEC. 501. DEFINITIONS.

''As used in this title—

''(1) the term 'alien terrorist' means any alien described in section 241(a)(4)(B);

''(2) the term 'classified information' has the same meaning as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App. IV);

''(3) the term 'national security' has the same meaning as defined in section 1(b) of the Classified Information Procedures Act (18 U.S.C. App. IV);

''(4) the term 'special court' means the court described in section 503(c); and

''(5) the term 'special removal hearing' means the hearing described in section 503(e).

''SEC. 502. APPLICABILITY.

''(a) IN GENERAL.—The provisions of this title may be followed in the discretion of the Attorney General whenever the Department of Justice has classified information that an alien described in section 241(a)(4)(B) is subject to deportation because of such section.

''(b) PROCEDURES.—Whenever an official of the Department of Justice files, under section 503(a), an application with the court established under section 503(c) for authorization to seek removal pursuant to this title, the alien's rights regarding removal and expulsion shall be governed solely by the provisions of this title, except as specifically provided.

''SEC. 503. REMOVAL OF ALIEN TERRORISTS.

''(a) APPLICATION FOR USE OF PROCEDURES.—This section shall apply whenever the Attorney General certifies under seal to the special court that—

''(1) the Attorney General or Deputy Attorney General has approved of the proceeding under this section;

''(2) an alien terrorist is physically present in the United States; and

''(3) removal of such alien terrorist by deportation proceedings described in sections 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

''(b) CUSTODY AND RELEASE PENDING HEARING.—(1) The Attorney General may take into custody any alien with respect to whom a certification has been made under subsection (a), and notwithstanding any other provision of law, may retain such alien in custody in accordance with this subsection.

''(2)(A) An alien with respect to whom a certification has been made under subsection (a) shall be given a release hearing before the special court designated pursuant to subsection (c).

''(B) The judge shall grant the alien release, subject to such terms and conditions prescribed by the court (including the posting of any monetary amount), pending the special removal hearing if—

''(i) the alien is lawfully present in the United States;

''(ii) the alien demonstrates that the alien, if released, is not likely to flee; and

''(iii) the alien demonstrates that release of the alien will not endanger national security or the safety of any person or the community.

''(C) The judge may consider classified information submitted in camera and ex parte in making a determination whether to release an alien pending the special hearing.

''(c) SPECIAL COURT.—(1) The Chief Justice of the United States shall publicly designate not more than 5 judges from up to 5 United States judicial districts to hear and decide cases arising under this section, in a manner consistent with the designation of judges described in section 103(a) of the Foreign Intelligence Surveillance Act (50 U.S.C. 1803(a)).

''(2) The Chief Justice may, in the Chief Justice's discretion, designate the same judges under this section as are designated pursuant to section 103(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803(a)).

''(d) INVOCATION OF SPECIAL COURT PROCEDURE.—(1) When the Attorney General makes the application described in subsection (a), a single judge of the special court shall consider the application in camera and ex parte.

''(2) The judge shall invoke the procedures of subsection (e) if the judge determines that there is probable cause to believe that—

''(A) the alien who is the subject of the application has been correctly identified and is an alien as described in section 241(a)(4)(B); and

''(B) a deportation proceeding described in section 242, 242A, or 242B would pose a risk to the national security of the United States because such proceedings would disclose classified information.

''(e) SPECIAL REMOVAL HEARING.—(1) Except as provided in paragraph (5), the special removal hearing authorized by a showing of probable cause described in subsection (d)(2) shall be open to the public.

''(2) The alien shall have a reasonable opportunity to be present at such hearing and to be represented by counsel. Any alien financially unable to obtain counsel shall be entitled to have counsel assigned to represent such alien. Counsel may be appointed as described in section 3006A of title 18, United States Code.

''(3) The alien shall have a reasonable opportunity to introduce evidence on his own behalf, and except as provided in paragraph (5), shall have a reasonable opportunity to cross-examine any witness or request that the judge issue a subpoena for the presence of a named witness.

''(4)(A) An alien subject to removal under this section shall have no right—

''(i) of discovery of information derived from electronic surveillance authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 801 et seq.) or otherwise for national security purposes if disclosure would present a risk to the national security; or

''(ii) to seek the suppression of evidence that the alien alleges was unlawfully obtained, except on grounds of credibility or relevance.

''(B) The Government is authorized to use, in the removal proceedings, the fruits of electronic surveillance and unconsented physical searches authorized under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 801 et seq.) without regard to subsections 106 (c), (e), (f), (g), and (h) of such Act.

''(C) Section 3504 of title 18, United States Code, shall not apply to procedures under this section if the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information.

''(5) The judge shall authorize the introduction in camera and ex parte of any evidence for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States because it would disclose classified information. With respect to such evidence, the Attorney General shall submit to the court an unclassified summary of the specific evidence prepared in accordance with paragraph (6).

''(6)(A) The information submitted under paragraph (5)(B) shall contain an unclassified summary of the classified information that does not pose a risk to national security.

''(B) The judge shall approve the summary within 15 days of submission if the judge finds that it is sufficient to inform the alien of the nature of the evidence that such person is an alien as described in section 241(a), and to provide the alien with substantially the same ability to make his defense as would disclosure of the classified information.

''(C) The Attorney General shall cause to be delivered to the alien a copy of the unclassified summary approved under subparagraph (B).

''(D) If the written unclassified summary is not approved by the court pursuant to subparagraph (B), the Department of Justice shall be afforded 15 days to correct the deficiencies identified by the court and submit a revised unclassified summary.

''(E) If the revised unclassified summary is not approved by the court within 15 days of its submission pursuant to subparagraph (B), the special removal hearing shall be terminated unless the court, within that time, after reviewing the classified information in camera and ex parte, issues written findings that—

''(i) the alien's continued presence in the United States would likely cause—

''(I) serious and irreparable harm to the national security; or

''(II) death or serious bodily injury to any person; and

''(ii) provision of either the classified information or an unclassified summary that meets the standard set forth in subparagraph (B) would likely cause—

''(I) serious and irreparable harm to the national security; or

''(II) death or serious bodily injury to any person; and

''(iii) the unclassified summary prepared by the Justice Department is adequate to allow the alien to prepare a defense.

''(F) If the court issues such findings, the special removal proceeding shall continue,

and the Attorney General shall cause to be delivered to the alien within 15 days of the issuance of such findings a copy of the unclassified summary together with a statement that it meets the standard set forth in subparagraph (E)(iii).

''(G)(i) Within 10 days of filing of the appealable order the Department of Justice may take an interlocutory appeal to the United States Court of Appeals for the District of Columbia Circuit of—

''(I) any determination made by the judge concerning the requirements set forth in subparagraph (B).

''(II) any determination made by the judge concerning the requirements set forth in subparagraph (E).

''(ii) In an interlocutory appeal taken under 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, and the matter shall be heard ex parte. The Court of Appeals shall consider the appeal as expeditiously as possible, but no later than 30 days after filing of the appeal.

''(f) DETERMINATION OF DEPORTATION.—The judge shall, considering the evidence on the record as a whole (in camera and otherwise), require that the alien be deported if the Attorney General proves, by clear and convincing evidence, that the alien is subject to deportation because such alien is an alien as described in section 241(a)(4)(B). If the judge finds that the Department of Justice has met this burden, the judge shall order the alien removed and, if the alien was released pending the special removal proceeding, order the Attorney General to take the alien into custody.

''(g) APPEALS.—(1) The alien may appeal a final determination under subsection (f) to the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal with such court not later than 30 days after the determination is made. An appeal under this section shall be heard by the Court of Appeals sitting en banc.

''(2) The Attorney General may appeal a determination under subsection (d), (e), or (f) to the Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal with such court not later than 20 days after the determination is made under any one of such subsections.

''(3) 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 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.

''(4) 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 4(B) of section 241(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 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.

''(5)(A) If the application for the order is denied based on a finding that no probable cause exists to find that adherence to the provisions of title II regarding the deportation of the identified alien would pose a risk of irreparable harm to the national security of the United States, or death or serious bodily injury to any person, the judge shall release the alien from custody subject to the least restrictive condition or combination of conditions of release described in section 3142(b) and (c)(1)(B) (i) through (xiv) of title 18, United States Code, that will reasonably ensure 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.

''(B) The alien shall remain in custody if the court fails to make a finding under subparagraph (A), until the completion of any appeal authorized by this title. Sections 3145 through 3148 of title 18, United States Code, 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 violation of a release condition, shall apply to an alien to whom the previous sentence applies and—

''(i) for purposes of section 3145 of such title, an appeal shall be taken to the United States Court of Appeals for the District of Columbia Circuit; and

''(ii) for purposes of section 3146 of such title the alien shall be considered released in connection with a charge of an offense punishable by life imprisonment.

''(6) When requested by the Attorney General, the entire record of the proceeding under this section shall be transmitted to the court of appeals or the Supreme Court under seal. The court of appeals or Supreme Court may consider such appeal in camera.''.

SEC. 302. EXTRADITION OF ALIENS.

(a) SCOPE.—Section 3181 of title 18, United States Code, is amended—

(1) by inserting ''(a)'' before ''The provisions of this chapter''; and

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

''(b) The provisions of this chapter shall be construed to permit, in the exercise of comity, the surrender of persons, other than citizens, nationals, or permanent residents of the United States, 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 had the offenses been committed in the United States, they would constitute crimes of violence as defined under section 16 of this title; and

''(2) the offenses charged are not of a political nature.

''(c) As used in this section, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(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. 303. CHANGES TO THE IMMIGRATION AND NATIONALITY ACT TO FACILITATE REMOVAL OF ALIEN TERRORISTS.

(a) TERRORISM ACTIVITIES.—Section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)) is amended to read as follows:

''(B) TERRORISM ACTIVITIES.—

''(i) IN GENERAL.—Any alien who—

''(I) has engaged in a terrorism activity, or

''(II) a consular officer or the Attorney General knows, or has reason to believe, is likely to engage after entry in any terrorism activity (as defined in clause (iii)),

is excludable. An alien who is an officer, official, representative, or spokesman of any terrorist organization designated as a terrorist organization by proclamation by the President after finding such organization to be detrimental to the interest of the United States, or any person who directs, counsels, commands, or induces such organization or its members to engage in terrorism activity, shall be considered, for purposes of this Act, to be engaged in terrorism activity.

''(ii) TERRORISM ACTIVITY DEFINED.—As used in this Act, the term 'terrorism activity' means any activity that is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State), and that involves any of the following:

''(I) The hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

''(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

''(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

''(IV) An assassination.

''(V) The use of any—

''(aa) biological agent, chemical agent, or nuclear weapon or device, or

''(bb) explosive, firearm, or other weapon (other than for mere personal monetary gain),

with intent to endanger, directly, or indirectly, the safety of one or more individuals or to cause substantial damage to property.

''(VI) A threat, attempt, or conspiracy to do any of the foregoing.

''(iii) ENGAGE IN TERRORISM ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorism activity' means to commit, in an individual capacity or as a member of an organization, an act of terrorism activity, or an act that the actor knows affords material support to any individual, organization, or government that the actor knows plans to commit terrorism activity, including any of the following acts:

''(I) The preparation or planning of terrorism activity.

''(II) The gathering of information on potential targets for terrorism activity.

''(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false documentation or identification, weapons, explosives, or training.

''(IV) The soliciting of funds or other things of value for terrorism activity or for any terrorist organization.

''(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorism activity.

''(iv) TERRORIST ORGANIZATION DEFINED.—As used in this Act, the term 'terrorist organization' means—

''(I) an organization engaged in, or that has a significant subgroup that engages in, terrorism activity, regardless of any legitimate activities conducted by the organization or its subgroups; and

''(II) an organization designated by the Secretary of State under section 2339B of title 18.''.

(b) DEPORTABLE ALIENS.—Section 241(a)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(4)(B)) is amended to read as follows:

''(B) TERRORISM ACTIVITIES.—Any alien who is engaged, or at any time after entry engages in, any terrorism activity (as defined in section 212(a)(3)(B)) is deportable.''.

(c) BURDEN OF PROOF.—Section 291 of the Immigration and Nationality Act (8 U.S.C. 1361) is amended by inserting after ''custody of the Service.'' the following new sentence: ''The limited production authorized by this provision shall not extend to the records of any other agency or department of the Government or to any documents that do not pertain to the respondent's entry.''.

(d) APPREHENSION AND DEPORTATION OF ALIENS.—Section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)(3)) is amended by inserting immediately after paragraph (4) the following: ''For purposes of paragraph (3), in the case of an alien who is not lawfully admitted for permanent residence and notwithstanding the provisions of any other law, reasonable opportunity shall not include access to classified information, whether or not introduced in evidence against the alien, except that any proceeding conducted under this section which involves the use of classified evidence shall be conducted in accordance with the procedures of section 501. Section 3504 of title 18, United States Code, and 18 U.S.C. 3504 and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) shall not apply in such cases.''.

(e) CRIMINAL ALIEN REMOVAL.—

(1) JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a(a)(10)) is amended to read as follows:

''(10) Any final order of deportation against an alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), shall not be subject to review by any court.''.

(2) FINAL ORDER OF DEPORTATION DEFINED.—Section 101(a) of such Act (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

''(47)(A) The term 'order of deportation' means the order of the special inquiry officer, or other such administrative officer to whom the Attorney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.

''(B) The order described under subparagraph (A) shall become final upon the earlier of—

''(i) a determination by the Board of Immigration Appeals affirming such order; or

''(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.''.

(3) ARREST AND CUSTODY.—Section 242(a)(2) of such Act is amended—

(A) in subparagraph (A)—

(i) by striking ''(2)(A) The Attorney'' and inserting ''(2) The Attorney'';

(ii) by striking ''an aggravated felony upon'' and all that follows through ''of the same offense)'' and inserting ''any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), upon release of the alien from incarceration, shall deport the alien as expeditiously as possible''; and

(iii) by striking ''but subject to subparagraph (B)''; and

(B) by striking subparagraph (B).

(4) CLASSES OF EXCLUDABLE ALIENS.—Section 212(c) of such Act (8 U.S.C. 1182(c)) is amended—

(A) by striking ''The first sentence of this'' and inserting ''This''; and

(B) by striking ''has been convicted of one or more aggravated felonies'' and all that follows through the end and inserting ''is deportable by reason of having committed any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).''.

(5) AGGRAVATED FELONY DEFINED.—Section 101(a)(43) of such Act is amended—

(A) in subparagraph (F)—

(i) by inserting '', including forcible rape,'' after ''offense)''; and

(ii) by striking ''5 years'' and inserting ''1 year''; and

(B) in subparagraph (G) by striking ''5 years'' and inserting ''1 year''.

(6) DEPORTATION OF CRIMINAL ALIENS.—Section 242A(a) of such Act (8 U.S.C. 1252a) is amended—

(A) in paragraph (1)—

(i) by striking ''aggravated felonies (as defined in section 101(a)(43) of this title)'' and inserting ''any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).''; and

(ii) by striking '', where warranted,'';

(B) in paragraph (2), by striking ''aggravated felony'' and all that follows through ''before any scheduled hearings.'' and inserting ''any criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D), or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i).''.

(7) DEADLINES FOR DEPORTING ALIEN.—Section 242(c) of such Act (8 U.S.C. 1252(c)) is amended—

(A) by striking ''(c) When a final order'' and inserting ''(c)(1) Subject to paragraph (2), when a final order''; and

(B) by inserting at the end the following new paragraph:

''(2) When a final order of deportation under administrative process is made against any alien who is deportable by reason of having committed a criminal offense covered in section 241(a)(2) (A)(iii), (B), (C), or (D) or any offense covered by section 241(a)(2)(A)(ii) for which both predicate offenses are covered by section 241(a)(2)(A)(i), the Attorney General shall have 30 days from the date of the order within which to effect the alien's departure from the United States. The Attorney General shall have sole and unreviewable discretion to waive the foregoing provision for aliens who are cooperating with law enforcement authorities or for purposes of national security.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to cases pending before, on, or after such date of enactment.

SEC. 304. ACCESS TO CERTAIN CONFIDENTIAL IMMIGRATION AND NATURALIZATION FILES THROUGH COURT ORDER.

(a) CONFIDENTIALITY OF INFORMATION.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting ''(i)'' after ''except the Attorney General''; and

(2) by inserting after ''Title 13'' the following: ''and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

''(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

''(II) for criminal law enforcement purposes against the alien whose application is to be disclosed.''.

(b) APPLICATIONS FOR ADJUSTMENT OF STATUS.—Section 210(b) of the Immigration and Nationality Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting '', except as allowed by a court order issued pursuant to paragraph (6) of this subsection'' after ''consent of the alien''; and

(2) in paragraph (6), by inserting the following sentence before ''Anyone who uses'': ''Notwithstanding the preceding sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant an order authorizing, disclosure of information contained in the application of the alien to be used for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated, or for criminal law enforcement purposes against the alien whose application is to be disclosed or to discover information leading to the location or identity of the alien.''.

TITLE IV—CONTROL OF FUNDRAISING FOR TERRORISM ACTIVITIES

SEC. 401. PROHIBITION ON TERRORIST FUNDRAISING.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following new section:

''§ 2339B. Fundraising for terrorist organizations

''(a) FINDINGS AND PURPOSE.—

''(1) The Congress finds that—

''(A) terrorism is a serious and deadly problem which threatens the interests of the United States overseas and within our territory;

''(B) the Nation's security interests are gravely affected by the terrorist attacks carried out overseas against United States Government facilities and officials, and against American citizens present in foreign countries;

''(C) United States foreign policy and economic interests are profoundly affected by terrorist acts overseas directed against foreign governments and their people;

''(D) international cooperation is required for an effective response to terrorism, as demonstrated by the numerous multilateral conventions in force providing universal prosecutive jurisdiction over persons involved in a variety of terrorist acts, including hostage taking, murder of an internationally protected person, and aircraft piracy and sabotage;

''(E) some foreign terrorist organizations, acting through affiliated groups or individuals, raise significant funds within the United States or use the United States as a conduit for the receipt of funds raised in other nations; and

''(F) the provision of funds to organizations that engage in terrorism serves to facilitate their terrorist endeavors, regardless of whether the funds, in whole or in part, are intended or claimed to be used for nonviolent purposes.

''(2) The purpose of this section is to provide the Federal Government the fullest possible basis, consistent with the Constitution, to prevent persons within the United States or subject to the jurisdiction of the United States from providing funds, directly or indirectly, to foreign organizations, including subordinate or affiliated persons, that engage in terrorism activities.

''(b) DESIGNATION.—

''(1) The Secretary of State, after consultation with the Secretary of the Treasury, is

authorized to designate under this section any foreign organization based on finding that—

''(A) the organization engages in terrorism activity as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); and

''(B) the organization's terrorism activities threaten the security of United States citizens, national security, foreign policy, or the economy of the United States.

''(2) Not later than 7 days after making a designation under paragraph (1), the Secretary of State shall prepare and transmit to Congress a report containing a list of the designated organizations and a summary of the facts underlying the designation. The designation shall take effect 30 days after the receipt of actual notice under subsection (b)(6), unless otherwise provided by law.

''(3) A designation or redesignation under this subsection shall be in effect for 1 year following its effective date, unless revoked under paragraph (4).

''(4)(A) If the Secretary of State, after consultation with the Secretary of the Treasury, finds that the conditions that were the basis for any designation issued under this subsection have changed in such a manner as to warrant revocation of such designation, or that the national security, foreign relations, or economic interests of the United States so warrant, the Secretary of State may revoke such designation in whole or in part.

''(B) Not later than 7 calendar days after the Secretary of State finds that an organization no longer engages in, or supports, terrorism activity, the Secretary of State shall prepare and transmit to Congress a supplemental report stating the reasons for the finding.

''(5) Any designation, or revocation of a designation, issued under this subsection shall be published in the Federal Register not later than 7 calendar days after the Secretary of State makes the designation.

''(6) Not later than 7 calendar days after making a designation under this subsection, the Secretary of State shall give the organization actual notice of—

''(A) the designation;

''(B) the consequences of the designation for the organization's ability to raise funds in the United States; and

''(C) the availability of judicial review.

''(7) Any revocation or lapsing of a designation shall not affect any action or proceeding based on any conduct committed prior to the effective date of such revocation or lapsing.

''(8) Classified information may be used in making a designation under this subsection. Such information shall not be disclosed to the public or to any party, but may be disclosed to a court ex parte and in camera.

''(9) No question concerning the validity of the issuance of a designation issued under this subsection may be raised by a defendant in a criminal prosecution as a defense in or as an objection to any trial or hearing if such designation was issued and published in the Federal Register.

''(c) JUDICIAL REVIEW.—

''(1) Organizations designated by the Secretary of State as engaging in, or supporting, terrorism activities under this section may seek review of the designation in the District Court for the District of Columbia not later than 30 days after receipt of actual notice under subsection (b)(6).

''(2) In reviewing a designation under this subsection, the court shall receive relevant oral or documentary evidence, unless the court finds that the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or considerations of undue delay, waste of time, or needless presentation of cumulative evidence, or unless its introduction or consideration is prohibited by a common law privilege or by the Constitution or laws of the United States. A party shall be entitled to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

''(3) The judge shall authorize the introduction in camera and ex parte of any item of evidence containing classified information for which the Attorney General determines that public disclosure would pose a risk to the national security of the United States. With respect to such evidence, the Attorney General shall submit to the court either—

''(A) a statement identifying relevant facts that the specific evidence would tend to prove; or

''(B) an unclassified summary of the specific evidence prepared in accordance with paragraph (5).

''(4)(A)(i) The Secretary of State shall have the burden of demonstrating that there are specific and articulable facts giving reason to believe that the organization engages in or supports terrorism activity (as that term is defined in section 212(a)(3)(B)).

''(ii) The organization shall have the burden of proving that its purpose is to engage in religious, charitable, literary, educational, or nonterrorism activities and that it engages in such activities.

''(iii) The Secretary shall have the burden of proving that the control group of the organization has actual knowledge that the organization or its resources are being used for terrorism activities.

''(iv) If any portion of the Secretary's evidence consists of classified information that cannot be revealed to the organization for national security reasons, the Secretary must prove these elements by clear and convincing evidence.

''(B) If the court finds, under the standards stated in subparagraph (A) that the control group of the organization has actual knowledge that the organization or its resources are being used for terrorism activities, the court shall affirm the designation of the Secretary.

''(C)(i) If the court finds by a preponderance of the evidence that the organization or its resources have been used for terrorism activities without the knowledge of the control group, but that the control group is now aware of these facts, the court may condition revocation of the designation on the control group's undertaking or completing all steps within its power to prevent the organization or its resources from being used for terrorism activities. Such steps may include—

''(I) maintaining financial records adequate to document the use of the organization's resources; and

''(II) making records available to the Secretary for inspection.

''(ii) If a designation is revoked under subsection (B)(4) and the organization fails to comply with any condition imposed, the designation may be reinstated by the Secretary of State upon a showing that the organization failed to comply with the condition.

''(5)(A) The information submitted under paragraph (3)(B) shall contain an unclassified summary of the classified information that does not pose a risk to national security.

''(B) The judge shall approve the unclassified summary if the judge finds that the summary is sufficient to inform the organization of the activities described in section 212(a)(3)(B) in which the organization is alleged to engage, and to permit the organization to defend against the designation.

''(C) The Attorney General shall cause to be delivered to the organization a copy of the unclassified summary approved under subparagraph (B).

''(6) The court shall decide the case on the basis of the evidence on the record as a whole, in camera or otherwise.

''(d) PROHIBITED ACTIVITIES.—It shall be unlawful for any person within the United States, or any person subject to the jurisdiction of the United States anywhere, to directly or indirectly, raise, receive, or collect on behalf of, or furnish, give, transmit, transfer, or provide funds to or for an organization or person designated by the Secretary of State under subsection (b), or to attempt to do any of the foregoing.

''(e) SPECIAL REQUIREMENTS FOR FINANCIAL INSTITUTIONS.—

''(1) Except as authorized by the Secretary of State, after consultation with the Secretary of the Treasury, by means of directives, regulations, or licenses, any financial institution that becomes aware that it has possession of or control over any funds in which an organization or person designated under subsection (b) has an interest, shall—

''(A) retain possession of or maintain control over such funds; and

''(B) report to the Secretary the existence of such funds in accordance with the regulations prescribed by the Secretary.

''(2) Any financial institution that knowingly fails to report to the Secretary the existence of such funds shall be subject to a civil penalty of $250 per day for each day that it fails to report to the Secretary—

''(A) in the case of funds being possessed or controlled at the time of the designation of the organization or person, within 10 days after the designation; and

''(B) in the case of funds whose possession of or control over arose after the designation of the organization or person, within 10 days after the financial institution obtained possession of or control over the funds.

''(f) INVESTIGATIONS.—Any investigation emanating from a possible violation of this section shall be conducted by the Attorney General, except that investigations relating to—

''(1) a financial institution's compliance with the requirements of subsection (e); and

''(2) civil penalty proceedings authorized pursuant to subsection (g)(2),

shall be conducted in coordination with the Attorney General by the office within the Department of the Treasury responsible for civil penalty proceedings authorized by this section. Any evidence of a criminal violation of this section arising in the course of an investigation by the Secretary or any other Federal agency shall be referred immediately to the Attorney General for further investigation. The Attorney General shall timely notify the Secretary of any action taken on referrals from the Secretary, and may refer investigations to the Secretary for remedial licensing or civil penalty action.

''(g) PENALTIES.—

''(1) Any person who, with knowledge that the donee is a designated entity, violates subsection (d) shall be fined under this title, or imprisoned for up to ten years, or both.

''(2) Any financial institution that knowingly fails to comply with subsection (e), or by regulations promulgated thereunder, shall be subject to a civil penalty of $50,000 per violation, or twice the amount of money of which the financial institution was required to retain possession or control, whichever is greater.

''(h) INJUNCTION.—

''(1) Whenever it appears to the Secretary or the Attorney General that any person is engaged in, or is about to engage in, any act which constitutes, or would constitute, a violation of this section, the Attorney General may initiate civil action in a district

court of the United States to enjoin such violation.

''(2) A proceeding under this subsection is governed by the Federal Rules of Civil Procedure, except that, if an indictment has been returned against the respondent, discovery is governed by the Federal Rules of Criminal Procedure.

''(i) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

''(j) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS BROUGHT BY THE UNITED STATES.—

''(1) DISCOVERY OF CLASSIFIED INFORMATION BY DEFENDANTS.—A court, upon a sufficient showing, may authorize the United States to delete specified items of classified information from documents to be introduced into evidence or made available to the defendant through discovery under the Federal Rules of Civil Procedure, to substitute an unclassified summary of the information for such classified documents, or to substitute a statement admitting relevant facts that the classified information would tend to prove. The court shall permit the United States to make a request for such authorization in the form of a written statement to be inspected by the court alone. If the court enters an order granting relief following such an ex parte showing, the entire text of the statement of the United States shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal. If the court enters an order denying relief to the United States under this paragraph, the United States may take an immediate, interlocutory appeal in accordance with the provisions of paragraph (3). For purposes of such an appeal, the entire text of the underlying written statement of the United States, together with any transcripts of arguments made ex parte to the court in connection therewith, shall be maintained under seal and delivered to the appellate court.

''(2) INTRODUCTION OF CLASSIFIED INFORMATION; PRECAUTIONS BY COURT.—

''(A) EXHIBITS.—The United States, to prevent unnecessary or inadvertent disclosure of classified information in a civil trial or other proceeding brought by the United States under this section, may petition the court ex parte to admit, in lieu of classified writings, recordings or photographs, one or more of the following:

''(i) copies of those items from which classified information has been deleted;

''(ii) stipulations admitting relevant facts that specific classified information would tend to prove; or

''(iii) an unclassified summary of the specific classified information.

The court shall grant such a motion of the United States if the court finds that the redacted item, stipulation, or unclassified summary will provide the defendant with substantially the same ability to make his defense as would disclosure of the specific classified information.

''(B) TAKING OF TRIAL TESTIMONY.—During the examination of a witness in any civil proceeding brought by the United States under this section, the United States may object to any question or line of inquiry that may require the witness to disclose classified information not previously found to be admissible. Following such an objection, the court shall take suitable action to determine whether the response is admissible and, in doing so, shall take precautions to guard against the compromise of any classified information. Such action may include permitting the United States to provide the court, ex parte, with a proffer of the witness's response to the question or line of inquiry, and requiring the defendant to provide the court with a proffer of the nature of the information the defendant seeks to elicit.

''(C) APPEAL.—If the court enters an order denying relief to the United States under this subsection, the United States may take an immediate interlocutory appeal in accordance with paragraph (3).

''(3) INTERLOCUTORY APPEAL.—

''(A) An interlocutory appeal by the United States shall lie to a court of appeals from a decision or order of a district court—

''(i) authorizing the disclosure of classified information;

''(ii) imposing sanctions for nondisclosure of classified information; or

''(iii) refusing a protective order sought by the United States to prevent the disclosure of classified information.

''(B) An appeal taken pursuant to this paragraph either before or during trial shall be expedited by the court of appeals. Prior to trial, an appeal shall be taken not later than 10 days after the decision or order appealed from, and the trial shall not commence until the appeal is resolved. If an appeal is taken during trial, the trial court shall adjourn the trial until the appeal is resolved. The court of appeals—

''(i) shall hear argument on such appeal not later than 4 days after the adjournment of the trial;

''(ii) may dispense with written briefs other than the supporting materials previously submitted to the trial court;

''(iii) shall render its decision not later than 4 days after argument on appeal; and

''(iv) may dispense with the issuance of a written opinion in rendering its decision.

''(C) An interlocutory appeal and decision under this paragraph shall not affect the right of the defendant, in a subsequent appeal from a final judgment, to claim as error, reversal by the trial court on remand of a ruling appealed from during trial.

''(4) CONSTRUCTION.—Nothing in this subsection shall prevent the United States from seeking protective orders or asserting privileges ordinarily available to the United States to protect against the disclosure of classified information, including the invocation of the military and State secrets privilege.

''(k) DEFINITIONS.—As used in this section—

''(1) the term 'classified information' means any information or material that has been determined by the United States Government pursuant to an Executive order, statute, or regulation, to require protection against unauthorized disclosure for reasons of national security and any restricted data, as defined in paragraph (r) of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014(y));

''(2)(A) the term 'control group' means the officers or agents charged with directing the affairs of the organization;

''(B) if a single officer or agent is authorized to conduct the affairs of the organization, the knowledge of the officer or agent that the organization or its resources are being used for terrorism activities shall constitute knowledge of the control group;

''(C) if a single officer or agent is a member of a group empowered to conduct the affairs of the organization but cannot conduct the affairs of the organization on his or her own authority, that person's knowledge shall not constitute knowledge by the control group unless that person's knowledge is shared by a sufficient number of members of the group so that the group with knowledge has the authority to conduct the affairs of the organization;

''(3) the term 'financial institution' has the meaning prescribed in section 5312(a)(2) of title 31, United States Code, including any regulations promulgated thereunder;

''(4) the term 'funds' includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing;

''(5) the term 'national security' means the national defense and foreign relations of the United States;

''(6) the term 'person' includes an individual, partnership, association, group, corporation, or other organization;

''(7) the term 'Secretary' means the Secretary of the Treasury; and

''(8) the term 'United States', when used in a geographical sense, includes all commonwealths, territories, and possessions of the United States.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

''2339B. Fundraising for terrorist organizations.''.

(c) CLASSIFIED INFORMATION IN CIVIL PROCEEDINGS.—Section 2339B(k) of title 18, United States Code (relating to classified information in civil proceedings brought by the United States), shall also be applicable to civil proceedings brought by the United States under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

SEC. 402. CORRECTION TO MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended to read as follows:

''§ 2339A. Providing material support to terrorists

''(a) DEFINITION.—In this section, 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, but does not include humanitarian assistance to persons not directly involved in such violations.

''(b) OFFENSE.—A person who, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, a violation of section 32, 37, 351, 844(f) or (i), 956, 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2332a of this title or section 46502 of title 49, or in preparation for or carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.''.

TITLE V—ASSISTANCE TO FEDERAL LAW ENFORCEMENT AGENCIES

Subtitle A—Antiterrorism Assistance

SEC. 501. DISCLOSURE OF CERTAIN CONSUMER REPORTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE INVESTIGATIONS.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623 the following new section:

''SEC. 624. DISCLOSURES TO THE FEDERAL BUREAU OF INVESTIGATION FOR FOREIGN COUNTERINTELLIGENCE PURPOSES.

''(a) IDENTITY OF FINANCIAL INSTITUTIONS.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge may issue an order ex parte directing a consumer reporting agency to furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101

of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency. The court or magistrate judge shall issue the order if the Director of the Federal Bureau of Investigation, or the Director's designee, certifies in writing to the court or magistrate judge that—

''(A) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

''(B) there are specific and articulable facts giving reason to believe that the consumer—

''(i) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

''(ii) is an agent of a foreign power and is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

''(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

''(b) IDENTIFYING INFORMATION.—(1) Notwithstanding section 604 or any other provision of this title, a court or magistrate judge shall issue an order ex parte directing a consumer reporting agency to furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the Director or the Director's designee, certifies in writing that—

''(A) such information is necessary to the conduct of an authorized foreign counterintelligence investigation; and

''(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

''(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

''(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—(1) Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or an authorized designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

''(A) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

''(B) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

''(i) is an agent of a foreign power; and

''(ii) is engaging or has engaged in international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

''(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

''(d) CONFIDENTIALITY.—(1) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c).

''(2) No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

''(e) PAYMENT OF FEES.—The Federal Bureau of Investigation is authorized, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing reports or information in accordance with procedures established under this section, a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

''(f) LIMIT ON DISSEMINATION.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except—

''(1) to the Department of Justice, as may be necessary for the approval or conduct of a foreign counterintelligence investigation; or

''(2) where the information concerns a person subject to the Uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

''(g) RULES OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, or in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

''(h) REPORTS TO CONGRESS.—On an annual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking and Financial Services of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

''(i) DAMAGES.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

''(1) $100, without regard to the volume of consumer reports, records, or information involved;

''(2) any actual damages sustained by the consumer as a result of the disclosure;

''(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

''(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

''(j) DISCIPLINARY ACTIONS FOR VIOLATIONS.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

''(k) GOOD-FAITH EXCEPTION.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State notwithstanding.

''(l) INJUNCTIVE RELIEF.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681a et seq.) is amended by adding after the item relating to section 623 the following new item:

''624. Disclosures to the Federal Bureau of Investigation for foreign counterintelligence purposes.''.

SEC. 502. ACCESS TO RECORDS OF COMMON CARRIERS, PUBLIC ACCOMMODATION FACILITIES, PHYSICAL STORAGE FACILITIES, AND VEHICLE RENTAL FACILITIES IN FOREIGN COUNTERINTELLIGENCE AND COUNTERTERRORISM CASES.

Title 18, United States Code, is amended by inserting after chapter 121 the following new chapter:

''CHAPTER 122—ACCESS TO CERTAIN RECORDS

''§ 2720. Access to records of common carriers, public accommodation facilities, physical storage facilities, and vehicle rental facilities in counterintelligence and counterterrorism cases

''(a)(1) A court or magistrate judge may issue an order ex parte directing any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to furnish any records in its possession to the Federal Bureau of Investigation. The court or magistrate judge shall issue the order if the Director of the Federal Bureau of Investigation or the Director's designee (whose rank shall be no lower than Assistant Special Agent in Charge) certifies in writing that—

''(A) such records are sought for foreign counterintelligence purposes; and

''(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain 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. 801).

''(2) An order issued under this subsection shall not disclose that it is issued for purposes of a counterintelligence investigation.

''(b) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or any officer, employee, or agent of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, shall disclose to any person, other than those officers, agents, or employees of the common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose the information to the

Federal Bureau of Investigation under this section.

''(c) As used in this chapter—

''(1) the term 'common carrier' means a locomotive, rail carrier, bus carrying passengers, water common carrier, air common carrier, or private commercial interstate carrier for the delivery of packages and other objects;

''(2) the term 'public accommodation facility' means any inn, hotel, motel, or other establishment that provides lodging to transient guests;

''(3) the term 'physical storage facility' means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof; and

''(4) the term 'vehicle rental facility' means any person or entity that provides vehicles for rent, lease, loan, or other similar use, to the public or any segment thereof.''.

SEC. 503. INCREASE IN MAXIMUM REWARDS FOR INFORMATION CONCERNING INTERNATIONAL TERRORISM.

(a) TERRORISM ABROAD.—Section 36 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended—

(1) in subsection (c), by striking ''$2,000,000'' and inserting ''$10,000,000''; and

(2) in subsection (g), by striking ''$5,000,000'' and inserting ''$10,000,000.

(b) DOMESTIC TERRORISM.—Title 18, United States Code, is amended—

(1) in section 3072, by striking ''$500,000'' and inserting ''$10,000,000''; and

(2) in section 3075, by striking ''$5,000,000'' and inserting ''$10,000,000''.

(c) GENERAL REWARD AUTHORITY OF THE ATTORNEY GENERAL.—

(1) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by adding immediately after section 3059A the following section:

''§ 3059B. General reward authority

''(a) Notwithstanding any other provision of law, the Attorney General may pay rewards and receive from any department or agency funds for the payment of rewards under this section to any individual who assists the Department of Justice in performing its functions.

''(b) Not later than 30 days after authorizing a reward under this section that exceeds $100,000, the Attorney General shall give notice to the respective chairmen of the Committees on Appropriations and the Committees on the Judiciary of the Senate and the House of Representatives.

''(c) A determination made by the Attorney General to authorize an award under this section and the amount of any reward authorized shall be final and conclusive, and not subject to judicial review.''.

Subtitle B—Intelligence and Investigation Enhancements

SEC. 511. STUDY AND REPORT ON ELECTRONIC SURVEILLANCE.

(a) STUDY.—The Attorney General and the Director of the Federal Bureau of Investigation shall study all applicable laws and guidelines relating to electronic surveillance and the use of pen registers and other trap and trace devices.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report to the Congress that includes—

(1) the findings of the study conducted pursuant to subsection (a);

(2) recommendations for the use of electronic devices in conducting surveillance of terrorist or other criminal organizations, and for any modifications in the law necessary to enable the Federal Government to fulfill its law enforcement responsibilities within appropriate constitutional parameters; and

(3) a summary of efforts to use current wiretap authority, including detailed examples of situations in which expanded authority would have enabled law enforcement authorities to fulfill their responsibilities.

SEC. 512. AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS IN CERTAIN TERRORISM RELATED OFFENSES.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c)—

(A) by inserting before ''or section 1992 (relating to wrecking trains)'' the following: ''section 2332 (relating to terrorist acts abroad), section 2332a (relating to weapons of mass destruction, section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists), section 37 (relating to violence at international airports),''; and

(B) by inserting after ''section 175 (relating to biological weapons),'' the following: ''or a felony violation under section 1028 (relating to production of false identification documentation), sections 1541, 1542, 1543, 1544, and 1546 (relating to passport and visa offenses),'';

(2) by striking ''and'' at the end of paragraph (o), as so redesignated by section 512(a)(2);

(3) by redesignating paragraph (p), as so redesignated by section 512(a)(2), as paragraph (s); and

(4) by inserting after paragraph (o), as so redesignated by section 512(a)(2), the following new subparagraphs:

''(p) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);

''(q) any violation of section 46502 of title 49, United States Code; and''.

SEC. 513. REQUIREMENT TO PRESERVE EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.''.

Subtitle C—Additional Funding for Law Enforcement

SEC. 521. FEDERAL BUREAU OF INVESTIGATION ASSISTANCE TO COMBAT TERRORISM.

(a) IN GENERAL.—With funds made available pursuant to subsection (b), the Attorney General shall—

(1) develop digital telephony technology;

(2) support and enhance the technical support center and tactical operations;

(3) create a Federal Bureau of Investigation counterterrorism and counterintelligence fund for costs associated with terrorism cases;

(4) expand and improve the instructional, operational support, and construction of the Federal Bureau of Investigation academy;

(5) construct an FBI laboratory, provide laboratory examination support, and provide for a Command Center;

(6) make funds available to the chief executive officer of each State to carry out the activities described in subsection (d); and

(7) enhance personnel to support counterterrorism activities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the activities of the Federal Bureau of Investigation, to help meet the increased demands for activities to combat terrorism—

(1) $300,000,000 for fiscal year 1996;

(2) $225,000,000 for fiscal year 1997;

(3) $328,000,000 for fiscal year 1998;

(4) $190,000,000 for fiscal year 1999; and

(5) $183,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Funds made available pursuant to subsection (b), in any fiscal year, shall remain available until expended.

(d) STATE GRANTS.—

(1) IN GENERAL.—Any funds made available for purposes of subsection (a)(6) may be expended—

(A) by the Director of the Federal Bureau of Investigation to expand the combined DNA Identification System (CODIS) to include Federal crimes and crimes committed in the District of Columbia; and

(B) by the Attorney General, in consultation with the Director of the Federal Bureau of Investigation to make funds available to the chief executive officer of each State to carry out the activities described in paragraph (2).

(2) GRANT PROGRAM.—

(A) USE OF FUNDS.—The executive officer of each State shall use any funds made available under paragraph (1)(B) in conjunction with units of local government, other States, or combinations thereof, to carry out all or part of a program to establish, develop, update, or upgrade—

(i) computerized identification systems that are compatible and integrated with the databases of the National Crime Information Center of the Federal Bureau of Investigation;

(ii) ballistics identification programs that are compatible and integrated with the Drugfire Program of the Federal Bureau of Investigation;

(iii) the capability to analyze deoxyribonucleic acid (DNA) in a forensic laboratory in ways that are compatible and integrated with the combined DNA Identification System (CODIS) of the Federal Bureau of Investigation; and

(iv) automated fingerprint identification systems that are compatible and integrated with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

(B) ELIGIBILITY.—To be eligible to receive funds under this paragraph, a State shall require that each person convicted of a felony of a sexual nature shall provide to appropriate State law enforcement officials, as designated by the chief executive officer of the State, a sample of blood, saliva, or other specimen necessary to conduct a DNA analysis consistent with the standards established for DNA testing by the Director of the Federal Bureau of Investigation.

(C) INTERSTATE COMPACTS.—A State may enter into a compact or compacts with another State or States to carry out this subsection.

(D) ALLOCATION.—(i) Of the total amount appropriated pursuant to this section in a fiscal year—

(I) $500,000 or 0.25 percent, whichever is greater, shall be allocated to each of the participating States; and

(II) of the total funds remaining after the allocation under subclause (I), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of such State bears to the population of all States.

(ii) DEFINITION.—For purposes of this subparagraph, the term ''State'' means any State of the United States, the District of

Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that for purposes of the allocation under this subparagraph, American Samoa and the Commonwealth of the Northern Mariana Islands shall be considered as one State and that for these purposes, 67 percent of the amounts allocated shall be allocated to American Samoa, and 33 percent to the Commonwealth of the Northern Mariana Islands.

SEC. 522. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service—

(1) $6,000,000 for fiscal year 1996;
(2) $6,000,000 for fiscal year 1997;
(3) $6,000,000 for fiscal year 1998;
(4) $5,000,000 for fiscal year 1999; and
(5) $5,000,000 for fiscal year 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 523. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE IMMIGRATION AND NATURALIZATION SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the Immigration and Naturalization Service, to help meet the increased needs of the Immigration and Naturalization Service $5,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to subsection (a), in any fiscal year, shall remain available until expended.

SEC. 524. DRUG ENFORCEMENT ADMINISTRATION.

(a) ACTIVITIES OF DRUG ENFORCEMENT ADMINISTRATION.—With funds made available pursuant to subsection (b), the Attorney General shall—

(1) fund antiviolence crime initiatives;
(2) fund major violators' initiatives; and
(3) enhance or replace infrastructure.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Drug Enforcement Administration, to help meet the increased needs of the Drug Enforcement Administration—

(1) $60,000,000 for fiscal year 1996;
(2) $70,000,000 for fiscal year 1997;
(3) $80,000,000 for fiscal year 1998;
(4) $90,000,000 for fiscal year 1999; and
(5) $100,000,000 for fiscal year 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 525. DEPARTMENT OF JUSTICE.

(a) IN GENERAL.—Subject to the availability of appropriations, the Attorney General shall—

(1) hire additional Assistant United States Attorneys, and

(2) provide for increased security at courthouses and other facilities housing Federal workers.

(b) AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.—There are authorized to be appropriated for the activities of the Department of Justice, to hire additional Assistant United States Attorneys and personnel for the Criminal Division of the Department of Justice and provide increased security to meet the needs resulting from this Act $20,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(c) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 526. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE DEPARTMENT OF THE TREASURY.

(a) IN GENERAL.—There are authorized to be appropriated for the activities of the Bureau of Alcohol, Tobacco and Firearms, to augment counterterrorism efforts—

(1) $20,000,000 for fiscal year 1996;
(2) $20,000,000 for fiscal year 1997;
(3) $20,000,000 for fiscal year 1998;
(4) $20,000,000 for fiscal year 1999; and
(5) $20,000,000 for fiscal year 2000.

(b) IN GENERAL.—There are authorized to be appropriated for the activities of the United States Secret Service, to augment White House security and expand Presidential protection activities—

(1) $62,000,000 for fiscal year 1996;
(2) $25,000,000 for fiscal year 1997;
(3) $25,000,000 for fiscal year 1998;
(4) $25,000,000 for fiscal year 1999; and
(5) $25,000,000 for fiscal year 2000.

SEC. 527. FUNDING SOURCE.

Notwithstanding any other provision of law, funding for authorizations provided in this subtitle may be paid for out of the Violent Crime Reduction Trust Fund.

SEC. 528. DETERRENT AGAINST TERRORIST ACTIVITY DAMAGING A FEDERAL INTEREST COMPUTER.

The United States Sentencing Commission shall review existing guideline levels as they apply to sections 1030(a)(4) and 1030(a)(5) of title 18, United States Code, and report to Congress on their findings as to their deterrent effect within 60 calendar days. Furthermore, the Commission shall promulgate guideline amendments that will ensure that individuals convicted under sections 1030(a)(4) and 1030(a)(5) of title 18, United States Code, are incarcerated for not less than 6 months.

TITLE VI—CRIMINAL PROCEDURAL IMPROVEMENTS

Subtitle A—Habeas Corpus Reform

SEC. 601. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) A 1-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—

''(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

''(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

''(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

''(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.''.

SEC. 602. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

''§ 2253. Appeal

''(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

''(b) There shall be no right of appeal from a final 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 such person's detention pending removal proceedings.

''(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

''(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

''(B) the final order in a proceeding under section 2255.

''(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

''(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).''.

SEC. 603. 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 THE ORIGINAL WRIT.—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 shall 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 shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

''(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request 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 its representative, a certificate of appealability is not required.''.

SEC. 604. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

''(A) the applicant has exhausted the remedies available in the courts of the State; or

''(B)(i) there is an absence of available State corrective process; or

''(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

''(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

''(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.'';

(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 on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

''(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

''(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'';

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e)(1) 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 determination of a factual issue made by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

''(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

''(A) the claim relies on—

''(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

''(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.''; and

(5) by adding at the end the following new subsections:

''(h) Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, 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.

''(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.''.

SEC. 605. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

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

''A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

''(1) the date on which the judgment of conviction becomes final;

''(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

''(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

''Except as provided in title 21, United States Code, section 848, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint 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.

''A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

''(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

''(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.''.

SEC. 606. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking ''and the petition'' and all that follows through ''by such inquiry.'' and inserting '', except as provided in section 2255.''.

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

''(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

''(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

''(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

''(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

''(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

''(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

''(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

''(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

''(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

''(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.''.

SEC. 607. 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.
''2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
''2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
''2263. Filing of habeas corpus application; time requirements; tolling rules.
''2264. Scope of Federal review; district court adjudications.
''2265. Application to State unitary review procedure.
''2266. Limitation periods for determining applications and motions.

''§ 2261. 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 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) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, 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 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) 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 counsels 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) 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 post-conviction 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 post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

''§ 2262. 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 under section 2261(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 shall 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 application under section 2254 within the time required in section 2263;

''(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

''(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right or is denied relief in the district court or at any subsequent stage of review.

''(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 in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

''§ 2263. Filing of habeas corpus application; time requirements; tolling rules

''(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

''(b) The time requirements established by subsection (a) 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) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

''(3) during an additional period not to exceed 30 days, if—

''(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

''(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

''§ 2264. Scope of Federal review; district court adjudications

''(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

''(1) the result of State action in violation of the Constitution or laws of the United States;

''(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

''(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

''(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

''§ 2265. Application to State unitary review procedure

''(a) For purposes of this section, a '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) To qualify under this section, a unitary review procedure 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 2261(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) Sections 2262, 2263, 2264, and 2266 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 such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(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, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

''§ 2266. Limitation periods for determining applications and motions

''(a) The adjudication of any application 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.

''(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

''(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

''(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

''(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

''(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

''(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

''(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

''(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

''(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

''(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

''(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

''(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

''(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

''(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

''(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.''.

(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 ..... 2261.''.

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 608. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

''(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.''.

Subtitle B—Criminal Procedural Improvements

SEC. 621. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and later found in the United States'';

(2) by amending paragraph (2) to read as follows:

''(2) The courts of the United States have jurisdiction over the offense in paragraph (1) if—

''(A) a national of the United States was aboard the aircraft;

''(B) an offender is a national of the United States; or

''(C) an offender is afterwards found in the United States.''; and

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

''(3) For purposes of this subsection, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking ''(b) Whoever'' and inserting ''(b)(1) Whoever'';

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by striking '', if the offender is later found in the United States,''; and

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

''(2) The courts of the United States have jurisdiction over an offense described in this subsection if—

''(A) a national of the United States was on board, or would have been on board, the aircraft;

''(B) an offender is a national of the United States; or

''(C) an offender is afterwards found in the United States.

''(3) For purposes of this subsection, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(c) MURDER OR MANSLAUGHTER OF INTERNATIONALLY PROTECTED PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (a), by striking '', except that'';

(2) in subsection (b), by adding at the end the following new paragraph:

''(7) 'National of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''; and

(3) in subsection (c), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(d) PROTECTION OF INTERNATIONALLY PROTECTED PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting ''national of the United States,'' before ''and''; and

(2) in subsection (e), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(e) THREATS AGAINST INTERNATIONALLY PROTECTED PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting ''national of the United States,'' before ''and''; and

(2) in subsection (d), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''; and

(2) by adding at the end the following: ''For purposes of this subsection, the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended to read as follows:

''(2) the prohibited activity takes place outside the United States, and—

''(A) the offender is later found in the United States; or

''(B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))).''.

(h) NATIONAL OF THE UNITED STATES DEFINED.—Section 178 of title 18, United States Code, is amended—

(1) by striking the ''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 new paragraph:

''(5) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

SEC. 622. EXPANSION OF TERRITORIAL SEA.

(a) TERRITORIAL SEA EXTENDING TO TWELVE 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, for purposes of criminal jurisdiction 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.

(b) ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.—Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), 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 jurisdiction of any State, Commonwealth, territory, possession, or district''; and

(2) by adding 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, Commonwealth, 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 that State, Commonwealth, territory, possession, or district it would lie within if the boundaries of such State, Commonwealth, territory, possession, or district were extended seaward to the outer limit of the territorial sea of the United States.''.

SEC. 623. EXPANSION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''threatens,'' before ''attempts'';

(B) in paragraph (2), by striking ''; or'' and inserting the following: ''and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce if such use had occurred;'';

(C) by redesignating paragraph (3) as paragraph (4);

(D) by inserting after paragraph (2) the following:

''(3) against a victim, or intended victim, that is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or any department or agency, of the United States; and''; and

(E) in paragraph (4), as redesignated, by inserting before the comma at the end the following: '', or is within the United States and is used in any activity affecting interstate or foreign commerce''.

(2) by redesignating subsection (b) as subsection (c);

(3) by adding immediately after subsection (a) the following new subsection:

''(b) USE OUTSIDE UNITED STATES.—Any national of the United States who outside of the United States uses, threatens, attempts, or conspires to use, a weapon of mass destruction, shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisonment for any term of years or for life. The preceding sentence does not apply to a person performing an act that, as performed, is within the scope of the person's official duties as an officer or employee of the United States or as a member of the Armed Forces of the United States, or to a person employed by a contractor of the United States for performing an act that, as performed, is authorized under the contract.''; and

(4) by amending subsection (c)(2)(B), as redesignated by paragraph (3), by striking ''poison gas'' and inserting ''any poisonous chemical agent or substance, regardless of form or delivery system, designed for causing widespread death or injury;''.

SEC. 624. ADDITION OF TERRORISM OFFENSES TO THE RICO STATUTE.

Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (B)—

(A) by inserting after ''Section'' the following: ''32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section'';

(B) by inserting after ''section 224 (relating to sports bribery),'' the following: ''section 351 (relating to congressional or Cabinet officer assassination),'';

(C) by inserting after ''section 664 (relating to embezzlement from pension and welfare funds),'' the following: ''section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of government property or property affecting interstate or foreign commerce),'';

(D) by inserting after ''sections 891–894 (relating to extortionate credit transactions),'' the following: ''section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),'';

(E) by inserting after ''section 1084 (relating to the transmission of gambling information),'' the following: ''section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1203 (relating to hostage taking),'';

(F) by inserting after ''section 1344 (relating to financial institution fraud),'' the following: ''section 1361 (relating to willful injury of government property within the special maritime and territorial jurisdiction),'';

(G) by inserting after ''section 1513 (relating to retaliating against a witness, victim, or an informant),'' the following: ''section 1751 (relating to Presidential assassination),'';

(H) by inserting after ''section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire),'' the following: ''section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),''; and

(I) by inserting after ''2321 (relating to trafficking in certain motor vehicles or motor vehicle parts),'' the following: ''section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to acts of terrorism transcending national boundaries), section 2339A (relating to providing material support to terrorists),'';

(2) by striking ''or'' before ''(E)''; and

(3) by inserting before the semicolon at the end the following: '', or (F) section 46502 of title 49, United States Code''.

SEC. 625. ADDITION OF TERRORISM OFFENSES TO THE MONEY LAUNDERING STATUTE.

Section 1956(c)(7) of title 18, United States Code, is amended—

(1) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;''; and

(2) in subparagraph (D)—

(A) by inserting after ''an offense under'' the following: ''section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),'';

(B) by inserting after ''section 215 (relating to commissions or gifts for procuring loans),'' the following: ''section 351 (relating to congressional or Cabinet officer assassination),'';

(C) by inserting after ''section 798 (relating to espionage),'' the following: ''section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),'';

(D) by inserting after ''section 875 (relating to interstate communications),'' the following: ''section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),'';

(E) by inserting after ''section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),'' the following: ''section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),'';

(F) by inserting after ''section 1203 (relating to hostage taking)'' the following: ''section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),'';

(G) by inserting after ''section 1708 (relating to theft from the mail)'' the following: ''section 1751 (relating to Presidential assassination),'';

(H) by inserting after ''2114 (relating to bank and postal robbery and theft),'' the following: ''section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),''; and

(I) by striking ''of this title'' and inserting the following: ''section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,''.

SEC. 626. PROTECTION OF CURRENT OR FORMER OFFICIALS, OFFICERS, OR EMPLOYEES OF THE UNITED STATES.

(a) AMENDMENT TO INCLUDE ASSAULTS, MURDERS, AND THREATS AGAINST FAMILIES OF FEDERAL OFFICIALS.—Section 115(a)(2) of title 18, United States Code, is amended by inserting '', or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or'' after ''assaults, kidnaps, or murders, or attempts to kidnap or murder''.

(b) MURDER OR ATTEMPTS TO MURDER CURRENT OR FORMER FEDERAL OFFICERS OR EMPLOYEES.—Section 1114 of title 18, United States Code, is amended to read as follows:

''§ 1114. Protection of officers and employees of the United States

''Whoever kills or attempts to kill a current or former officer or employee of the United States or its instrumentalities, or an immediate family member of such officer or

employee, or any person assisting such an officer or employee in the performance of official duties, during or on account of the performance of such duties or the provision of such assistance, shall be punished—

''(1) in the case of murder, as provided under section 1111;

''(2) in the case of manslaughter, as provided under section 1112; and

''(3) in the case of attempted murder or manslaughter as provided in section 1113, not more than 20 years.''.

(c) AMENDMENT TO CLARIFY THE MEANING OF THE TERM DEADLY OR DANGEROUS WEAPON IN THE PROHIBITION ON ASSAULT ON FEDERAL OFFICERS OR EMPLOYEES.—Section 111(b) of title 18, United States Code, is amended by inserting after ''deadly or dangerous weapon'' the following: ''(including a weapon intended to cause death or danger but that fails to do so by reason of a defective or missing component)''.

SEC. 627. ADDITION OF CONSPIRACY TO TERRORISM OFFENSES.

(a) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—(1) Section 32(a)(7) of title 18, United States Code, is amended by inserting ''or conspires'' after ''attempts''.

(2) Section 32(b)(D) of title 18, United States Code, as redesignated by section 721(b)(2), is amended by inserting ''or conspires'' after ''attempts''.

(b) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(a) of title 18, United States Code, is amended by inserting ''or conspires'' after ''attempts''.

(c) INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.—(1) Section 115(a)(1)(A) of title 18, United States Code, is amended by inserting ''or conspires'' after ''attempts''.

(2) Section 115(a)(2) of title 18, United States Code, as amended by section 729, is further amended by inserting ''or conspires'' after ''attempts''.

(3) Section 115(b)(2) of title 18, United States Code, is amended by striking both times it appears ''or attempted kidnapping'' and inserting both times '', attempted kidnapping or conspiracy to kidnap''.

(4)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking ''or attempted murder'' and inserting '', attempted murder or conspiracy to murder''.

(B) Section 115(b)(3) of title 18, United States Code, is further amended by striking ''and 1113'' and inserting '', 1113, and 1117''.

(d) PROHIBITIONS WITH RESPECT TO BIOLOGICAL WEAPONS.—Section 175(a) of title 18, United States Code, is amended by inserting '', or conspires to do so,'' after ''any organization to do so,''.

(e) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting ''or conspires'' after ''attempts''.

(f) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a)(1)(H) of title 18, United States Code, is amended by inserting ''or conspires'' after ''attempts''.

(g) VIOLENCE AGAINST MARITIME FIXED PLATFORMS.—Section 2281(a)(1)(F) of title 18, United States Code, is amended by inserting ''or conspires'' after ''attempts''.

(h) AIRCRAFT PIRACY.—Section 46502 of title 49, United States Code, is amended—

(1) in subsection (a)(2), by inserting '', conspiring,'' after ''committing'' and

(2) in subsection (b)—

(A) in paragraph (1), by inserting ''or conspiring to commit'' after ''committing'';

(B) in paragraph (2), by inserting ''conspired or'' after ''has placed,''; and

(C) in paragraph (3), by inserting ''conspired or'' after ''has placed,''.

(i) CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.—Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''and the activity is not prohibited as a crime by the State in which the activity takes place''; and

(2) in clause (iii), by striking ''the activity takes place on a ship flying the flag of a foreign country or outside the United States,''.

SEC. 628. CLARIFICATION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended—

(1) by striking ''(e) Whoever'' and inserting ''(e)(1) Whoever''; and

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

''(2) Whoever willfully makes any threat, or maliciously conveys false information knowing the same to be false, concerning an attempt or alleged attempt being made, or to be made to violate subsection (f) or (i) of this section or section 81 of this title shall be fined under this title, imprisoned for not more than 5 years, or both.''.

TITLE VII—MARKING OF PLASTIC EXPLOSIVES

SEC. 701. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) plastic explosives were used by terrorists in the bombings of Pan Am flight 103 in December 1988 and UTA flight 722 in September 1989;

(2) plastic explosives can be used with little likelihood of detection for acts of unlawful interference with civil aviation, maritime navigation, and other modes of transportation;

(3) the criminal use of plastic explosives places innocent lives in jeopardy, endangers national security, affects domestic tranquility, and gravely affects interstate and foreign commerce;

(4) the marking of plastic explosives for the purpose of detection would contribute significantly to the prevention and punishment of such unlawful acts; and

(5) for the purpose of deterring and detecting such unlawful acts, the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991, requires each contracting State to adopt appropriate measures to ensure that plastic explosives are duly marked and controlled.

(b) PURPOSE.—The purpose of this title is to fully implement the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

SEC. 702. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following new subsections:

''(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

''(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

''(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

''(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

''(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

''(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

''(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

''(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.''.

SEC. 703. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding after subsection (k) the following new subsections:

''(l) It shall be unlawful for any person to manufacture any plastic explosive that does not contain a detection agent.

''(m)(1) It shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive that does not contain a detection agent.

''(2) This subsection does not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing military or police functions (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

''(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive that does not contain a detection agent.

''(2) This subsection does not apply to—

''(A) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of the Comprehensive Terrorism Prevention Act of 1995 by any person during a period not exceeding 3 years after the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995; or

''(B) the shipment, transportation, transfer, receipt, or possession of any plastic explosive that was imported, brought into, or manufactured in the United States prior to the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995 by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State, not later than 15 years after the date of entry into force of the Convention on the Marking of Plastic Explosives, with respect to the United States.

''(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the date of enactment of title VII of the Comprehensive Terrorism Prevention Act of 1995, to fail to report to the Secretary within 120 days after such effective date the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.''.

SEC. 704. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

''(a) Any person who violates any of subsections (a) through (i) or (l) through (o) of section 842 shall be fined under this title or imprisoned not more than 10 years, or both.''.

SEC. 705. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''(l), (m), (n), or (o) of section 842 and subsections'' after ''subsections'';

(2) in paragraph (1), by inserting before the semicolon '', and which pertain to safety''; and

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

''(c) It is an affirmative defense against any proceeding involving subsections (l) through (o) of section 842 if the proponent proves by a preponderance of the evidence that the plastic explosive—

''(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

''(A) research, development, or testing of new or modified explosive materials;

''(B) training in explosives detection or development or testing of explosives detection equipment; or

''(C) forensic science purposes; or

''(2) was plastic explosive that, within 3 years after the date of enactment of the Comprehensive Terrorism Prevention Act of 1995, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located.

''(3) For purposes of this subsection, the term 'military device' includes, but is not restricted to, shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.''.

SEC. 706. INVESTIGATIVE AUTHORITY.

Section 846 of title 18, United States Code, is amended—

(1) in the last sentence, by inserting in the last sentence before ''subsection'' the phrase ''subsection (m) or (n) of section 842 or;'', and

(2) by adding at the end the following: ''The Attorney General shall exercise authority over violations of subsection (m) or (n) of section 842 only when they are committed by a member of a terrorist or revolutionary group. In any matter involving a terrorist or revolutionary group or individual, as determined by the Attorney General, the Attorney General shall have primary investigative responsibility and the Secretary shall assist the Attorney General as requested.''.

SEC. 707. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall take effect 1 year after the date of enactment of this Act.

SEC. 708. STUDY AND REQUIREMENTS FOR TAGGING OF EXPLOSIVE MATERIALS, AND STUDY AND RECOMMENDATIONS FOR RENDERING EXPLOSIVE COMPONENTS INERT AND IMPOSING CONTROLS ON PRECURSORS OF EXPLOSIVES.

(a) The Secretary of the Treasury shall conduct a study and make recommendations concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(3) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible and cost-effective to require it.

In conducting the study, the Secretary shall consult with other Federal, State and local officials with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be completed within twelve months after the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

(b) There are authorized to be appropriated for the study and recommendations contained in paragraph (a) such sums as may be necessary.

(c) Section 842, of title 18, United States Code, is amended by inserting after subsection (k), a new subsection (l) which reads as follows:

''(l)(1) It shall be unlawful for any person to manufacture, import, ship, transport, receive, possess, transfer, or distribute any explosive material that does not contain a tracer element as prescribed by the Secretary pursuant to regulation, knowing or having reasonable cause to believe that the explosive material does not contain the required tracer element.

''(2) For purposes of this subsection, explosive material does not include smokeless or black powder manufactured for uses set forth in section 845(a) (4) and (5) of this chapter.''.

(d) Section 844, of title 18, United States Code, is amended by inserting after ''(a) through (i)'' the phrase ''and (l)''.

(e) Section 846, of title 18, United States Code, is amended by designating the present section as ''(a)'' and by adding a new subsection (b) reading as follows:

''(b) to facilitate the enforcement of this chapter the Secretary shall, within 6 months after submission of the study required by subsection (a), promulgate regulations for the addition of tracer elements to explosive materials manufactured in or imported into the United States. Tracer elements to be added to explosive materials under provisions of this subsection shall be of such character and in such quantity as the Secretary may authorize or require, and such as will not substantially impair the quality of the explosive materials for their intended lawful use, adversely affect the safety of these explosives, or have a substantially adverse effect on the environment.''.

(f) The penalties provided herein shall not take effect until ninety days after the date of promulgation of the regulations provided for herein.

TITLE VIII—NUCLEAR MATERIALS

SEC. 801. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) nuclear materials, including byproduct materials, can be used to create radioactive dispersal devices that are capable of causing serious bodily injury as well as substantial damage to property and the environment;

(2) the potential use of nuclear materials, including byproduct materials, enhances the threat posed by terrorist activities and thereby has a greater effect on the security interests of the United States;

(3) due to the widespread hazards presented by the threat of nuclear contamination, as well as nuclear bombs, the United States has a strong interest in ensuring that persons who are engaged in the illegal acquisition and use of nuclear materials, including byproduct materials, are prosecuted for their offenses;

(4) the threat that nuclear materials will be obtained and used by terrorist and other criminal organizations has increased substantially since the enactment in 1982 of the legislation that implemented the Convention on the Physical Protection of Nuclear Material, codified at section 831 of title 18, United States Code;

(5) the successful efforts to obtain agreements from other countries to dismantle nuclear weapons have resulted in increased packaging and transportation of nuclear materials, thereby decreasing the security of such materials by increasing the opportunity for unlawful diversion and theft;

(6) the illicit trafficking in the relatively more common, commercially available and usable nuclear and byproduct materials poses a potential to cause significant loss of life and environmental damage;

(7) reported trafficking incidents in the early 1990's suggest that the individuals involved in trafficking these materials from Eurasia and Eastern Europe frequently conducted their black market sales of these materials within the Federal Republic of Germany, the Baltic States, the former Soviet Union, Central Europe, and to a lesser extent in the Middle European countries;

(8) the international community has become increasingly concerned over the illegal possession of nuclear and nuclear byproduct materials;

(9) the potentially disastrous ramifications of increased access to nuclear and nuclear byproduct materials pose such a significant future threat that the United States must use all lawful methods available to combat the illegal use of such materials;

(10) the United States has an interest in encouraging United States corporations to do business in the countries that comprised the former Soviet Union, and in other developing democracies;

(11) protection of such United States corporations from threats created by the unlawful use of nuclear materials is important to the success of the effort to encourage such business ventures, and to further the foreign relations and commerce of the United States;

(12) the nature of nuclear contamination is such that it may affect the health, environment, and property of United States nationals even if the acts that constitute the illegal activity occur outside the territory of the United States, and are primarily directed toward foreign nationals; and

(13) there is presently no Federal criminal statute that provides adequate protection to United States interests from nonweapons grade, yet hazardous radioactive material, and from the illegal diversion of nuclear materials that are held for other than peaceful purposes.

(b) PURPOSE.—The purpose of this title is to provide Federal law enforcement agencies the necessary tools and fullest possible basis allowed under the Constitution to combat the threat of nuclear contamination and proliferation that may result from illegal possession and use of radioactive materials.

SEC. 802. EXPANSION OF SCOPE AND JURISDICTIONAL BASES OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''nuclear material'' each place it appears and inserting ''nuclear material or nuclear byproduct material'';

(B) in paragraph (1)—

(i) in subparagraph (A), by inserting ''or the environment'' after ''property''; and

(ii) by amending subparagraph (B) to read as follows:

''(B)(i) circumstances exist that are likely to cause the death or serious bodily injury to any person or substantial damage to property or the environment, or such circumstances have been represented to the defendant to exist;''; and

(C) in paragraph (6), by inserting ''or the environment'' after ''property'';

(2) in subsection (c)—

(A) by amending paragraph (2) to read as follows:

''(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;'';

(B) in paragraph (3)—

(i) by striking ''at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and''; and

(ii) by striking ''or'' at the end of the paragraph;

(C) in paragraph (4)—

(i) by striking ''nuclear material for peaceful purposes'' and inserting ''nuclear material or nuclear byproduct material''; and

(ii) by striking the period at the end of the paragraph and inserting ''; or''; and

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

''(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.''; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''with an isotopic concentration not in excess of 80 percent plutonium 238''; and

(ii) in subparagraph (C), by striking ''(C) uranium'' and inserting ''(C) enriched uranium, defined as uranium'';

(B) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively;

(C) by inserting after paragraph (1) the following new paragraph:

''(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;'';

(D) by striking ''and'' at the end of paragraph (4), as redesignated;

(E) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

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

''(6) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, Commonwealth, territory, possession, or district of the United States.''.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. PROHIBITION ON DISTRIBUTION OF INFORMATION RELATING TO EXPLOSIVE MATERIALS FOR A CRIMINAL PURPOSE.

(a) Section 842 of title 18, United States Code, is amended by adding at the end the following new subsection:

''(l) It shall be unlawful for any person to teach or demonstrate the making of explosive materials, or to distribute by any means information pertaining to, in whole or in part, the manufacture of explosive materials, if the person intends or knows, that such explosive materials or information will be used for, or in furtherance of, an activity that constitutes a Federal criminal offense or a criminal purpose affecting interstate commerce.''.

(b) Section 844 of title 18, United States Code, is amended by designating subsection (a) as subsection (a)(1) and by adding the following new subsection:

''(a)(2) Any person who violates subsection (l) of section 842 of this chapter shall be fined under this title or imprisoned not more than twenty years, or both.''.

SEC. 902. DESIGNATION OF CARTNEY KOCH MCRAVEN CHILD DEVELOPMENT CENTER.

(a) DESIGNATION.—

(1) IN GENERAL.—The Federal building at 1314 LeMay Boulevard, Ellsworth Air Force Base, South Dakota, shall be known and designated as the ''Cartney Koch McRaven Child Development Center''.

(2) REPLACEMENT BUILDING.—If, after the date of enactment of this Act, a new Federal building is built at the location described in paragraph (1) to replace the building described in the paragraph, the new Federal building shall be known and designated as the ''Cartney Koch McRaven Child Development Center''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to a Federal building referred to in subsection (a) shall be deemed to be a reference to the ''Cartney Koch McRaven Child Development Center''.

SEC. 903. FOREIGN AIR TRAVEL SAFETY.

Section 44906 of title 49, United States Code, is amended to read as follows:

''§ 44906. Foreign air carrier security programs

''The Administrator of the Federal Aviation Administration shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that a foreign air carrier must adopt and use a security program approved by the Administrator. The Administrator shall only approve a security program of a foreign air carrier under section 129.25, or any successor regulation, if the Administrator decides the security program provides passengers of the foreign air carrier a level of protection identical to the level those passengers would receive under the security programs of air carriers serving the same airport. The Administrator shall prescribe regulations to carry out this section.''.

SEC. 904. PROOF OF CITIZENSHIP.

Notwithstanding any other provision of law, a Federal, State, or local government agency may not use a voter registration card (or other related document) that evidences registration for an election for Federal office, as evidence to prove United States citizenship.

SEC. 905. COOPERATION OF FERTILIZER RESEARCH CENTERS.

In conducting any portion of the study relating to the regulation and use of fertilizer as a pre-explosive material, the Secretary of the Treasury shall consult with and receive input from non-profit fertilizer research centers and include their opinions and findings in the report required under subsection (c).

SEC. 906. SPECIAL ASSESSMENTS ON CONVICTED PERSONS.

Section 3013(a)(2) of title 18, United States Code, is amended—

(A) in subparagraph (A), by striking ''$50'' and inserting ''not less than $100''; and

(B) in subparagraph (B), by striking ''$200'' and inserting ''not less than $400''.

SEC. 907. PROHIBITION ON ASSISTANCE UNDER ARMS EXPORT CONTROL ACT FOR COUNTRIES NOT COOPERATING FULLY WITH UNITED STATES ANTITERRORISM EFFORTS.

Chapter 3 of the Arms Export Control Act (22 U.S.C. 2771 et seq.) is amended by adding at the end the following:

''**Sec. 40A. Transactions with Countries Not Fully Cooperating with United States Antiterrorism Efforts.**

''(a) PROHIBITED TRANSACTIONS.—No defense article or defense service may be sold or licensed for export under this Act to a foreign country in a fiscal year unless the President determines and certifies to Congress at the beginning of that fiscal year, or at any other time in that fiscal year before such sale or license, that the country is cooperating fully with United States antiterrorism efforts.

''(b) WAIVER.—The President may waive the prohibition set forth in subsection (a) with respect to a specific transaction if the President determines that the transaction is essential to the national security interests of the United States.''.

SEC. 908. AUTHORITY TO REQUEST MILITARY ASSISTANCE WITH RESPECT TO OFFENSES INVOLVING BIOLOGICAL AND CHEMICAL WEAPONS.

(a) BIOLOGICAL WEAPONS OF MASS DESTRUCTION.—Section 175 of title 18, United States Code, is amended by adding at the end the following:

''(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving biological weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

''(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving biological weapons of mass destruction exists; and

''(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

''(2) As used in this section, 'emergency situation involving biological weapons of mass destruction' means a circumstance involving a biological weapon of mass destruction—

''(A) that poses a serious threat to the interests of the United States; and

''(B) in which—

''(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the biological weapon of mass destruction involved;

''(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

''(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

''(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a biological weapon of mass destruction or elements of the weapon.

''(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any assistance in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life.

''(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

''(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy

Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

''(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.''.

(b) CHEMICAL WEAPONS OF MASS DESTRUCTION.—The chapter 113B of title 18, United States Code, that relates to terrorism, is amended by inserting after section 2332a the following:

''§ 2332b. Use of chemical weapons

''(a) OFFENSE.—A person who without lawful authority uses, or attempts or conspires to use, a chemical weapon—

''(1) against a national of the United States while such national is outside of the United States;

''(2) against any person within the United States; or

''(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States,

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

''(b) DEFINITIONS.—For purposes of this section—

''(1) the term 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(2) the term 'chemical weapon' means any weapon that is designed to cause widespread death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals or their precursors.

''(c)(1) MILITARY ASSISTANCE.—The Attorney General may request that the Secretary of Defense provide assistance in support of Department of Justice activities relating to the enforcement of this section in an emergency situation involving chemical weapons of mass destruction. Department of Defense resources, including personnel of the Department of Defense, may be used to provide such assistance if—

''(A) the Secretary of Defense and the Attorney General determine that an emergency situation involving chemical weapons of mass destruction exists; and

''(B) the Secretary of Defense determines that the provision of such assistance will not adversely affect the military preparedness of the United States.

''(2) As used in this section, 'emergency situation involving chemical weapons of mass destruction' means a circumstance involving a chemical weapon of mass destruction—

''(A) that poses a serious threat to the interests of the United States; and

''(B) in which—

''(i) civilian expertise is not readily available to provide the required assistance to counter the threat posed by the chemical weapon of mass destruction involved;

''(ii) Department of Defense special capabilities and expertise are needed to counter the threat posed by the biological weapon of mass destruction involved; and

''(iii) enforcement of the law would be seriously impaired if the Department of Defense assistance were not provided.

''(3) The assistance referred to in paragraph (1) includes the operation of equipment (including equipment made available under section 372 of title 10) to monitor, contain, disable, or dispose of a chemical weapon of mass destruction or elements of the weapon.

''(4) The Attorney General and the Secretary of Defense shall jointly issue regulations concerning the types of assistance that may be provided under this subsection. Such regulations shall also describe the actions that Department of Defense personnel may take in circumstances incident to the provision of assistance under this subsection. Such regulations shall not authorize arrest or any assistance in conducting searches and seizures that seek evidence related to violations of this section, except for the immediate protection of human life.

''(5) The Secretary of Defense shall require reimbursement as a condition for providing assistance under this subsection in accordance with section 377 of title 10.

''(6)(A) Except to the extent otherwise provided by the Attorney General, the Deputy Attorney General may exercise the authority of the Attorney General under this subsection. The Attorney General may delegate the Attorney General's authority under this subsection only to the Associate Attorney General or an Assistant Attorney General and only if the Associate Attorney General or Assistant Attorney General to whom delegated has been designated by the Attorney General to act for, and to exercise the general powers of, the Attorney General.

''(B) Except to the extent otherwise provided by the Secretary of Defense, the Deputy Secretary of Defense may exercise the authority of the Secretary of Defense under this subsection. The Secretary of Defense may delegate the Secretary's authority under this subsection only to an Under Secretary of Defense or an Assistant Secretary of Defense and only if the Under Secretary or Assistant Secretary to whom delegated has been designated by the Secretary to act for, and to exercise the general powers of, the Secretary.''.

(c)(1) CIVILIAN EXPERTISE.—The President shall take reasonable measures to reduce civilian law enforcement officials' reliance on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States, including—

(A) increasing civilian law enforcement expertise to counter such threat;

(B) improving coordination between civilian law enforcement officials and other civilian sources of expertise, both within and outside the Federal Government, to counter such threat.

(2) REPORT REQUIREMENT.—The President shall submit to the Congress—

(A) ninety days after the date of enactment of this Act, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States;

(B) one year after the date of enactment of this Act, a report describing the actions planned to be taken and the attendant cost pertaining to paragraph (1); and

(C) three years after the date of enactment of this Act, a report updating the information provided in the reports submitted pursuant to subparagraphs (A) and (B), including measures taken pursuant to paragraph (1).

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332a the following:

''2332b. Use of chemical weapons.''.

(e) USE OF WEAPONS OF MASS DESTRUCTION.—Section 2332a(a) of title 18, United States Code, is amended by inserting ''without lawful authority'' after ''A person who''.

SEC. 909. REVISION TO EXISTING AUTHORITY FOR MULTIPOINT WIRETAPS.

(a) Section 2518(11)(b)(ii) of title 18 is amended: by deleting ''of a purpose, on the part of that person, to thwart interception by changing facilities.'' and inserting ''that the person had the intent to thwart interception or that the person's actions and conduct would have the effect of thwarting interception from a specified facility.''.

(b) Section 2518(11)(b)(iii) is amended to read:

''(iii) the judge finds that such showing has been adequately made.''.

SEC. 910. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES PARK POLICE.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Park Police, to help meet the increased needs of the United States Park Police, $1,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 911. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the Administrative Office of the United States Courts, to help meet the increased needs of the Administrative Office of the United States Courts, $4,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 912. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—There are authorized to be appropriated from the General Fund of the Treasury for the activities of the United States Customs Service, to help meet the increased needs of the United States Customs Service, $10,000,000 for each of the fiscal years 1996, 1997, 1998, 1999, and 2000.

(b) AVAILABILITY OF FUNDS.—Funds made available pursuant to this section, in any fiscal year, shall remain available until expended.

SEC. 913. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

TITLE X—VICTIMS OF TERRORISM ACT

SEC. 1001. TITLE.

This title may be cited as the ''Victims of Terrorism Act of 1995''.

SEC. 1002. AUTHORITY TO PROVIDE ASSISTANCE AND COMPENSATION TO VICTIMS OF TERRORISM.

The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404A the following new section:

"SEC. 1404B. COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM OR MASS VIOLENCE.

''(a) VICTIMS OF ACTS OF TERRORISM OUTSIDE THE UNITED STATES.—The Director may make supplemental grants to States to provide compensation and assistance to the residents of such States who, while outside the territorial boundaries of the United States, are victims of a terrorist act or mass violence and are not persons eligible for compensation under title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

''(b) VICTIMS OF DOMESTIC TERRORISM.—The Director may make supplemental grants to States for eligible crime victim compensation and assistance programs to provide emergency relief, including crisis response efforts, assistance, training, and technical assistance, for the benefit of victims of terrorist acts or mass violence occurring within the United States and may provide funding to United States Attorney's Offices for use in coordination with State victims compensation and assistance efforts in providing emergency relief.''.

SEC. 1003. FUNDING OF COMPENSATION AND ASSISTANCE TO VICTIMS OF TERRORISM, MASS VIOLENCE, AND CRIME.

Section 1402(d)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(4)) is amended to read as follows:

''(4)(A) If the sums available in the Fund are sufficient to fully provide grants to the States pursuant to section 1403(a)(1), the Director may retain any portion of the Fund that was deposited during a fiscal year that was in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as an emergency reserve. Such reserve shall not exceed $50,000,000.

''(B) The emergency reserve may be used for supplemental grants under section 1404B and to supplement the funds available to provide grants to States for compensation and assistance in accordance with sections 1403 and 1404 in years in which supplemental grants are needed.''.

SEC. 1004. CRIME VICTIMS FUND AMENDMENTS.

(a) UNOBLIGATED FUNDS.—Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) in subsection (c), by striking ''subsection'' and inserting ''chapter''; and

(2) by amending subsection (e) to read as follows:

''(e) AMOUNTS AWARDED AND UNSPENT.—Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 2 succeeding fiscal years, at the end of which period, any remaining unobligated sums shall be returned to the Fund.''.

(b) BASE AMOUNT.—Section 1404(a)(5) of such Act (42 U.S.C. 10603(a)(5)) is amended to read as follows:

''(5) As used in this subsection, the term 'base amount' means—

''(A) except as provided in subparagraph (B), $500,000; and

''(B) for the territories of the Northern Mariana Islands, Guam, American Samoa, and Palau, $200,000.''.

MOTION OFFERED BY MR. HYDE

Mr. HYDE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HYDE moves to strike all after the enacting clause of the Senate bill, S. 735, and insert in lieu thereof the provisions of H.R. 2703 as passed by the House, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Effective Death Penalty and Public Safety Act of 1996''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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

TITLE I—CRIMINAL ACTS

Sec. 101. Protection of Federal employees.
Sec. 102. Prohibiting material support to terrorist organizations.
Sec. 103. Modification of material support provision.
Sec. 104. Acts of terrorism transcending national boundaries.
Sec. 105. Conspiracy to harm people and property overseas.
Sec. 106. Clarification and extension of criminal jurisdiction over certain terrorism offenses overseas.
Sec. 107. Expansion and modification of weapons of mass destruction statute.
Sec. 108. Addition of offenses to the money laundering statute.
Sec. 109. Expansion of Federal jurisdiction over bomb threats.
Sec. 110. Clarification of maritime violence jurisdiction.
Sec. 111. Possession of stolen explosives prohibited.
Sec. 112. Study and recommendations for assessing and reducing the threat to law enforcement officers from the criminal use of firearms and ammunition.

TITLE II—INCREASED PENALTIES

Sec. 201. Mandatory minimum for certain explosives offenses.
Sec. 202. Increased penalty for explosive conspiracies.
Sec. 203. Increased and alternate conspiracy penalties for terrorism offenses.
Sec. 204. Mandatory penalty for transferring a firearm knowing that it will be used to commit a crime of violence.
Sec. 205. Mandatory penalty for transferring an explosive material knowing that it will be used to commit a crime of violence.
Sec. 206. Directions to Sentencing Commission.
Sec. 207. Amendment of sentencing guidelines to provide for enhanced penalties for a defendant who commits a crime while in possession of a firearm with a laser sighting device.

TITLE III—INVESTIGATIVE TOOLS

Sec. 301. Study of tagging explosive materials, detection of explosives and explosive materials, rendering explosive components inert, and imposing controls of precursors of explosives.
Sec. 302. Exclusion of certain types of information from wiretap-related definitions.
Sec. 303. Requirement to preserve record evidence.
Sec. 304. Detention hearing.
Sec. 305. Protection of Federal Government buildings in the District of Columbia.
Sec. 306. Study of thefts from armories; report to the Congress.

TITLE IV—NUCLEAR MATERIALS

Sec. 401. Expansion of nuclear materials prohibitions.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

Sec. 501. Definitions.
Sec. 502. Requirement of detection agents for plastic explosives.
Sec. 503. Criminal sanctions.
Sec. 504. Exceptions.
Sec. 505. Effective date.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

Sec. 601. Funding for detention and removal of alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

Sec. 611. Denial of asylum to alien terrorists.
Sec. 612. Denial of other relief for alien terrorists.

Subtitle B—Expedited Exclusion

Sec. 621. Inspection and exclusion by immigration officers.
Sec. 622. Judicial review.
Sec. 623. Exclusion of aliens who have not been inspected and admitted.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

Sec. 631. Access to certain confidential INS files through court order.
Sec. 632. Waiver authority concerning notice of denial of application for visas.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

Sec. 641. Criminal forfeiture for passport and visa related offenses.
Sec. 642. Subpoenas for bank records.
Sec. 643. Effective date.

Subtitle D—Employee Verification by Security Services Companies

Sec. 651. Permitting security services companies to request additional documentation.

Subtitle E—Criminal Alien Deportation Improvements

Sec. 661. Short title.
Sec. 662. Additional expansion of definition of aggravated felony.
Sec. 663. Deportation procedures for certain criminal aliens who are not permanent residents.
Sec. 664. Restricting the defense to exclusion based on 7 years permanent residence for certain criminal aliens.
Sec. 665. Limitation on collateral attacks on underlying deportation order.
Sec. 666. Criminal alien identification system.
Sec. 667. Establishing certain alien smuggling-related crimes as RICO-predicate offenses.
Sec. 668. Authority for alien smuggling investigations.
Sec. 669. Expansion of criteria for deportation for crimes of moral turpitude.
Sec. 670. Miscellaneous provisions.
Sec. 671. Construction of expedited deportation requirements.
Sec. 672. Study of prisoner transfer treaty with Mexico.
Sec. 673. Justice Department assistance in bringing to justice aliens who flee prosecution for crimes in the United States.
Sec. 674. Prisoner transfer treaties.
Sec. 675. Interior repatriation program.
Sec. 676. Deportation of nonviolent offenders prior to completion of sentence of imprisonment.
Sec. 677. Authorizing state and local law enforcement officials to arrest and detain certain illegal aliens.

TITLE VII—AUTHORIZATION AND FUNDING

Sec. 701. Firefighter and emergency services training.
Sec. 702. Assistance to foreign countries to procure explosive detection devices and other counter-terrorism technology.
Sec. 703. Research and development to support counter-terrorism technologies.
Sec. 704. Sense of Congress.

TITLE VIII—MISCELLANEOUS

Sec. 801. Study of State licensing requirements for the purchase and use of high explosives.
Sec. 802. Compensation of victims of terrorism.
Sec. 803. Jurisdiction for lawsuits against terrorist states.
Sec. 804. Study of publicly available instructional material on the making of bombs, destructive devices, and weapons of mass destruction.
Sec. 805. Compilation of statistics relating to intimidation of Government employees.
Sec. 806. Victim Restitution Act of 1995.
Sec. 807. Overseas law enforcement training activities.
Sec. 808. Closed circuit televised court proceedings for victims of crime.
Sec. 809. Authorization of appropriations.

TITLE IX—HABEAS CORPUS REFORM

Sec. 901. Filing deadlines.
Sec. 902. Appeal.
Sec. 903. Amendment of Federal rules of appellate procedure.
Sec. 904. Section 2254 amendments.
Sec. 905. Section 2255 amendments.
Sec. 906. Limits on second or successive applications.
Sec. 907. Death penalty litigation procedures.
Sec. 908. Technical amendment.
Sec. 909. Severability.

TITLE X—INTERNATIONAL COUNTERFEITING

Sec. 1001. Short title.
Sec. 1002. Audits of international counterfeiting of United States currency.
Sec. 1003. Law enforcement and sentencing provisions relating to international counterfeiting of United States currency.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

Sec. 1101. Short title.
Sec. 1102. Attempts to acquire under false pretenses.
Sec. 1103. Inclusion of recombinant molecules.
Sec. 1104. Definitions.
Sec. 1105. Threatening use of certain weapons.
Sec. 1106. Inclusions of recombinant molecules and biological organisms in definition.

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

Sec. 1201. Establishment.
Sec. 1202. Duties.
Sec. 1203. Membership and administrative provisions.
Sec. 1204. Staffing and support functions.
Sec. 1205. Powers.
Sec. 1206. Report.
Sec. 1207. Termination.

TITLE XIII—REPRESENTATION FEES

Sec. 1301. Representation fees in criminal cases.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

Sec. 1401. Death penalty aggravating factor.

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

Sec. 1501. Financial transactions with terrorists.

TITLE I—CRIMINAL ACTS

SEC. 101. PROTECTION OF FEDERAL EMPLOYEES.

(a) HOMICIDE.—Section 1114 of title 18, United States Code, is amended to read as follows:

"§ 1114. Protection of officers and employees of the United States

''Whoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government (including any member of the uniformed services) while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished, in the case of murder, as provided under section 1111, or in the case of manslaughter, as provided under section 1112, or, in the case of attempted murder or manslaughter, as provided in section 1113.''.

(b) THREATS AGAINST FORMER OFFICERS AND EMPLOYEES.—Section 115(a)(2) of title 18, United States Code, is amended by inserting '', or threatens to assault, kidnap, or murder, any person who formerly served as a person designated in paragraph (1), or'' after ''assaults, kidnaps, or murders, or attempts to kidnap or murder''.

SEC. 102. PROHIBITING MATERIAL SUPPORT TO TERRORIST ORGANIZATIONS.

(a) IN GENERAL.—That chapter 113B of title 18, United States Code, that relates to terrorism is amended by adding at the end the following:

"§ 2339B. Providing material support to terrorist organizations

''(a) OFFENSE.—Whoever, within the United States, knowingly provides material support or resources in or affecting interstate or foreign commerce, to any organization which the person knows is a terrorist organization that has been designated under section 212(a)(3)(B)(iv) of the Immigration and Nationality Act as a terrorist organization shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) DEFINITION.—As used in this section, the term 'material support or resources' has the meaning given that term in section 2339A of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

''2339B. Providing material support to terrorist organizations.''.

SEC. 103. MODIFICATION OF MATERIAL SUPPORT PROVISION.

Section 2339A of title 18, United States Code, is amended read as follows:

"§ 2339A. Providing material support to terrorists

''(a) OFFENSE.—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 in preparation for or in carrying out, a violation of section 32, 37, 81, 175, 351, 831, 842 (m) or (n), 844 (f) or (i), 956, 1114, 1116, 1203, 1361, 1362, 1363, 1366, 1751, 2155, 2156, 2280, 2281, 2332, 2332a, 2332b, or 2340A of this title or section 46502 of title 49, or in preparation for or in carrying out the concealment or an escape from the commission of any such violation, shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) DEFINITION.—In this section, the term 'material support or resources' means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.''.

SEC. 104. ACTS OF TERRORISM TRANSCENDING NATIONAL BOUNDARIES.

(a) OFFENSE.—Title 18, United States Code, is amended by inserting after section 2332a the following:

"§ 2332b. Acts of terrorism transcending national boundaries

''(a) PROHIBITED ACTS.—

''(1) Whoever, involving any conduct transcending national boundaries and in a circumstance described in subsection (b)—

''(A) kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any individual within the United States; or

''(B) creates a substantial risk of serious bodily injury to any other person by destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure, conveyance, or other real or personal property within the United States;

in violation of the laws of any State or the United States shall be punished as prescribed in subsection (c).

''(2) Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished as prescribed in subsection (c).

''(b) JURISDICTIONAL BASES.—The circumstances referred to in subsection (a) are—

''(1) any of the offenders travels in, or uses the mail or any facility of, interstate or foreign commerce in furtherance of the offense or to escape apprehension after the commission of the offense;

''(2) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

''(3) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

''(4) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, used by, or leased to the United States, or any department or agency thereof;

''(5) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

''(6) the offense is committed in those places within the United States that are in the special maritime and territorial jurisdiction of the United States.

Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of such circumstances is applicable to at least one offender.

''(c) PENALTIES.—

''(1) Whoever violates this section shall be punished—

''(A) for a killing or if death results to any person from any other conduct prohibited by this section by death, or by imprisonment for any term of years or for life;

''(B) for kidnapping, by imprisonment for any term of years or for life;

''(C) for maiming, by imprisonment for not more than 35 years;

''(D) for assault with a dangerous weapon or assault resulting in serious bodily injury, by imprisonment for not more than 30 years;

''(E) for destroying or damaging any structure, conveyance, or other real or personal property, by imprisonment for not more than 25 years;

''(F) for attempting or conspiring to commit an offense, for any term of years up to the maximum punishment that would have applied had the offense been completed; and

''(G) for threatening to commit an offense under this section, by imprisonment for not more than 10 years.

''(2) Notwithstanding any other provision of law, the court shall not place on probation any person convicted of a violation of this section; nor shall the term of imprisonment imposed under this section run concurrently with any other term of imprisonment.

''(d) LIMITATION ON PROSECUTION.—No indictment shall be sought nor any information filed for any offense described in this section until

the Attorney General, or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions, makes a written certification that, in the judgment of the certifying official, such offense, or any activity preparatory to or meant to conceal its commission, is a Federal crime of terrorism.

''(e) PROOF REQUIREMENTS.—

''(1) The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

''(2) In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

''(f) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction—

''(1) over any offense under subsection (a), including any threat, attempt, or conspiracy to commit such offense; and

''(2) over conduct which, under section 3 of this title, renders any person an accessory after the fact to an offense under subsection (a).

''(g) DEFINITIONS.—As used in this section—

''(1) the term 'conduct transcending national boundaries' means conduct occurring outside the United States in addition to the conduct occurring in the United States;

''(2) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2) of this title;

''(3) the term 'serious bodily injury' has the meaning prescribed in section 1365(g)(3) of this title;

''(4) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

''(5) the term 'Federal crime of terrorism' means an offense that—

''(A) is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct; and

''(B) is a violation of—

''(i) section 32 (relating to destruction of aircraft or aircraft facilities), 37 (relating to violence at international airports), 81 (relating to arson within special maritime and territorial jurisdiction), 175 (relating to biological weapons), 351 (relating to congressional, cabinet, and Supreme Court assassination, kidnapping, and assault), 831 (relating to nuclear weapons), 842(m) or (n) (relating to plastic explosives), 844(e) (relating to certain bombings), 844(f) or (i) (relating to arson and bombing of certain property), 956 (relating to conspiracy to commit violent acts in foreign countries), 1114 (relating to protection of officers and employees of the United States), 1116 (relating to murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1203 (relating to hostage taking), 1361 (relating to injury of Government property), 1362 (relating to destruction of communication lines), 1363 (relating to injury to buildings or property within special maritime and territorial jurisdiction of the United States), 1366 (relating to destruction of energy facility), 1751 (relating to Presidential and Presidential staff assassination, kidnapping, and assault), 2152 (relating to injury of harbor defenses), 2155 (relating to destruction of national defense materials, premises, or utilities), 2156 (relating to production of defective national defense materials, premises, or utilities), 2280 (relating to violence against maritime navigation), 2281 (relating to violence against maritime fixed platforms), 2332 (relating to certain homicides and violence outside the United States), 2332a (relating to use of weapons of mass destruction), 2332b (relating to acts of terrorism transcending national boundaries), 2339A (relating to providing material support to terrorists), 2339B (relating to providing material support to terrorist organizations), or 2340A (relating to torture) of this title;

''(ii) section 236 (relating to sabotage of nuclear facilities or fuel) of the Atomic Energy Act of 1954; or

''(iii) section 46502 (relating to aircraft piracy), or 60123(b) (relating to destruction of interstate gas or hazardous liquid pipeline facility) of title 49.

''(h) INVESTIGATIVE AUTHORITY.—In addition to any other investigatory authority with respect to violations of this title, the Attorney General shall have primary investigative responsibility for all Federal crimes of terrorism, and the Secretary of the Treasury shall assist the Attorney General at the request of the Attorney General.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, that relates to terrorism is amended by inserting after the item relating to section 2332a the following new item:

''2332b. Acts of terrorism transcending national boundaries.''.

(c) STATUTE OF LIMITATIONS AMENDMENT.—Section 3286 of title 18, United States Code, is amended by—

(1) striking ''any offense'' and inserting ''any non-capital offense'';

(2) striking ''36'' and inserting ''37'';

(3) striking ''2331'' and inserting ''2332'';

(4) striking ''2339'' and inserting ''2332a''; and

(5) inserting ''2332b (acts of terrorism transcending national boundaries),'' after ''(use of weapons of mass destruction),''.

(d) PRESUMPTIVE DETENTION.—Section 3142(e) of title 18, United States Code, is amended by inserting '', 956(a), or 2332b'' after ''section 924(c)''.

(e) CONFORMING AMENDMENT.—Section 846 of title 18, United States Code, is amended by striking ''In addition to any other'' and all that follows through the end of the section.

SEC. 105. CONSPIRACY TO HARM PEOPLE AND PROPERTY OVERSEAS.

(a) IN GENERAL.—Section 956 of chapter 45 of title 18, United States Code, is amended to read as follows:

''§956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country

''(a)(1) Whoever, within the jurisdiction of the United States, conspires with one or more other persons, regardless of where such other person or persons are located, to commit at any place outside the United States an act that would constitute the offense of murder, kidnapping, or maiming if committed in the special maritime and territorial jurisdiction of the United States shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be punished as provided in subsection (a)(2).

''(2) The punishment for an offense under subsection (a)(1) of this section is—

''(A) imprisonment for any term of years or for life if the offense is conspiracy to murder or kidnap; and

''(B) imprisonment for not more than 35 years if the offense is conspiracy to maim.

''(b) Whoever, within the jurisdiction of the United States, conspires with one or more persons, regardless of where such other person or persons are located, to damage or destroy specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, airport, airfield, or other public utility, public conveyance, or public structure, or any religious, educational, or cultural property so situated, shall, if any of the conspirators commits an act within the jurisdiction of the United States to effect any object of the conspiracy, be imprisoned not more than 25 years.''.

(b) CLERICAL AMENDMENT.—The item relating to section 956 in the table of sections at the beginning of chapter 45 of title 18, United States Code, is amended to read as follows:

''956. Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country.''.

SEC. 106. CLARIFICATION AND EXTENSION OF CRIMINAL JURISDICTION OVER CERTAIN TERRORISM OFFENSES OVERSEAS.

(a) AIRCRAFT PIRACY.—Section 46502(b) of title 49, United States Code, is amended—

(1) in paragraph (1), by striking ''and later found in the United States'';

(2) so that paragraph (2) reads as follows:

''(2) There is jurisdiction over the offense in paragraph (1) if—

''(A) a national of the United States was aboard the aircraft;

''(B) an offender is a national of the United States; or

''(C) an offender is afterwards found in the United States.''; and

(3) by inserting after paragraph (2) the following:

''(3) For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(b) DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.—Section 32(b) of title 18, United States Code, is amended—

(1) by striking '', if the offender is later found in the United States,''; and

(2) by inserting at the end the following: ''There is jurisdiction over an offense under this subsection if a national of the United States was on board, or would have been on board, the aircraft; an offender is a national of the United States; or an offender is afterwards found in the United States. For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act.''.

(c) MURDER OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 1116 of title 18, United States Code, is amended—

(1) in subsection (b), by adding at the end the following:

''(7) 'National of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''; and

(2) in subsection (c), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(d) PROTECTION OF FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 112 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting ''''national of the United States','' before ''and''; and

(2) in subsection (e), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(e) THREATS AND EXTORTION AGAINST FOREIGN OFFICIALS AND CERTAIN OTHER PERSONS.—Section 878 of title 18, United States Code, is amended—

(1) in subsection (c), by inserting ''''national of the United States','' before ''and''; and

(2) in subsection (d), by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the

United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''.

(f) KIDNAPPING OF INTERNATIONALLY PROTECTED PERSONS.—Section 1201(e) of title 18, United States Code, is amended—

(1) by striking the first sentence and inserting the following: ''If the victim of an offense under subsection (a) is an internationally protected person outside the United States, the United States may exercise jurisdiction over the offense if (1) the victim is a representative, officer, employee, or agent of the United States, (2) an offender is a national of the United States, or (3) an offender is afterwards found in the United States.''; and

(2) by adding at the end the following: ''For purposes of this subsection, the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

(g) VIOLENCE AT INTERNATIONAL AIRPORTS.—Section 37(b)(2) of title 18, United States Code, is amended—

(1) by inserting ''(A)'' before ''the offender is later found in the United States''; and

(2) by inserting ''; or (B) an offender or a victim is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)))'' after ''the offender is later found in the United States''.

(h) BIOLOGICAL WEAPONS.—Section 178 of title 18, United States Code, 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 the following at the end:

''(5) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).''.

SEC. 107. EXPANSION AND MODIFICATION OF WEAPONS OF MASS DESTRUCTION STATUTE.

Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting ''AGAINST A NATIONAL OR WITHIN THE UNITED STATES'' after ''OFFENSE'';

(B) by inserting '', without lawful authority'' after ''A person who'';

(C) by inserting ''threatens,'' before ''attempts or conspires to use, a weapon of mass destruction''; and

(D) by inserting ''and the results of such use affect interstate or foreign commerce or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce'' before the semicolon at the end of paragraph (2);

(2) in subsection (b)(2)(A), by striking ''section 921'' and inserting ''section 921(a)(4) (other than subparagraphs (B) and (C))'';

(3) in subsection (b), so that subparagraph (B) of paragraph (2) reads as follows:

''(B) any weapon that is designed to cause death or serious bodily injury through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;'';

(4) by redesignating subsection (b) as subsection (c); and

(5) by inserting after subsection (a) the following new subsection:

''(b) OFFENSE BY NATIONAL OUTSIDE THE UNITED STATES.—Any national of the United States who, without lawful authority and outside the United States, uses, or threatens, attempts, or conspires to use, a weapon of mass destruction shall be imprisoned for any term of years or for life, and if death results, shall be punished by death, or by imprisonment for any term of years or for life.''.

SEC. 108. ADDITION OF OFFENSES TO THE MONEY LAUNDERING STATUTE.

(a) MURDER AND DESTRUCTION OF PROPERTY.—Section 1956(c)(7)(B)(ii) of title 18, United States Code, is amended by striking ''or extortion;'' and inserting ''extortion, murder, or destruction of property by means of explosive or fire;''.

(b) SPECIFIC OFFENSES.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting after ''an offense under'' the following: ''section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member),'';

(2) by inserting after ''section 215 (relating to commissions or gifts for procuring loans),'' the following: ''section 351 (relating to Congressional or Cabinet officer assassination),'';

(3) by inserting after ''section 793, 794, or 798 (relating to espionage),'' the following: ''section 831 (relating to prohibited transactions involving nuclear materials), section 844 (f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce),'';

(4) by inserting after ''section 875 (relating to interstate communications),'' the following: ''section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country),'';

(5) by inserting after ''1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution),'' the following: ''section 1111 (relating to murder), section 1114 (relating to protection of officers and employees of the United States), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons),'';

(6) by inserting after ''section 1203 (relating to hostage taking),'' the following: ''section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),'';

(7) by inserting after ''section 1708 (theft from the mail),'' the following: ''section 1751 (relating to Presidential assassination),'';

(8) by inserting after ''2114 (relating to bank and postal robbery and theft),'' the following: ''section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),''; and

(9) by striking ''of this title'' and inserting the following: ''section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code''.

SEC. 109. EXPANSION OF FEDERAL JURISDICTION OVER BOMB THREATS.

Section 844(e) of title 18, United States Code, is amended by striking ''commerce,'' and inserting ''interstate or foreign commerce, or in or affecting interstate or foreign commerce,''.

SEC. 110. CLARIFICATION OF MARITIME VIOLENCE JURISDICTION.

Section 2280(b)(1)(A) of title 18, United States Code, is amended—

(1) in clause (ii), by striking ''and the activity is not prohibited as a crime by the State in which the activity takes place''; and

(2) in clause (iii), by striking ''the activity takes place on a ship flying the flag of a foreign country or outside the United States,''.

SEC. 111. POSSESSION OF STOLEN EXPLOSIVES PROHIBITED.

Section 842(h) of title 18, United States Code, is amended to read as follows:

''(h) It shall be unlawful for any person to receive, possess, transport, ship, conceal, store, barter, sell, dispose of, or pledge or accept as security for a loan, any stolen explosive materials which are moving as, which are part of, which constitute, or which have been shipped or transported in, interstate or foreign commerce, either before or after such materials were stolen, knowing or having reasonable cause to believe that the explosive materials were stolen.''.

SEC. 112. STUDY AND RECOMMENDATIONS FOR ASSESSING AND REDUCING THE THREAT TO LAW ENFORCEMENT OFFICERS FROM THE CRIMINAL USE OF FIREARMS AND AMMUNITION.

(a) The Secretary of the Treasury, in conjunction with the Attorney General, shall conduct a study and make recommendations concerning—

(1) the extent and nature of the deaths and serious injuries, in the line of duty during the last decade, for law enforcement officers, including—

(A) those officers who were feloniously killed or seriously injured and those that died or were seriously injured as a result of accidents or other non-felonious causes; and

(B) those officers feloniously killed or seriously injured with firearms, those killed or seriously injured with, separately, handguns firing handgun caliber ammunition, handguns firing rifle caliber ammunition, rifles firing rifle caliber ammunition, rifles firing handgun caliber ammunition and shotguns; and

(C) those officers feloniously killed or seriously injured with firearms, and killings or serious injuries committed with firearms taken by officers' assailants from officers, and those committed with other officers' firearms; and

(D) those killed or seriously injured because shots attributable to projectiles defined as ''armor piercing ammunition'' under 18, §921(a)(17)(B) (i) and (ii) pierced the protective material of bullet resistant vests and bullet resistant headgear; and

(2) whether current passive defensive strategies, such as body armor, are adequate to counter the criminal use of firearms against law officers; and

(3) the calibers of ammunition that are—

(A) sold in the greatest quantities; and

(B) their common uses, according to consultations with industry, sporting organizations and law enforcement; and

(C) the calibers commonly used for civilian defensive or sporting uses that would be affected by any prohibition on non-law enforcement sales of such ammunition, if such ammunition is capable of penetrating minimum level bullet resistant vests; and

(D) recommendations for increase in body armor capabilities to further protect law enforcement from threat.

(b) In conducting the study, the Secretary shall consult with other Federal, State and local officials, non-governmental organizations, including all national police organizations, national sporting organizations and national industry associations with expertise in this area and such other individuals as shall be deemed necessary. Such study shall be presented to Congress twelve months after the enactment of this Act and made available to the public, including any data tapes or data used to form such recommendations.

(c) There are authorized to be appropriated for the study and recommendations such sums as may be necessary.

TITLE II—INCREASED PENALTIES

SEC. 201. MANDATORY MINIMUM FOR CERTAIN EXPLOSIVES OFFENSES.

(a) INCREASED PENALTIES FOR DAMAGING CERTAIN PROPERTY.—Section 844(f) of title 18, United States Code, is amended to read as follows:

''(f) Whoever damages or destroys, or attempts to damage or destroy, by means of fire or an explosive, any personal or real property in whole or in part owned, possessed, or used by, or leased to, the United States, or any department or agency thereof, or any institution or organization receiving Federal financial assistance shall be fined under this title or imprisoned for not more than 25 years, or both, but—

''(1) if personal injury results to any person other than the offender, the term of imprisonment shall be not more than 40 years;

''(2) if fire or an explosive is used and its use creates a substantial risk of serious bodily injury to any person other than the offender, the term of imprisonment shall not be less than 20 years; and

''(3) if death results to any person other than the offender, the offender shall be subject to the death penalty or imprisonment for any term of years not less than 30, or for life.''.

(b) CONFORMING AMENDMENT.—Section 81 of title 18, United States Code, is amended by striking ''fined under this title or imprisoned not more than five years, or both'' and inserting ''imprisoned not more than 25 years or fined the greater of the fine under this title or the cost of repairing or replacing any property that is damaged or destroyed, or both''.

(c) STATUTE OF LIMITATION FOR ARSON OFFENSES.—

(1) Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

''§ 3295. Arson offenses

''No person shall be prosecuted, tried, or punished for any non-capital offense under section 81 or subsection (f), (h), or (i) of section 844 of this title unless the indictment is found or the information is instituted within 7 years after the date on which the offense was committed.''.

(2) The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

''3295. Arson offenses.''.

(3) Section 844(i) of title 18, United States Code, is amended by striking the last sentence.

SEC. 202. INCREASED PENALTY FOR EXPLOSIVE CONSPIRACIES.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(n) Except as otherwise provided in this section, a person who conspires to commit any offense defined in this chapter shall be subject to the same penalties (other than the penalty of death) as those prescribed for the offense the commission of which was the object of the conspiracy.''.

SEC. 203. INCREASED AND ALTERNATE CONSPIRACY PENALTIES FOR TERRORISM OFFENSES.

(a) TITLE 18 OFFENSES.—

(1) Sections 32(a)(7), 32(b)(4), 37(a), 115(a)(1)(A), 115(a)(2), 1203(a), 2280(a)(1)(H), and 2281(a)(1)(F) of title 18, United States Code, are each amended by inserting ''or conspires'' after ''attempts''.

(2) Section 115(b)(2) of title 18, United States Code, is amended by striking ''or attempted kidnapping'' both places it appears and inserting '', attempted kidnapping, or conspiracy to kidnap''.

(3)(A) Section 115(b)(3) of title 18, United States Code, is amended by striking ''or attempted murder'' and inserting '', attempted murder, or conspiracy to murder''.

(B) Section 115(b)(3) of title 18, United States Code, is amended by striking ''and 1113'' and inserting '', 1113, and 1117''.

(4) Section 175(a) of title 18, United States Code, is amended by inserting ''or conspires to do so,'' after ''any organization to do so,''.

(b) AIRCRAFT PIRACY.—

(1) Section 46502(a)(2) of title 49, United States Code, is amended by inserting ''or conspiring'' after ''attempting''.

(2) Section 46502(b)(1) of title 49, United States Code, is amended by inserting ''or conspiring to commit'' after ''committing''.

SEC. 204. MANDATORY PENALTY FOR TRANSFERRING A FIREARM KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 924(h) of title 18, United States Code, is amended by striking ''imprisoned not more than 10 years, fined in accordance with this title, or both.'' and inserting ''subject to the same penalties as may be imposed under subsection (c) for a first conviction for the use or carrying of the firearm.''.

SEC. 205. MANDATORY PENALTY FOR TRANSFERRING AN EXPLOSIVE MATERIAL KNOWING THAT IT WILL BE USED TO COMMIT A CRIME OF VIOLENCE.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

''(o) Whoever knowingly transfers any explosive materials, knowing or having reasonable cause to believe that such explosive materials will be used to commit a crime of violence (as defined in section 924(c)(3) of this title) or drug trafficking crime (as defined in section 924(c)(2) of this title) shall be subject to the same penalties as may be imposed under subsection (h) for a first conviction for the use or carrying of the explosive materials.''.

SEC. 206. DIRECTIONS TO SENTENCING COMMISSION.

The United States Sentencing Commission shall forthwith, in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that section had not expired, amend the sentencing guidelines so that the chapter 3 adjustment relating to international terrorism only applies to Federal crimes of terrorism, as defined in section 2332b(g) of title 18, United States Code.

SEC. 207. AMENDMENT OF SENTENCING GUIDELINES TO PROVIDE FOR ENHANCED PENALTIES FOR A DEFENDANT WHO COMMITS A CRIME WHILE IN POSSESSION OF A FIREARM WITH A LASER SIGHTING DEVICE.

Not later than May 1, 1997, the United States Sentencing Commission shall, pursuant to its authority under section 994 of title 28, United States Code, amend the sentencing guidelines (and, if the Commission considers it appropriate, the policy statements of the Commission) to provide that a defendant convicted of a crime shall receive an appropriate sentence enhancement if, during the crime—

(1) the defendant possessed a firearm equipped with a laser sighting device; or

(2) the defendant possessed a firearm, and the defendant (or another person at the scene of the crime who was aiding in the commission of the crime) possessed a laser sighting device capable of being readily attached to the firearm.

TITLE III—INVESTIGATIVE TOOLS

SEC. 301. STUDY OF TAGGING EXPLOSIVE MATERIALS, DETECTION OF EXPLOSIVES AND EXPLOSIVE MATERIALS, RENDERING EXPLOSIVE COMPONENTS INERT, AND IMPOSING CONTROLS OF PRECURSORS OF EXPLOSIVES.

(a) STUDY.—The Attorney General, in consultation with other Federal, State and local officials with expertise in this area and such other individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the tagging of explosive materials for purposes of detection and identification;

(2) technology for devices to improve the detection of explosives materials;

(3) whether common chemicals used to manufacture explosive materials can be rendered inert and whether it is feasible to require it; and

(4) whether controls can be imposed on certain precursor chemicals used to manufacture explosive materials and whether it is feasible to require it.

(b) EXCLUSION.—No study undertaken under this section shall include black or smokeless powder among the explosive materials considered.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 302. EXCLUSION OF CERTAIN TYPES OF INFORMATION FROM WIRETAP-RELATED DEFINITIONS.

(a) DEFINITION OF ''ELECTRONIC COMMUNICATION''.—Section 2510(12) of title 18, United States Code, is amended—

(1) by striking ''or'' at the end of subparagraph (B);

(2) by inserting ''or'' at the end of subparagraph (C); and

(3) by adding a new subparagraph (D), as follows:

''(D) information stored in a communications system used for the electronic storage and transfer of funds;''

(b) DEFINITION OF ''READILY ACCESSIBLE TO THE GENERAL PUBLIC''.—Section 2510(16) of title 18, United States Code, is amended—

(1) by inserting ''or'' at the end of subparagraph (D);

(2) by striking ''or'' at the end of subparagraph (E); and

(3) by striking subparagraph (F).

SEC. 303. REQUIREMENT TO PRESERVE RECORD EVIDENCE.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

''(f) REQUIREMENT TO PRESERVE EVIDENCE.—A provider of wire or electronic communication services or a remote computing service, upon the request of a governmental entity, shall take all necessary steps to preserve records, and other evidence in its possession pending the issuance of a court order or other process. Such records shall be retained for a period of 90 days, which period shall be extended for an additional 90-day period upon a renewed request by the governmental entity.''.

SEC. 304. DETENTION HEARING.

Section 3142(f) of title 18, United States Code, is amended by inserting ''(not including any intermediate Saturday, Sunday, or legal holiday)'' after ''five days'' and after ''three days''.

SEC. 305. PROTECTION OF FEDERAL GOVERNMENT BUILDINGS IN THE DISTRICT OF COLUMBIA.

The Attorney General is authorized—

(1) to prohibit vehicles from parking or standing on any street or roadway adjacent to any building in the District of Columbia which is in whole or in part owned, possessed, used by, or leased to the Federal Government and used by Federal law enforcement authorities; and

(2) to prohibit any person or entity from conducting business on any property immediately adjacent to any such building.

SEC. 306. STUDY OF THEFTS FROM ARMORIES; REPORT TO THE CONGRESS.

(a) STUDY.—The Attorney General of the United States shall conduct a study of the extent of thefts from military arsenals (including National Guard armories) of firearms, explosives, and other materials that are potentially useful to terrorists.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report on the study required by subsection (a).

TITLE IV—NUCLEAR MATERIALS

SEC. 401. EXPANSION OF NUCLEAR MATERIALS PROHIBITIONS.

Section 831 of title 18, United States Code, is amended—

(1) in subsection (a), by striking ''nuclear material'' each place it appears and inserting ''nuclear material or nuclear byproduct material'';

(2) in subsection (a)(1)(A), by inserting ''or the environment'' after ''property'';

(3) so that subsection (a)(1)(B) reads as follows:

''(B)(i) circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property or the environment; or (ii) such circumstances are represented to the defendant to exist;'';

(4) in subsection (a)(6), by inserting ''or the environment'' after ''property'';

(5) so that subsection (c)(2) reads as follows:

''(2) an offender or a victim is a national of the United States or a United States corporation or other legal entity;'';

(6) in subsection (c)(3), by striking ''at the time of the offense the nuclear material is in

use, storage, or transport, for peaceful purposes, and'';

(7) by striking ''or'' at the end of subsection (c)(3);

(8) in subsection (c)(4), by striking ''nuclear material for peaceful purposes'' and inserting ''nuclear material or nuclear byproduct material'';

(9) by striking the period at the end of subsection (c)(4) and inserting ''; or'';

(10) by adding at the end of subsection (c) the following:

''(5) the governmental entity under subsection (a)(5) is the United States or the threat under subsection (a)(6) is directed at the United States.'';

(11) in subsection (f)(1)(A), by striking ''with an isotopic concentration not in excess of 80 percent plutonium 238'';

(12) in subsection (f)(1)(C) by inserting ''enriched uranium, defined as'' before ''uranium'';

(13) in subsection (f), by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(14) by inserting after subsection (f)(1) the following:

''(2) the term 'nuclear byproduct material' means any material containing any radioactive isotope created through an irradiation process in the operation of a nuclear reactor or accelerator;'';

(15) by striking ''and'' at the end of subsection (f)(4), as redesignated;

(16) by striking the period at the end of subsection (f)(5), as redesignated, and inserting a semicolon; and

(17) by adding at the end of subsection (f) the following:

''(6) the term 'national of the United States' has the meaning prescribed in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(7) the term 'United States corporation or other legal entity' means any corporation or other entity organized under the laws of the United States or any State, district, commonwealth, territory or possession of the United States.''.

TITLE V—CONVENTION ON THE MARKING OF PLASTIC EXPLOSIVES

SEC. 501. DEFINITIONS.

Section 841 of title 18, United States Code, is amended by adding at the end the following:

''(o) 'Convention on the Marking of Plastic Explosives' means the Convention on the Marking of Plastic Explosives for the Purpose of Detection, Done at Montreal on 1 March 1991.

''(p) 'Detection agent' means any one of the substances specified in this subsection when introduced into a plastic explosive or formulated in such explosive as a part of the manufacturing process in such a manner as to achieve homogeneous distribution in the finished explosive, including—

''(1) Ethylene glycol dinitrate (EGDN), $C_2H_4(NO_3)_2$, molecular weight 152, when the minimum concentration in the finished explosive is 0.2 percent by mass;

''(2) 2,3-Dimethyl-2,3-dinitrobutane (DMNB), $C_6H_{12}(NO_2)_2$, molecular weight 176, when the minimum concentration in the finished explosive is 0.1 percent by mass;

''(3) Para-Mononitrotoluene (p-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass;

''(4) Ortho-Mononitrotoluene (o-MNT), $C_7H_7NO_2$, molecular weight 137, when the minimum concentration in the finished explosive is 0.5 percent by mass; and

''(5) any other substance in the concentration specified by the Secretary, after consultation with the Secretary of State and the Secretary of Defense, which has been added to the table in part 2 of the Technical Annex to the Convention on the Marking of Plastic Explosives.

''(q) 'Plastic explosive' means an explosive material in flexible or elastic sheet form formulated with one or more high explosives which in their pure form have a vapor pressure less than 10^{-4} Pa at a temperature of 25°C., is formulated with a binder material, and is as a mixture malleable or flexible at normal room temperature.''.

SEC. 502. REQUIREMENT OF DETECTION AGENTS FOR PLASTIC EXPLOSIVES.

Section 842 of title 18, United States Code, is amended by adding at the end the following:

''(l) It shall be unlawful for any person to manufacture any plastic explosive which does not contain a detection agent.

''(m)(1) it shall be unlawful for any person to import or bring into the United States, or export from the United States, any plastic explosive which does not contain a detection agent.

''(2) Until the 15-year period that begins with the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the importation or bringing into the United States, or the exportation from the United States, of any plastic explosive which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing military or police functions (including any military Reserve component) or by or on behalf of the National Guard of any State.

''(n)(1) It shall be unlawful for any person to ship, transport, transfer, receive, or possess any plastic explosive which does not contain a detection agent.

''(2)(A) During the 3-year period that begins on the effective date of this subsection, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before such effective date by any person.

''(B) Until the 15-year period that begins on the date of entry into force of the Convention on the Marking of Plastic Explosives with respect to the United States has expired, paragraph (1) shall not apply to the shipment, transportation, transfer, receipt, or possession of any plastic explosive, which was imported, brought into, or manufactured in the United States before the effective date of this subsection by or on behalf of any agency of the United States performing a military or police function (including any military reserve component) or by or on behalf of the National Guard of any State.

''(o) It shall be unlawful for any person, other than an agency of the United States (including any military reserve component) or the National Guard of any State, possessing any plastic explosive on the effective date of this subsection, to fail to report to the Secretary within 120 days after the effective date of this subsection the quantity of such explosives possessed, the manufacturer or importer, any marks of identification on such explosives, and such other information as the Secretary may by regulations prescribe.''.

SEC. 503. CRIMINAL SANCTIONS.

Section 844(a) of title 18, United States Code, is amended to read as follows:

''(a) Any person who violates subsections (a) through (i) or (l) through (o) of section 842 of this title shall be fined under this title, imprisoned not more than 10 years, or both.''.

SEC. 504. EXCEPTIONS.

Section 845 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''(l), (m), (n), or (o) of section 842 and subsections'' after ''subsections'';

(2) in subsection (a)(1), by inserting ''and which pertains to safety'' before the semicolon; and

(3) by adding at the end the following:

''(c) It is an affirmative defense against any proceeding involving subsection (l), (m), (n), or (o) of section 842 of this title if the proponent proves by a preponderance of the evidence that the plastic explosive—

''(1) consisted of a small amount of plastic explosive intended for and utilized solely in lawful—

''(A) research, development, or testing of new or modified explosive materials;

''(B) training in explosives detection or development or testing of explosives detection equipment; or

''(C) forensic science purposes; or

''(2) was plastic explosive which, within 3 years after the effective date of this paragraph, will be or is incorporated in a military device within the territory of the United States and remains an integral part of such military device, or is intended to be, or is incorporated in, and remains an integral part of a military device that is intended to become, or has become, the property of any agency of the United States performing military or police functions (including any military reserve component) or the National Guard of any State, wherever such device is located. For purposes of this subsection, the term 'military device' includes shells, bombs, projectiles, mines, missiles, rockets, shaped charges, grenades, perforators, and similar devices lawfully manufactured exclusively for military or police purposes.''.

SEC. 505. EFFECTIVE DATE.

The amendments made by this title shall take effect 1 year after the date of the enactment of this Act.

TITLE VI—IMMIGRATION-RELATED PROVISIONS

Subtitle A—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

SEC. 601. FUNDING FOR DETENTION AND REMOVAL OF ALIEN TERRORISTS.

In addition to amounts otherwise appropriated, there are authorized to be appropriated for each fiscal year (beginning with fiscal year 1996) $5,000,000 to the Immigration and Naturalization Service for the purpose of detaining and removing alien terrorists.

PART 2—EXCLUSION AND DENIAL OF ASYLUM FOR ALIEN TERRORISTS

SEC. 611. DENIAL OF ASYLUM TO ALIEN TERRORISTS.

(a) IN GENERAL.—Section 208(a) of the Immigration and Nationality Act (8 U.S.C. 1158(a)) is amended by adding at the end the following: ''The Attorney General may not grant an alien asylum if the Attorney General determines that the alien is excludable under subclause (I), (II), or (III) of section 212(a)(3)(B)(i) or deportable under section 241(a)(4)(B).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and apply to asylum determinations made on or after such date.

SEC. 612. DENIAL OF OTHER RELIEF FOR ALIEN TERRORISTS.

(a) WITHHOLDING OF DEPORTATION.—Section 243(h)(2) of the Immigration and Nationality Act (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following new sentence: ''For purposes of subparagraph (D), an alien who is described in section 241(a)(4)(B) shall be considered to be an alien for whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(b) SUSPENSION OF DEPORTATION.—Section 244(a) of such Act (8 U.S.C. 1254(a)) is amended by striking ''section 241(a)(4)(D)'' and inserting ''subparagraph (B) or (D) of section 241(a)(4)''.

(c) VOLUNTARY DEPARTURE.—Section 244(e)(2) of such Act (8 U.S.C. 1254(e)(2)) is amended by inserting ''under section 241(a)(4)(B) or'' after ''who is deportable''.

(d) ADJUSTMENT OF STATUS.—Section 245(c) of such Act (8 U.S.C. 1255(c)) is amended—

(1) by striking ''or'' before ''(5)'', and

(2) by inserting before the period at the end the following: '', or (6) an alien who is deportable under section 241(a)(4)(B)''.

(e) REGISTRY.—Section 249(d) of such Act (8 U.S.C. 1259(d)) is amended by inserting ''and is

not deportable under section 241(a)(4)(B)'' after ''ineligible to citizenship''.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to applications filed before, on, or after such date if final action has not been taken on them before such date.

Subtitle B—Expedited Exclusion

SEC. 621. INSPECTION AND EXCLUSION BY IMMIGRATION OFFICERS.

(a) IN GENERAL.—Subsection (b) of section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) is amended to read as follows:

''(b)(1)(A) If the examining immigration officer determines that an alien seeking entry—

''(i) is excludable under section 212(a)(6)(C) or 212(a)(7), and

''(ii) does not indicate either an intention to apply for asylum under section 208 or a fear of persecution,

the officer shall order the alien excluded from the United States without further hearing or review.

''(B) The examining immigration officer shall refer for an interview by an asylum officer under subparagraph (C) any alien who is excludable under section 212(a)(6)(C) or 212(a)(7) and has indicated an intention to apply for asylum under section 208 or a fear of persecution.

''(C)(i) An asylum officer shall promptly conduct interviews of aliens referred under subparagraph (B).

''(ii) If the officer determines at the time of the interview that an alien has a credible fear of persecution (as defined in clause (v)), the alien shall be detained for an asylum hearing before an asylum officer under section 208.

''(iii)(I) Subject to subclause (II), if the officer determines that the alien does not have a credible fear of persecution, the officer shall order the alien excluded from the United States without further hearing or review.

''(II) The Attorney General shall promulgate regulations to provide for the immediate review by a supervisory asylum office at the port of entry of a determination under subclause (I).

''(iv) The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not delay the process.

''(v) For purposes of this subparagraph, the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.

''(D) As used in this paragraph, the term 'asylum officer' means an immigration officer who—

''(i) has had professional training in country conditions, asylum law, and interview techniques; and

''(ii) is supervised by an officer who meets the condition in clause (i).

''(E)(i) An exclusion order entered in accordance with subparagraph (A) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence.

''(ii) In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of exclusion entered under subparagraph (A).

''(2)(A) Except as provided in subparagraph (B), if the examining immigration officer determines that an alien seeking entry is not clearly and beyond a doubt entitled to enter, the alien shall be detained for a hearing before a special inquiry officer.

''(B) The provisions of subparagraph (A) shall not apply—

''(i) to an alien crewman,

''(ii) to an alien described in paragraph (1)(A) or (1)(C)(iii)(I), or

''(iii) if the conditions described in section 273(d) exist.

''(3) The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to enter is so challenged, before a special inquiry officer for a hearing on exclusion of the alien.''.

(b) CONFORMING AMENDMENT.—Section 237(a) of such Act (8 U.S.C. 1227(a)) is amended—

(1) in the second sentence of paragraph (1), by striking ''Deportation'' and inserting ''Subject to section 235(b)(1), deportation'', and

(2) in the first sentence of paragraph (2), by striking ''If'' and inserting ''Subject to section 235(b)(1), if''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 622. JUDICIAL REVIEW.

(a) PRECLUSION OF JUDICIAL REVIEW.—Section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a) is amended—

(1) by amending the section heading to read as follows:

''JUDICIAL REVIEW OF ORDERS OF DEPORTATION AND EXCLUSION, AND SPECIAL EXCLUSION''; and

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

''(e)(1) Notwithstanding any other provision of law, and except as provided in this subsection, no court shall have jurisdiction to review any individual determination, or to entertain any other cause or claim, arising from or relating to the implementation or operation of section 235(b)(1). Regardless of the nature of the action or claim, or the party or parties bringing the action, no court shall have jurisdiction or authority to enter declaratory, injunctive, or other equitable relief not specifically authorized in this subsection nor to certify a class under Rule 23 of the Federal Rules of Civil Procedure.

''(2) Judicial review of any cause, claim, or individual determination covered under paragraph (1) shall only be available in habeas corpus proceedings, and shall be limited to determinations of—

''(A) whether the petitioner is an alien, if the petitioner makes a showing that the petitioner's claim of United States nationality is not frivolous;

''(B) whether the petitioner was ordered specially excluded under section 235(b)(1)(A); and

''(C) whether the petitioner can prove by a preponderance of the evidence that the petitioner is an alien lawfully admitted for permanent residence and is entitled to such review as is provided by the Attorney General pursuant to section 235(b)(1)(E)(i).

''(3) In any case where the court determines that an alien was not ordered specially excluded, or was not properly subject to special exclusion under the regulations adopted by the Attorney General, the court may order no relief beyond requiring that the alien receive a hearing in accordance with section 236, or a determination in accordance with section 235(c) or 273(d).

''(4) In determining whether an alien has been ordered specially excluded, the court's inquiry shall be limited to whether such an order was in fact issued and whether it relates to the petitioner.''.

(b) PRECLUSION OF COLLATERAL ATTACKS.—Section 235 of such Act (8 U.S.C. 1225) is amended by adding at the end the following new subsection:

''(d) In any action brought for the assessment of penalties for improper entry or re-entry of an alien under section 275 or section 276, no court shall have jurisdiction to hear claims collaterally attacking the validity of orders of exclusion, special exclusion, or deportation entered under this section or sections 236 and 242.''.

(c) CLERICAL AMENDMENT.—The item relating to section 106 in the table of contents of such Act is amended to read as follows:

''Sec. 106. Judicial review of orders of deportation and exclusion, and special exclusion.''.

SEC. 623. EXCLUSION OF ALIENS WHO HAVE NOT BEEN INSPECTED AND ADMITTED.

(a) IN GENERAL.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

''(d) Notwithstanding any other provision of this title, an alien found in the United States who has not been admitted to the United States after inspection in accordance with section 235 is deemed for purposes of this Act to be seeking entry and admission to the United States and shall be subject to examination and exclusion by the Attorney General under chapter 4. In the case of such an alien the Attorney General shall provide by regulation an opportunity for the alien to establish that the alien was so admitted.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month beginning more than 90 days after the date of the enactment of this Act.

Subtitle C—Improved Information and Processing

PART 1—IMMIGRATION PROCEDURES

SEC. 631. ACCESS TO CERTAIN CONFIDENTIAL INS FILES THROUGH COURT ORDER.

(a) LEGALIZATION PROGRAM.—Section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)) is amended—

(1) by inserting ''(i)'' after ''except that the Attorney General'', and

(2) by inserting after ''title 13, United States Code'' the following: ''and (ii) may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used—

''(I) for identification of the alien when there is reason to believe that the alien has been killed or severely incapacitated; or

''(II) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the legalization application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant''.

(b) SPECIAL AGRICULTURAL WORKER PROGRAM.—Section 210(b) of such Act (8 U.S.C. 1160(b)) is amended—

(1) in paragraph (5), by inserting '', except as allowed by a court order issued pursuant to paragraph (6)'' after ''consent of the alien'', and

(2) in paragraph (6), by inserting after subparagraph (C) the following:

''Notwithstanding the previous sentence, the Attorney General may authorize an application to a Federal court of competent jurisdiction for, and a judge of such court may grant, an order authorizing disclosure of information contained in the application of the alien to be used (i) for identification of the alien when there is reason

to believe that the alien has been killed or severely incapacitated, or (ii) for criminal law enforcement purposes against the alien whose application is to be disclosed if the alleged criminal activity occurred after the special agricultural worker application was filed and such activity involves terrorist activity or poses either an immediate risk to life or to national security, or would be prosecutable as an aggravated felony, but without regard to the length of sentence that could be imposed on the applicant.''.

SEC. 632. WAIVER AUTHORITY CONCERNING NOTICE OF DENIAL OF APPLICATION FOR VISAS.

Section 212(b) of the Immigration and Nationality Act (8 U.S.C. 1182(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);

(2) by striking ''If'' and inserting ''(1) Subject to paragraph (2), if''; and

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

''(2) With respect to applications for visas, the Secretary of State may waive the application of paragraph (1) in the case of a particular alien or any class or classes of aliens excludable under subsection (a)(2) or (a)(3).''.

PART 2—ASSET FORFEITURE FOR PASSPORT AND VISA OFFENSES

SEC. 641. CRIMINAL FORFEITURE FOR PASSPORT AND VISA RELATED OFFENSES.

Section 982 of title 18, United States Code, is amended—

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

''(6) The court, in imposing sentence on a person convicted of a violation of, or conspiracy to violate, section 1541, 1542, 1543, 1544, or 1546 of this title, or a violation of, or conspiracy to violate, section 1028 of this title if committed in connection with passport or visa issuance or use, shall order that the person forfeit to the United States any property, real or personal, which the person used, or intended to be used, in committing, or facilitating the commission of, the violation, and any property constituting, or derived from, or traceable to, any proceeds the person obtained, directly or indirectly, as a result of such violation.''; and

(2) in subsection (b)(1)(B), by inserting ''or (a)(6)'' after ''(a)(2)''.

SEC. 642. SUBPOENAS FOR BANK RECORDS.

Section 986(a) of title 18, United States Code, is amended by inserting ''1028, 1541, 1542, 1543, 1544, 1546,'' before ''1956''.

SEC. 643. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect on the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

Subtitle D—Employee Verification by Security Services Companies

SEC. 651. PERMITTING SECURITY SERVICES COMPANIES TO REQUEST ADDITIONAL DOCUMENTATION.

(a) IN GENERAL.—Section 274B(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(6)) is amended—

(1) by striking ''For purposes'' and inserting ''(A) Except as provided in subparagraph (B), for purposes'', and

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

''(B) Subparagraph (A) shall not apply to a request made in connection with an individual seeking employment in a company (or division of a company) engaged in the business of providing security services to protect persons, institutions, buildings, or other possible targets of international terrorism (as defined in section 2331(1) of title 18, United States Code).''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for documents made on or after the date of the enactment of this Act with respect to individuals who are or were hired before, on, or after the date of the enactment of this Act.

Subtitle E—Criminal Alien Deportation Improvements

SEC. 661. SHORT TITLE.

This subtitle may be cited as the ''Criminal Alien Deportation Improvements Act of 1995''.

SEC. 662. ADDITIONAL EXPANSION OF DEFINITION OF AGGRAVATED FELONY.

(a) IN GENERAL.—Section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)), as amended by section 222 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416), is amended—

(1) in subparagraph (J), by inserting '', or an offense described in section 1084 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses),'' after ''corrupt organizations)'';

(2) in subparagraph (K)—

(A) by striking ''or'' at the end of clause (i),

(B) by redesignating clause (ii) as clause (iii), and

(C) by inserting after clause (i) the following new clause:

''(ii) is described in section 2421, 2422, or 2423 of title 18, United States Code (relating to transportation for the purpose of prostitution) for commercial advantage; or'';

(3) by amending subparagraph (N) to read as follows:

''(N) an offense described in paragraph (1)(A) or (2) of section 274(a) (relating to alien smuggling) for which the term of imprisonment imposed (regardless of any suspension of imprisonment) is at least 5 years;'';

(4) by amending subparagraph (O) to read as follows:

''(O) an offense (i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 18 months;''

(5) in subparagraph (P), by striking ''15 years'' and inserting ''5 years'', and by striking ''and'' at the end;

(6) by redesignating subparagraphs (O), (P), and (Q) as subparagraphs (P), (Q), and (U), respectively;

(7) by inserting after subparagraph (N) the following new subparagraph:

''(O) an offense described in section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph;''; and

(8) by inserting after subparagraph (Q), as so redesignated, the following new subparagraphs:

''(R) an offense relating to commercial bribery, counterfeiting, forgery, or trafficking in vehicles the identification numbers of which have been altered for which a sentence of 5 years' imprisonment or more may be imposed;

''(S) an offense relating to obstruction of justice, perjury or subornation of perjury, or bribery of a witness, for which a sentence of 5 years' imprisonment or more may be imposed;

''(T) an offense relating to a failure to appear before a court pursuant to a court order to answer to or dispose of a charge of a felony for which a sentence of 2 years' imprisonment or more may be imposed; and''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to convictions entered on or after the date of the enactment of this Act, except that the amendment made by subsection (a)(3) shall take effect as if included in the enactment of section 222 of the Immigration and Nationality Technical Corrections Act of 1994.

SEC. 663. DEPORTATION PROCEDURES FOR CERTAIN CRIMINAL ALIENS WHO ARE NOT PERMANENT RESIDENTS.

(a) ADMINISTRATIVE HEARINGS.—Section 242A(b) of the Immigration and Nationality Act (8 U.S.C. 1252a(b)), as added by section 130004(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended—

(1) in paragraph (2)—

(A) by striking ''and'' at the end of subparagraph (A) and inserting ''or'', and

(B) by amending subparagraph (B) to read as follows:

''(B) had permanent resident status on a conditional basis (as described in section 216) at the time that proceedings under this section commenced.'';

(2) in paragraph (3), by striking ''30 calendar days'' and inserting ''14 calendar days'';

(3) in paragraph (4)(B), by striking ''proccedings'' and inserting ''proceedings'';

(4) in paragraph (4)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(B) by adding after subparagraph (C) the following new subparagraphs:

''(D) such proceedings are conducted in, or translated for the alien into, a language the alien understands;

''(E) a determination is made for the record at such proceedings that the individual who appears to respond in such a proceeding is an alien subject to such an expedited proceeding under this section and is, in fact, the alien named in the notice for such proceeding;''.

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

''(5) No alien described in this section shall be eligible for any relief from deportation that the Attorney General may grant in the Attorney General's discretion.''.

(b) LIMIT ON JUDICIAL REVIEW.—Subsection (d) of section 106 of the Immigration and Nationality Act (8 U.S.C. 1105a), as added by section 130004(b) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), is amended to read as follows:

''(d) Notwithstanding subsection (c), a petition for review or for habeas corpus on behalf of an alien described in section 242A(c) may only challenge whether the alien is in fact an alien described in such section, and no court shall have jurisdiction to review any other issue.''.

(c) PRESUMPTION OF DEPORTABILITY.—Section 242A of the Immigration and Nationality Act (8 U.S.C. 1252a) is amended by inserting after subsection (b) the following new subsection:

''(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to all aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 664. RESTRICTING THE DEFENSE TO EXCLUSION BASED ON 7 YEARS PERMANENT RESIDENCE FOR CERTAIN CRIMINAL ALIENS.

The last sentence of section 212(c) of the Immigration and Nationality Act (8 U.S.C. 1182(c)) is amended by striking ''has served for such felony or felonies'' and all that follows through the period and inserting ''has been sentenced for such felony or felonies to a term of imprisonment of at least 5 years, if the time for appealing such conviction or sentence has expired and the sentence has become final.''.

SEC. 665. LIMITATION ON COLLATERAL ATTACKS ON UNDERLYING DEPORTATION ORDER.

(a) IN GENERAL.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) is amended by adding at the end the following new subsection:

''(c) In a criminal proceeding under this section, an alien may not challenge the validity of the deportation order described in subsection (a)(1) or subsection (b) unless the alien demonstrates that—

''(1) the alien exhausted any administrative remedies that may have been available to seek relief against the order;

''(2) the deportation proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to criminal proceedings initiated after the date of the enactment of this Act.

SEC. 666. CRIMINAL ALIEN IDENTIFICATION SYSTEM.

Section 130002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322) is amended to read as follows:

''(a) OPERATION AND PURPOSE.—The Commissioner of Immigration and Naturalization shall, under the authority of section 242(a)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a criminal alien identification system. The criminal alien identification system shall be used to assist Federal, State, and local law enforcement agencies in identifying and locating aliens who may be subject to deportation by reason of their conviction of aggravated felonies.''.

SEC. 667. ESTABLISHING CERTAIN ALIEN SMUGGLING-RELATED CRIMES AS RICO-PREDICATE OFFENSES.

Section 1961(1) of title 18, United States Code, is amended—

(1) by inserting ''section 1028 (relating to fraud and related activity in connection with identification documents) if the act indictable under section 1028 was committed for the purpose of financial gain,'' before ''section 1029'';

(2) by inserting ''section 1542 (relating to false statement in application and use of passport) if the act indictable under section 1542 was committed for the purpose of financial gain, section 1543 (relating to forgery or false use of passport) if the act indictable under section 1543 was committed for the purpose of financial gain, section 1544 (relating to misuse of passport) if the act indictable under section 1544 was committed for the purpose of financial gain, section 1546 (relating to fraud and misuse of visas, permits, and other documents) if the act indictable under section 1546 was committed for the purpose of financial gain, sections 1581–1588 (relating to peonage and slavery),'' after ''section 1513 (relating to retaliating against a witness, victim, or an informant),'';

(3) by striking ''or'' before ''(E)''; and

(4) by inserting before the period at the end the following: '', or (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain''.

SEC. 668. AUTHORITY FOR ALIEN SMUGGLING INVESTIGATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) by striking ''and'' at the end of paragraph (n),

(2) by redesignating paragraph (o) as paragraph (p), and

(3) by inserting after paragraph (n) the following new paragraph:

''(o) a felony violation of section 1028 (relating to production of false identification documents), section 1542 (relating to false statements in passport applications), section 1546 (relating to fraud and misuse of visas, permits, and other documents) of this title or a violation of section 274, 277, or 278 of the Immigration and Nationality Act (relating to the smuggling of aliens); or''.

SEC. 669. EXPANSION OF CRITERIA FOR DEPORTATION FOR CRIMES OF MORAL TURPITUDE.

(a) IN GENERAL.—Section 241(a)(2)(A)(i)(II) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2)(A)(i)(II)) is amended to read as follows:

''(II) is convicted of a crime for which a sentence of one year or longer may be imposed,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens against whom deportation proceedings are initiated after the date of the enactment of this Act.

SEC. 670. MISCELLANEOUS PROVISIONS.

(a) USE OF ELECTRONIC AND TELEPHONIC MEDIA IN DEPORTATION HEARINGS.—The second sentence of section 242(b) of the Immigration and Nationality Act (8 U.S.C. 1252(b)) is amended by inserting before the period the following: ''; except that nothing in this subsection shall preclude the Attorney General from authorizing proceedings by electronic or telephonic media (with the consent of the alien) or, where waived or agreed to by the parties, in the absence of the alien''.

(b) CODIFICATION.—

(1) Section 242(i) of such Act (8 U.S.C. 1252(i)) is amended by adding at the end the following: ''Nothing in this subsection shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.''.

(2) Section 225 of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416) is amended by striking ''and nothing in'' and all that follows through ''1252(i))''.

(3) The amendments made by this subsection shall take effect as if included in the enactment of the Immigration and Nationality Technical Corrections Act of 1994 (Public Law 103–416).

SEC. 671. CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS.

No amendment made by this Act shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

SEC. 672. STUDY OF PRISONER TRANSFER TREATY WITH MEXICO.

(a) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State and the Attorney General shall submit to the Congress a report that describes the use and effectiveness of the Prisoner Transfer Treaty with Mexico (in this section referred to as the ''Treaty'') to remove from the United States aliens who have been convicted of crimes in the United States.

(b) USE OF TREATY.—The report under subsection (a) shall include the following information:

(1) The number of aliens convicted of a criminal offense in the United States since November 30, 1977, who would have been or are eligible for transfer pursuant to the Treaty.

(2) The number of aliens described in paragraph (1) who have been transferred pursuant to the Treaty.

(3) The number of aliens described in paragraph (2) who have been incarcerated in full compliance with the Treaty.

(4) The number of aliens who are incarcerated in a penal institution in the United States who are eligible for transfer pursuant to the Treaty.

(5) The number of aliens described in paragraph (4) who are incarcerated in State and local penal institutions.

(c) EFFECTIVENESS OF TREATY.—The report under subsection (a) shall include the recommendations of the Secretary of State and the Attorney General to increase the effectiveness and use of, and full compliance with, the Treaty. In considering the recommendations under this subsection, the Secretary and the Attorney General shall consult with such State and local officials in areas disproportionately impacted by aliens convicted of criminal offenses as the Secretary and the Attorney General consider appropriate. Such recommendations shall address the following areas:

(1) Changes in Federal laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(2) Changes in State and local laws, regulations, and policies affecting the identification, prosecution, and deportation of aliens who have committed a criminal offense in the United States.

(3) Changes in the Treaty that may be necessary to increase the number of aliens convicted of crimes who may be transferred pursuant to the Treaty.

(4) Methods for preventing the unlawful reentry into the United States of aliens who have been convicted of criminal offenses in the United States and transferred pursuant to the Treaty.

(5) Any recommendations of appropriate officials of the Mexican Government on programs to achieve the goals of, and ensure full compliance with, the Treaty.

(6) An assessment of whether the recommendations under this subsection require the renegotiation of the Treaty.

(7) The additional funds required to implement each recommendation under this subsection.

SEC. 673. JUSTICE DEPARTMENT ASSISTANCE IN BRINGING TO JUSTICE ALIENS WHO FLEE PROSECUTION FOR CRIMES IN THE UNITED STATES.

(a) ASSISTANCE TO STATES.—The Attorney General, in cooperation with the Commissioner of Immigration and Naturalization and the Secretary of State, shall designate an office within the Department of Justice to provide technical and prosecutorial assistance to States and political subdivisions of States in efforts to bring to justice aliens who flee prosecution for crimes in the United States.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Attorney General shall compile and submit to the Congress a report which assesses the nature and extent of the problem of bringing to justice aliens who flee prosecution for crimes in the United States.

SEC. 674. PRISONER TRANSFER TREATIES.

(a) NEGOTIATION.—Congress advises the President to begin to negotiate and renegotiate, not later than 90 days after the date of the enactment of this Act, bilateral prisoner transfer treaties. The focus of such negotiations shall be to expedite the transfer of aliens unlawfully in the United States who are incarcerated in United States prisons, to ensure that a transferred prisoner serves the balance of the sentence imposed by the United States courts, and to eliminate any requirement of prisoner consent to such a transfer.

(b) CERTIFICATION.—The President shall submit to the Congress, annually, a certification as to whether each prisoner transfer treaty in force is effective in returning aliens unlawfully in the United States who have committed offenses for which they are incarcerated in the United States to their country of nationality for further incarceration.

SEC. 675. INTERIOR REPATRIATION PROGRAM.

Not later than 180 days after the date of enactment of this Act, the Attorney General and the Commissioner of Immigration and Naturalization shall develop and implement a program in which aliens who previously have illegally entered the United States not less than 3 times and are deported or returned to a country contiguous to the United States will be returned to locations not less than 500 kilometers from that country's border with the United States.

SEC. 676. DEPORTATION OF NONVIOLENT OFFENDERS PRIOR TO COMPLETION OF SENTENCE OF IMPRISONMENT.

(a) IN GENERAL.—Section 242(h) of the Immigration and Nationality Act (8 U.S.C. 1252(h)) is amended to read as follows:

''(h)(1) Except as provided in paragraph (2), an alien sentenced to imprisonment may not be deported until such imprisonment has been terminated by the release of the alien from confinement. Parole, supervised release, probation, or

possibility of rearrest or further confinement in respect of the same offense shall not be a ground for deferral of deportation.

''(2) The Attorney General is authorized to deport an alien in accordance with applicable procedures under this Act prior to the completion of a sentence of imprisonment—

''(A) in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), and (ii) such deportation of the alien is appropriate and in the best interest of the United States; or

''(B) in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (i) the alien is confined pursuant to a final conviction for a nonviolent offense (other than alien smuggling), (ii) such deportation is appropriate and in the best interest of the State, and (iii) submits a written request to the Attorney General that such alien be so deported.

''(3) Any alien deported pursuant to this subsection shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens deported under paragraph (2).''.

(b) REENTRY OF ALIEN DEPORTED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Section 276 of the Immigration and Nationality Act (8 U.S.C. 1326) amended by adding at the end the following new subsection:

''(c) Any alien deported pursuant to section 242(h)(2) who enters, attempts to enter, or is at any time found in, the United States (unless the Attorney General has expressly consented to such alien's reentry) shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release. Such alien shall be subject to such other penalties relating to the reentry of deported aliens as may be available under this section or any other provision of law.''.

SEC. 677. AUTHORIZING STATE AND LOCAL LAW ENFORCEMENT OFFICIALS TO ARREST AND DETAIN CERTAIN ILLEGAL ALIENS.

(a) IN GENERAL.—Notwithstanding any other provision of law, to the extent permitted by relevant State and local law, State and local law enforcement officials are authorized to arrest and detain an individual who—

(1) is an alien illegally present in the United States and

(2) has previously been convicted of a felony in the United States and deported or left the United States after such conviction,

but only after the State or local law enforcement officials obtain appropriate confirmation from the Immigration and Naturalization Service of the status of such individual and only for such period of time as may be required for the Service to take the individual into Federal custody for purposes of deporting or removing the alien from the United States.

(b) COOPERATION.—The Attorney General shall cooperate with the States to assure that information in the control of the Attorney General, including information in the National Crime Information Center, that would assist State and local law enforcement officials in carrying out duties under subsection (a) is made available to such officials.

TITLE VII—AUTHORIZATION AND FUNDING

SEC. 701. FIREFIGHTER AND EMERGENCY SERVICES TRAINING.

The Attorney General may award grants in consultation with the Federal Emergency Management Agency for the purposes of providing specialized training or equipment to enhance the capability of metropolitan fire and emergency service departments to respond to terrorist attacks. To carry out the purposes of this section, there is authorized to be appropriated $5,000,000 for fiscal year 1996.

SEC. 702. ASSISTANCE TO FOREIGN COUNTRIES TO PROCURE EXPLOSIVE DETECTION DEVICES AND OTHER COUNTER-TERRORISM TECHNOLOGY.

There is authorized to be appropriated not to exceed $10,000,000 for fiscal years 1996 and 1997 to the President to provide assistance to foreign countries facing an imminent danger of terrorist attack that threatens the national interest of the United States or puts United States nationals at risk—

(1) in obtaining explosive detection devices and other counter-terrorism technology; and

(2) in conducting research and development projects on such technology.

SEC. 703. RESEARCH AND DEVELOPMENT TO SUPPORT COUNTER-TERRORISM TECHNOLOGIES.

There are authorized to be appropriated not to exceed $10,000,000 to the National Institute of Justice Science and Technology Office—

(1) to develop technologies that can be used to combat terrorism, including technologies in the areas of—

(A) detection of weapons, explosives, chemicals, and persons;

(B) tracking;

(C) surveillance;

(D) vulnerability assessment; and

(E) information technologies;

(2) to develop standards to ensure the adequacy of products produced and compatibility with relevant national systems; and

(3) to identify and assess requirements for technologies to assist State and local law enforcement in the national program to combat terrorism.

SEC. 704. SENSE OF CONGRESS.

It is the sense of Congress that, whenever practicable recipients of any sums authorized to be appropriated by this Act, should use the money to purchase American-made products.

TITLE VIII—MISCELLANEOUS

SEC. 801. STUDY OF STATE LICENSING REQUIREMENTS FOR THE PURCHASE AND USE OF HIGH EXPLOSIVES.

The Secretary of the Treasury, in consultation with the Federal Bureau of Investigation, shall conduct a study of State licensing requirements for the purchase and use of commercial high explosives, including detonators, detonating cords, dynamite, water gel, emulsion, blasting agents, and boosters. Not later than 180 days after the date of the enactment of this Act, the Secretary shall report to Congress the results of this study, together with any recommendations the Secretary determines are appropriate.

SEC. 802. COMPENSATION OF VICTIMS OF TERRORISM.

(a) REQUIRING COMPENSATION FOR TERRORIST CRIMES.—Section 1403(d)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(3)) is amended—

(1) by inserting ''crimes involving terrorism,'' before ''driving while intoxicated''; and

(2) by inserting a comma after ''driving while intoxicated''.

(b) FOREIGN TERRORISM.—Section 1403(b)(6)(B) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(b)(6)(B)) is amended by inserting ''are outside the United States (if the compensable crime is terrorism, as defined in section 2331 of title 18, United States Code), or'' before ''are States not having''.

SEC. 803. JURISDICTION FOR LAWSUITS AGAINST TERRORIST STATES.

(a) EXCEPTION TO FOREIGN SOVEREIGN IMMUNITY FOR CERTAIN CASES.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''or'' at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting ''; or''; and

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

''(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

''(A) if the act occurred in the foreign state against which the claim has been brought and the claimant has not afforded the foreign state a reasonable opportunity to arbitrate the claim in accordance with accepted international rules of arbitration;

''(B) if the claimant or victim was not a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when the act upon which the claim is based occurred; or

''(C) if the act occurred in the foreign state against which the claim has been brought and that state establishes that procedures and remedies are available in such state which comport with fundamental fairness and due process.''; and

(2) by adding at the end the following:

''(e) For purposes of paragraph (7) of subsection (a)—

''(1) the terms 'torture' and 'extrajudicial killing' have the meaning given those terms in section 3 of the Torture Victim Protection Act of 1991;

''(2) the term 'hostage taking' has the meaning given that term in Article 1 of the International Convention Against the Taking of Hostages; and

''(3) the term 'aircraft sabotage' has the meaning given that term in Article 1 of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation.

''(f) No action shall be maintained under subsection (a)(7) unless the action is commenced not later than 10 years after the date on which the cause of action arose. All principles of equitable tolling, including the period during which the foreign state was immune from suit, shall apply in calculating this limitation period.''.

(b) EXCEPTION TO IMMUNITY FROM ATTACHMENT.—

(1) FOREIGN STATE.—Section 1610(a) of title 28, United States Code, is amended—

(A) by striking the period at the end of paragraph (6) and inserting ''; or''; and

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

''(7) the judgment relates to a claim for which the foreign state is not immune under section 1605(a)(7), regardless of whether the property is or was involved with the act upon which the claim is based.''.

(2) AGENCY OR INSTRUMENTALITY.—Section 1610(b)(2) of such title is amended—

(A) by striking ''or (5)'' and inserting ''(5), or (7)''; and

(B) by striking ''used for the activity'' and inserting ''involved in the act''.

(c) APPLICABILITY.—The amendments made by this title shall apply to any cause of action arising before, on, or after the date of the enactment of this Act.

SEC. 804. STUDY OF PUBLICLY AVAILABLE INSTRUCTIONAL MATERIAL ON THE MAKING OF BOMBS, DESTRUCTIVE DEVICES, AND WEAPONS OF MASS DESTRUCTION.

(a) STUDY.—The Attorney General, in consultation with such other officials and individuals as the Attorney General deems appropriate, shall conduct a study concerning—

(1) the extent to which there are available to the public material in any medium (including print, electronic, or film) that instructs how to make bombs, other destructive devices, and weapons of mass destruction;

(2) the extent to which information gained from such material has been used in incidents of domestic and international terrorism;

(3) the likelihood that such information may be used in future incidents of terrorism; and

(4) the application of existing Federal laws to such material, the need and utility, if any, for additional laws, and an assessment of the extent to which the First Amendment protects such material and its private and commercial distribution.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to the Congress a report that contains the results of the study required by this section. The Attorney General shall make the report available to the public.

SEC. 805. COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.

(a) FINDINGS.—Congress finds that—

(1) threats of violence and acts of violence are mounting against Federal, State, and local government employees and their families in attempts to stop public servants from performing their lawful duties;

(2) these acts are a danger to our constitutional form of government; and

(3) more information is needed as to the extent of the danger and its nature so that steps can be taken to protect public servants at all levels of government in the performance of their duties.

(b) STATISTICS.—The Attorney General shall acquire data, for the calendar year 1990 and each succeeding calendar year about crimes and incidents of threats of violence and acts of violence against Federal, State, and local government employees in performance of their lawful duties. Such data shall include—

(1) in the case of crimes against such employees, the nature of the crime; and

(2) in the case of incidents of threats of violence and acts of violence, including verbal and implicit threats against such employees, whether or not criminally punishable, which deter the employees from the performance of their jobs.

(c) GUIDELINES.—The Attorney General shall establish guidelines for the collection of such data, including what constitutes sufficient evidence of noncriminal incidents required to be reported.

(d) ANNUAL PUBLISHING.—The Attorney General shall publish an annual summary of the data acquired under this section. Otherwise such data shall be used only for research and statistical purposes.

(e) EXEMPTION.—The United States Secret Service is not required to participate in any statistical reporting activity under this section with respect to any direct or indirect threats made against any individual for whom the United States Secret Service is authorized to provide protection.

SEC. 806. VICTIM RESTITUTION ACT OF 1995.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''may order, in addition to or, in the case of a misdemeanor, in lieu of any other penalty authorized by law'' and inserting ''shall order''; and

(ii) by adding at the end the following: ''The requirement of this paragraph does not affect the power of the court to impose any other penalty authorized by law. In the case of a misdemeanor, the court may impose restitution in lieu of any other penalty authorized by law.'';

(B) by adding at the end the following:

''(4) In addition to ordering restitution to the victim of the offense of which a defendant is convicted, a court may order restitution to 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)(B) by striking ''impractical'' and inserting ''impracticable'';

(3) in subsection (b)(2) by inserting ''emotional or'' after ''resulting in'';

(4) in subsection (b)—

(A) by striking ''and'' at the end of paragraph (4);

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following new paragraph:

''(5) 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'';

(5) in subsection (c) by striking ''If the court decides to order restitution under this section, the'' and inserting ''The'';

(6) by striking subsections (d), (e), (f), (g), and (h);

(7) by redesignating subsection (i) as subsection (m); and

(8) by inserting after subsection (c) the following:

''(d)(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 restitution 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. A restitution order shall direct the offender to give appropriate notice to victims and other persons in cases where there are multiple victims or other persons who may receive restitution, and where the identity of such victims and other persons can be reasonably determined.

''(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.

''(e) 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.

''(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution to each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

''(g)(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 to 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.

''(h) 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; and

''(B) notify the court and the interested parties when an offender is 30 days in arrears in meeting those obligations; 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.

''(i) 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.

''(j) 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.

''(k) 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 of this title; or

''(B) in the same manner as a judgment in a civil action; and

''(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

''(l) 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 thereof 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.''.

SEC. 807. OVERSEAS LAW ENFORCEMENT TRAINING ACTIVITIES.

The Director of the Federal Bureau of Investigation is authorized to support law enforcement training activities in foreign countries for the purpose of improving the effectiveness of the United States in investigating and prosecuting transnational offenses.

SEC. 808. CLOSED CIRCUIT TELEVISED COURT PROCEEDINGS FOR VICTIMS OF CRIME.

(a) IN GENERAL.—Notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crime to watch criminal trial proceedings in cases where the venue of the trial is changed—

(1) out of the State in which the case was initially brought; and

(2) more than 350 miles from the location in which those proceedings originally would have taken place;

the courts involved shall, if donations under subsection (b) will defray the entire cost of doing so, order closed circuit televising of the proceedings to that location, for viewing by such persons the courts determine have a compelling interest in doing so and are otherwise unable to do so by reason of the inconvenience and expense caused by the change of venue.

(b) NO REBROADCAST.—No rebroadcast of the proceedings shall be made.

(c) LIMITED ACCESS.—

(1) GENERALLY.—No other person, other than official court and security personnel, or other persons specifically designated by the courts, shall be permitted to view the closed circuit televising of the proceedings.

(2) EXCEPTION.—The courts shall not designate a person under paragraph (1) if the presiding judge at the trial determines that testimony by that person would be materially affected if that person heard other testimony at the trial.

(d) DONATIONS.—The Administrative Office of the United States Courts may accept donations to enable the courts to carry out subsection (a). No appropriated money shall be used to carry out such subsection.

(e) DEFINITION.—As used in this section, the term ''State'' includes the District of Columbia and any other possession or territory of the United States.

SEC. 809. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for each of fiscal years 1996 through 2000 to the Federal Bureau of Investigation such sums as are necessary—

(1) to hire additional personnel, and to procure equipment, to support expanded investigations of domestic and international terrorism activities;

(2) to establish a Domestic Counterterrorism Center to coordinate and centralize Federal, State, and local law enforcement efforts in response to major terrorist incidents, and as a clearinghouse for all domestic and international terrorism information and intelligence; and

(3) to cover costs associated with providing law enforcement coverage of public events offering the potential of being targeted by domestic or international terrorists.

TITLE IX—HABEAS CORPUS REFORM

SEC. 901. FILING DEADLINES.

Section 2244 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(d)(1) A 1-year period of limitation shall apply to an application for a write 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—

''(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

''(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such State action;

''(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

''(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim shall not be counted toward any period of limitation under this subsection.''.

SEC. 902. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

''§ 2253. Appeal

''(a) In a habeas corpus proceeding or a proceeding under section 2255 before a district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit in which the proceeding is held.

''(b) There shall be no right of appeal from a final 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 such person's detention pending removal proceedings.

''(c)(1) Unless a circuit justice or judge issues a certificate of appealability, an appeal may not be taken to the court of appeals from—

''(A) the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court; or

''(B) the final order in a proceeding under section 2255.

''(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

''(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).''.

SEC. 903. 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 THE ORIGINAL WRIT.—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 shall 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 shall not be permitted. The applicant may, pursuant to section 2253 of title 28, United States Code, appeal to the appropriate court of appeals from the order of the district court denying the writ.

''(b) CERTIFICATE OF APPEALABILITY.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, an appeal by the applicant for the writ may not proceed unless a district or a circuit judge issues a certificate of appealability pursuant to section 2253(c) of title 28, United States Code. If an appeal is taken by the applicant, the district judge who rendered the judgment shall either issue a certificate of appealability or state the reasons why such a certificate should not issue. The certificate or the statement shall be forwarded to the court of appeals with the notice of appeal and the file of the proceedings in the district court. If the district judge has denied the certificate, the applicant for the writ may then request issuance of the certificate by a circuit judge. If such a request 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 its representative, a certificate of appealability is not required.''.

SEC. 904. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended—

(1) by amending subsection (b) to read as follows:

''(b)(1) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that—

''(A) the applicant has exhausted the remedies available in the courts of the State; or

''(B)(i) there is an absence of available State corrective process; or

''(ii) circumstances exist that render such process ineffective to protect the rights of the applicant.

''(2) An application for a writ of habeas corpus may be denied on the merits, notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.

''(3) A State shall not be deemed to have waived the exhaustion requirement or be estopped from reliance upon the requirement unless the State, through counsel, expressly waives the requirement.'';

(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 on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in State court proceedings unless the adjudication of the claim—

''(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

''(2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.'';

(4) by amending subsection (e), as redesignated by paragraph (2), to read as follows:

''(e)(1) 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 determination of a factual issue made

by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting the presumption of correctness by clear and convincing evidence.

''(2) If the applicant has failed to develop the factual basis of a claim in State court proceedings, the court shall not hold an evidentiary hearing on the claim unless the applicant shows that—

''(A) the claim relies on—

''(i) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(ii) a factual predicate that could not have been previously discovered through the exercise of due diligence; and

''(B) the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.''; and

(5) by adding at the end the following new subsections:

''(h) Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint counsel for an applicant who is or becomes financially unable to afford counsel, 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.

''(i) The ineffectiveness or incompetence of counsel during Federal or State collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under section 2254.''.

SEC. 905. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended—

(1) by striking the second and fifth undesignated paragraphs; and

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

''A 1-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of—

''(1) the date on which the judgment of conviction becomes final;

''(2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making a motion by such governmental action;

''(3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

''(4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

''Except as provided in section 408 of the Controlled Substances Act, in all proceedings brought under this section, and any subsequent proceedings on review, the court may appoint 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.

''A second or successive motion must be certified as provided in section 2244 by a panel of the appropriate court of appeals to contain—

''(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

''(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.''.

SEC. 906. LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.

(a) CONFORMING AMENDMENT TO SECTION 2244(a).—Section 2244(a) of title 28, United States Code, is amended by striking ''and the petition'' and all that follows through ''by such inquiry.'' and inserting '', except as provided in section 2255.''.

(b) LIMITS ON SECOND OR SUCCESSIVE APPLICATIONS.—Section 2244(b) of title 28, United States Code, is amended to read as follows:

''(b)(1) A claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed.

''(2) A claim presented in a second or successive habeas corpus application under section 2254 that was not presented in a prior application shall be dismissed unless—

''(A) the applicant shows that the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

''(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and

''(ii) the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

''(3)(A) Before a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.

''(B) A motion in the court of appeals for an order authorizing the district court to consider a second or successive application shall be determined by a three-judge panel of the court of appeals.

''(C) The court of appeals may authorize the filing of a second or successive application only if it determines that the application makes a prima facie showing that the application satisfies the requirements of this subsection.

''(D) The court of appeals shall grant or deny the authorization to file a second or successive application not later than 30 days after the filing of the motion.

''(E) The grant or denial of an authorization by a court of appeals to file a second or successive application shall not be appealable and shall not be the subject of a petition for rehearing or for a writ of certiorari.

''(4) A district court shall dismiss any claim presented in a second or successive application that the court of appeals has authorized to be filed unless the applicant shows that the claim satisfies the requirements of this section.''.

SEC. 907. 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.
''2261. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
''2262. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
''2263. Filing of habeas corpus application; time requirements; tolling rules.
''2264. Scope of Federal review; district court adjudications.
''2265. Application to State unitary review procedure.
''2266. Limitation periods for determining applications and motions.

''§ 2261. 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 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) This chapter is applicable if a State establishes by statute, rule of its court of last resort, or by another agency authorized by State law, 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 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) 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 counsels 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) 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 post-conviction 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 post-conviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

''§ 2262. 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 under section 2261(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 shall 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 application under section 2254 within the time required in section 2263;

''(2) before a court of competent jurisdiction, in the presence of counsel, unless the prisoner has competently and knowingly waived such counsel, and after having been advised of the consequences, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254; or

''(3) a State prisoner files a habeas corpus petition under section 2254 within the time required by section 2263 and fails to make a substantial showing of the denial of a Federal right

or is denied relief in the district court or at any subsequent stage of review.

''(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 in the case, unless the court of appeals approves the filing of a second or successive application under section 2244(b).

''§ 2263. Filing of habeas corpus application; time requirements; tolling rules

''(a) Any application under this chapter for habeas corpus relief under section 2254 must be filed in the appropriate district court not later than 180 days after final State court affirmance of the conviction and sentence on direct review or the expiration of the time for seeking such review.

''(b) The time requirements established by subsection (a) 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) from the date on which the first petition for post-conviction review or other collateral relief is filed until the final State court disposition of such petition; and

''(3) during an additional period not to exceed 30 days, if—

''(A) a motion for an extension of time is filed in the Federal district court that would have jurisdiction over the case upon the filing of a habeas corpus application under section 2254; and

''(B) a showing of good cause is made for the failure to file the habeas corpus application within the time period established by this section.

''§ 2264. Scope of Federal review; district court adjudications

''(a) Whenever a State prisoner under capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall only consider a claim or claims that have been raised and decided on the merits in the State courts, unless the failure to raise the claim properly is—

''(1) the result of State action in violation of the Constitution or laws of the United States;

''(2) the result of the Supreme Court recognition of a new Federal right that is made retroactively applicable; or

''(3) based on a factual predicate that could not have been discovered through the exercise of due diligence in time to present the claim for State or Federal post-conviction review.

''(b) Following review subject to subsections (a), (d), and (e) of section 2254, the court shall rule on the claims properly before it.

''§ 2265. Application to State unitary review procedure

''(a) For purposes of this section, a '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) To qualify under this section, a unitary review procedure 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 2261(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) Sections 2262, 2263, 2264, and 2266 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 such sections shall be understood as referring to unitary review under the State procedure. The reference in section 2262(a) to 'an order under section 2261(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, then the start of the 180-day limitation period under section 2263 shall be deferred until a transcript is made available to the prisoner or counsel of the prisoner.

''§ 2266. Limitation periods for determining applications and motions

''(a) The adjudication of any application 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.

''(b)(1)(A) A district court shall render a final determination and enter a final judgment on any application for a writ of habeas corpus brought under this chapter in a capital case not later than 180 days after the date on which the application is filed.

''(B) A district court shall afford the parties at least 120 days in which to complete all actions, including the preparation of all pleadings and briefs, and if necessary, a hearing, prior to the submission of the case for decision.

''(C)(i) A district court may delay for not more than one additional 30-day period beyond the period specified in subparagraph (A), the rendering of a determination of an application for a writ of habeas corpus if the court issues a written order making a finding, and stating the reasons for the finding, that the ends of justice that would be served by allowing the delay outweigh the best interests of the public and the applicant in a speedy disposition of the application.

''(ii) The factors, among others, that a court shall consider in determining whether a delay in the disposition of an application is warranted are as follows:

''(I) Whether the failure to allow the delay would be likely to result in a miscarriage of justice.

''(II) Whether the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate briefing within the time limitations established by subparagraph (A).

''(III) Whether the failure to allow a delay in a case, that, taken as a whole, is not so unusual or so complex as described in subclause (II), but would otherwise deny the applicant reasonable time to obtain counsel, would unreasonably deny the applicant or the government continuity of counsel, or would deny counsel for the applicant or the government the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

''(iii) No delay in disposition shall be permissible because of general congestion of the court's calendar.

''(iv) The court shall transmit a copy of any order issued under clause (i) to the Director of the Administrative Office of the United States Courts for inclusion in the report under paragraph (5).

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus following a remand by the court of appeals or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3)(A) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(B) No amendment to an application for a writ of habeas corpus under this chapter shall be permitted after the filing of the answer to the application, except on the grounds specified in section 2244(b).

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by petitioning for a writ of mandamus to the court of appeals. The court of appeals shall act on the petition for a writ or mandamus not later than 30 days after the filing of the petition.

''(5)(A) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the district courts with the time limitations under this section.

''(B) The report described in subparagraph (A) shall include copies of the orders submitted by the district courts under paragraph (1)(B)(iv).

''(c)(1)(A) A court of appeals shall hear and render a final determination of any appeal of an order granting or denying, in whole or in part, an application brought under this chapter in a capital case not later than 120 days after the date on which the reply brief is filed, or if no reply brief is filed, not later than 120 days after the date on which the answering brief is filed.

''(B)(i) A court of appeals shall decide whether to grant a petition for rehearing or other request for rehearing en banc not later than 30 days after the date on which the petition for rehearing is filed unless a responsive pleading is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the responsive pleading is filed.

''(ii) If a petition for rehearing or rehearing en banc is granted, the court of appeals shall hear and render a final determination of the appeal not later than 120 days after the date on which the order granting rehearing or rehearing en banc is entered.

''(2) The time limitations under paragraph (1) shall apply to—

''(A) an initial application for a writ of habeas corpus;

''(B) any second or successive application for a writ of habeas corpus; and

''(C) any redetermination of an application for a writ of habeas corpus or related appeal following a remand by the court of appeals en banc or the Supreme Court for further proceedings, in which case the limitation period shall run from the date the remand is ordered.

''(3) The time limitations under this section shall not be construed to entitle an applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.

''(4)(A) The failure of a court to meet or comply with a time limitation under this section shall not be a ground for granting relief from a judgment of conviction or sentence.

''(B) The State may enforce a time limitation under this section by applying for a writ of mandamus to the Supreme Court.

''(5) The Administrative Office of United States Courts shall submit to Congress an annual report on the compliance by the courts of appeals with the time limitations under this section.''.

(b) TECHNICAL AMENDMENT.—The table of chapters at the beginning of part VI 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 ..... 2261''.

(c) EFFECTIVE DATE.—Chapter 154 of title 28, United States Code (as added by subsection (a)) shall apply to cases pending on or after the date of enactment of this Act.

SEC. 908. TECHNICAL AMENDMENT.

Section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) is amended by amending paragraph (9) to read as follows:

''(9) Upon a finding that investigative, expert, or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or the sentence, the court may authorize the defendant's attorneys to obtain such services on behalf of the defendant and, if so authorized, shall order the payment of fees and expenses therefor under paragraph (10). No ex parte proceeding, communication, or request may be considered pursuant to this section unless a proper showing is made concerning the need for confidentiality. Any such proceeding, communication, or request shall be transcribed and made a part of the record available for appellate review.''.

SEC. 909. SEVERABILITY.

If any provision of this title, an amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any person or circumstances shall not be affected thereby.

TITLE X—INTERNATIONAL COUNTERFEITING

SEC. 1001. SHORT TITLE.

This title may be cited as the ''International Counterfeiting Prevention Act of 1996''.

SEC. 1002. AUDITS OF INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter in this section referred to as the ''Secretary''), in consultation with the advanced counterfeit deterrence steering committee, shall—

(1) study the use and holding of United States currency in foreign countries; and

(2) develop useful estimates of the amount of counterfeit United States currency that circulates outside the United States each year.

(b) EVALUATION AUDIT PLAN.—

(1) IN GENERAL.—The Secretary shall develop an effective international evaluation audit plan that is designed to enable the Secretary to carry out the duties described in subsection (a) on a regular and thorough basis.

(2) SUBMISSION OF DETAILED WRITTEN SUMMARY.—The Secretary shall submit a detailed written summary of the evaluation audit plan developed pursuant to paragraph (1) to the Congress before the end of the 6-month period beginning on the date of the enactment of this Act.

(3) 1ST EVALUATION AUDIT UNDER PLAN.—The Secretary shall begin the first evaluation audit pursuant to the evaluation audit plan no later than the end of the 1-year period beginning on the date of the enactment of this Act.

(4) SUBSEQUENT EVALUATION AUDITS.—At least 1 evaluation audit shall be performed pursuant to the evaluation audit plan during each 3-year period beginning after the date of the commencement of the evaluation audit referred to in paragraph (3).

(c) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the results of each evaluation audit conducted pursuant to subsection (b) within 90 days after the completion of the evaluation audit.

(2) CONTENTS.—In addition to such other information as the Secretary may determine to be appropriate, each report submitted to the Congress pursuant to paragraph (1) shall include the following information:

(A) A detailed description of the evaluation audit process and the methods used to develop estimates of the amount of counterfeit United States currency in circulation outside the United States.

(B) The method used to determine the currency sample examined in connection with the evaluation audit and a statistical analysis of the sample examined.

(C) A list of the regions of the world, types of financial institutions, and other entities included.

(D) An estimate of the total amount of United States currency found in each region of the world.

(E) The total amount of counterfeit United States currency and the total quantity of each counterfeit denomination found in each region of the world.

(3) CLASSIFICATION OF INFORMATION.—

(A) IN GENERAL.—To the greatest extent possible, each report submitted to the Congress under this subsection shall be submitted in an unclassified form.

(B) CLASSIFIED AND UNCLASSIFIED FORMS.—If, in the interest of submitting a complete report under this subsection, the Secretary determines that it is necessary to include classified information in the report, the report shall be submitted in a classified and an unclassified form.

(d) SUNSET PROVISION.—This section shall cease to be effective as of the end of the 10-year period beginning on the date of the enactment of this Act.

(e) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing any entity to conduct investigations of counterfeit United States currency.

SEC. 1003. LAW ENFORCEMENT AND SENTENCING PROVISIONS RELATING TO INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.

(a) FINDINGS.—The Congress hereby finds the following:

(1) United States currency is being counterfeited outside the United States.

(2) The 103d Congress enacted, with the approval of the President on September 13, 1994, section 470 of title 18, United States Code, making such activity a crime under the laws of the United States.

(3) The expeditious posting of agents of the United States Secret Service to overseas posts, which is necessary for the effective enforcement of section 470 and related criminal provisions, has been delayed.

(4) While section 470 of title 18, United States Code, provides for a maximum term of imprisonment of 20 years as opposed to a maximum term of 15 years for domestic counterfeiting, the United States Sentencing Commission has failed to provide, in its sentencing guidelines, for an appropriate enhancement of punishment for defendants convicted of counterfeiting United States currency outside the United States.

(b) TIMELY CONSIDERATION OF REQUESTS FOR CONCURRENCE IN CREATION OF OVERSEAS POSTS.—

(1) IN GENERAL.—The Secretary of State shall—

(A) consider in a timely manner the request by the Secretary of the Treasury for the placement of such number of agents of the United States Secret Service as the Secretary of the Treasury considers appropriate in posts in overseas embassies; and

(B) reach an agreement with the Secretary of the Treasury on such posts as soon as possible and, in any event, not later than December 31, 1996.

(2) COOPERATION OF TREASURY REQUIRED.—The Secretary of the Treasury shall promptly provide any information requested by the Secretary of State in connection with such requests.

(3) REPORTS REQUIRED.—The Secretary of the Treasury and the Secretary of State shall each submit, by February 1, 1997, a written report to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate explaining the reasons for the rejection, if any, of any proposed post and the reasons for the failure, if any, to fill any approved post by such date.

(c) ENHANCED PENALTIES FOR INTERNATIONAL COUNTERFEITING OF UNITED STATES CURRENCY.—Pursuant to the authority of the United States Sentencing Commission under section 994 of title 28, United States Code, the Commission shall amend the sentencing guidelines prescribed by the Commission to provide an appropriate enhancement of the punishment for a defendant convicted under section 470 of title 18 of such Code.

TITLE XI—BIOLOGICAL WEAPONS RESTRICTIONS

SEC. 1101. SHORT TITLE.

This Act may be cited as the ''Biological Weapons Enhanced Penalties Act of 1996.''.

SEC. 1102. ATTEMPTS TO ACQUIRE UNDER FALSE PRETENSES.

Section 175(a) of title 18, United States Code, is amended by inserting ''attempts to acquire under false pretenses, after ''acquires,''.

SEC. 1103. INCLUSION OF RECOMBINANT MOLECULES.

Section 175 of title 18, United States Code, is amended by inserting ''recombinant molecules,'' after ''toxin,'' each place it appears.

SEC. 1104. DEFINITIONS.

Section 173 of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting ''or naturally occurring or bioengineered component of any such microorganism, virus, or infectious substance,'' after ''infectious substance'';

(2) in paragraph (2)—

(A) by inserting ''the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances'' after ''means''; and

(B) by inserting '', and includes'' after ''production'';

(3) in paragraph (4), by inserting ''or a molecule, including a recombinant molecule,'' after ''organism''.

SEC. 1105. THREATENING USE OF CERTAIN WEAPONS.

Section 2332a of title 18, United States Code, is amended by inserting '', threatens,'' after ''uses, or''.

SEC. 1106. INCLUSION OF RECOMBINANT MOLECULES AND BIOLOGICAL ORGANISMS IN DEFINITION.

Section 2332a(b)(2)(C) of title 18, United States Code, is amended by striking ''disease organism'' and inserting ''biological agent or toxin, as those terms are defined in section 178''.

TITLE XII—COMMISSION ON THE ADVANCEMENT OF FEDERAL LAW ENFORCEMENT

SEC. 1201. ESTABLISHMENT.

There is established a commission to be known as the ''Commission on the Advancement of Federal Law Enforcement'' (in this title referred to as the ''Commission'').

SEC. 1202. DUTIES.

The Commission shall investigate, ascertain, evaluate, report, and recommend action to the Congress on the following matters:

(1) In general, the manner in which significant Federal criminal law enforcement operations are conceived, planned, coordinated, and executed.

(2) The standards and procedures used by Federal law enforcement to carry out significant Federal criminal law enforcement operations, and their uniformity and compatibility on an interagency basis, including standards related to the use of deadly force.

(3) The criminal investigation and handling by the United States Government, and the Federal law enforcement agencies therewith—

(A) on February 28, 1993, in Waco, Texas, with regard to the conception, planning, and execution of search and arrest warrants that resulted in the deaths of 4 Federal law enforcement officers and 6 civilians;

(B) regarding the efforts to resolve the subsequent standoff in Waco, Texas, which ended in the deaths of over 80 civilians on April 19, 1993; and

(C) concerning other Federal criminal law enforcement cases, at the Commission's discretion, which have been presented to the courts or to the executive branch of Government in the last 25 years that are actions or complaints based upon claims of abuse of authority, practice, procedure, or violations of constitutional guarantees, and which may indicate a pattern or problem of abuse within an enforcement agency or a sector of the enforcement community.

(4) The necessity for the present number of Federal law enforcement agencies and units.

(5) The location and efficacy of the office or entity directly responsible, aside from the President of the United States, for the coordination on an interagency basis of the operations, programs, and activities of all of the Federal law enforcement agencies.

(6) The degree of assistance, training, education, and other human resource management assets devoted to increasing professionalism for Federal law enforcement officers.

(7) The independent accountability mechanisms that exist, if any, and their efficacy to investigate, address, and correct systemic or gross individual Federal law enforcement abuses.

(8) The extent to which Federal law enforcement agencies have attempted to pursue community outreach efforts that provide meaningful input into the shaping and formation of agency policy, including seeking and working with State and local law enforcement agencies on Federal criminal enforcement operations or programs that directly impact a State or local law enforcement agency's geographic jurisdiction.

(9) Such other related matters as the Commission deems appropriate.

SEC. 1203. MEMBERSHIP AND ADMINISTRATIVE PROVISIONS.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 5 members appointed as follows:

(1) 1 member appointed by the President pro tempore of the Senate.

(2) 1 member appointed by the minority leader of the Senate.

(3) 1 member appointed by the Speaker of the House of Representatives.

(4) 1 member appointed by the minority leader of the House of Representatives.

(5) 1 member (who shall chair the Commission) appointed by the Chief Justice of the Supreme Court.

(b) DISQUALIFICATION.—A person who is an officer or employee of the United States shall not be appointed a member of the Commission.

(c) TERMS.—Each member shall be appointed for the life of the Commission.

(d) QUORUM.—3 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(e) MEETINGS.—The Commission shall meet at the call of the Chair of the Commission.

(f) COMPENSATION.—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 the member is engaged in the performance of the duties of the Commission.

SEC. 1204. STAFFING AND SUPPORT FUNCTIONS.

(a) DIRECTOR.—The Commission shall have a director who shall be appointed by the Chair of the Commission.

(b) STAFF.—Subject to rules prescribed by the Commission, the Director may appoint additional personnel as the Commission considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(d) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed per day the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

SEC. 1205. POWERS.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purposes of carrying out this Act, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it. The Commission may establish rules for its proceedings.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this title. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this title.

(e) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence relating to any matter under investigation by the Commission. The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) FAILURE TO OBEY SUBPOENA.—If a person refuses to obey a subpoena issued under paragraph (1), the Commission may apply to the United States district court for an order requiring that person to appear before the Commission to give testimony, produce evidence, or both, relating to the matter under investigation. The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business. Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (2) may be served in the judicial district in which the person required to be served resides or may be found.

(f) IMMUNITY.—The Commission is an agency of the United States for the purpose of part V of title 18, United States Code (relating to immunity of witnesses).

SEC. 1206. REPORT.

The Commission shall transmit a report to the Congress and the public not later than 2 years after a quorum of the Commission has been appointed. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with the Commission's recommendations for such actions as the Commission considers appropriate.

SEC. 1207. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by this title.

TITLE XIII—REPRESENTATION FEES

SEC. 1301. REPRESENTATION FEES IN CRIMINAL CASES.

(a) IN GENERAL.—Section 3006A of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) by redesignating paragraphs (4), (5) and (6) as paragraphs (5), (6), and (7), respectively; and

(B) by inserting after paragraph (3) the following:

''(4) DISCLOSURE OF FEES.—The amounts paid under this subsection, for representation in any case, shall be made available to the public.''; and

(2) in subsection (3) by adding at the end of the following:

''(4) DISCLOSURE OF FEES.—The amounts paid under this subsection for services in any case shall be made available to the public.''.

(b) FEES AND EXPENSES AND CAPITAL CASES.—Section 408(q)(10) of the Controlled Substances Act (21 U.S.C. 848(q)(10)) is amended to read as follows:

''(10)(A) Compensation shall be paid to attorneys appointed under this subsection at a rate of not less than $75, and not more than $125, per hour for in-court and out-of-court time, Fees and expenses shall be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9) at the rates and in the amounts authorized under section 3006A of title 18, United States Code.

''(B) The amounts paid under this paragraph for services in any case shall be made available to the public.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to cases commenced on or after the date of the enactment of this Act.

TITLE XIV—DEATH PENALTY AGGRAVATING FACTOR

SEC. 1401. DEATH PENALTY AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by adding after paragraph (15) the following:

''(16) MULTIPLE KILLINGS OR ATTEMPTED KILLINGS.—The defendant intentionally kills or attempts to kill more than one person in a single criminal episode.''.

TITLE XV—FINANCIAL TRANSACTIONS WITH TERRORISTS

SEC. 1501. FINANCIAL TRANSACTIONS WITH TERRORISTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting before section 2333 the following:

''§ 2332c. Financial transactions

''(a) Except as provided in regulations made by the Secretary of State, whoever, being a United States person, knowing or having reasonable cause to know that a country is a country that has been designated under section 6(j) of the Export Administration Act (50 U.S.C.

App. 2405) as a country supporting international terrorism; engages in a financial transaction with that country, shall be fined under this title or imprisoned not more than 10 years, or both.

''(b) As used in this section—

''(1) the term 'financial transaction' has the meaning given that term in section 1956(c)(4); and

''(2) the term 'United States person' means any United States citizen or national, permanent resident alien, juridical person organized under the laws of the United States, or any person in the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter of title 18, United States Code, to which the amendment of subsection (a) was made is amended by inserting before the item relating to section 2333 the following new item:

''2332c. Financial transactions.''.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: ''A bill to combat terrorism.''

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2703) was laid on the table.

□ 1500

APPOINTMENT OF CONFEREES

Mr. HYDE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HYDE moves that the House insist on its amendments to S. 735 and request a conference with the Senate thereon.

The motion was agreed to

The SPEAKER pro tempore (Mr. HOBSON). Without objection, the Chair appoints the following conferees: Messrs. HYDE, MCCOLLUM, SCHIFF, BUYER, BARR, CONYERS, SCHUMER, and BERMAN.

There was no objection.

PERSONAL EXPLANATION

Mr. STOCKMAN. Mr. Speaker, on Tuesday, March 12, I was unavoidably detained from the House floor due to the Texas primaries. Had I been present, I would have voted on the following bills: On rollcall vote No. 56, ''aye''; on rollcall vote No. 57, ''aye''; on rollcall vote No. 58, ''aye''; and on rollcall vote No. 59, ''aye.''

APPOINTMENT OF CONFERREES ON H.R. 2854, AGRICULTURAL MARKET TRANSITION ACT

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2854) to modify the operation of certain agricultural programs, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

Mr. VOLKMER. Reserving the right to object, Mr. Speaker, and I do not plan to object, but I think we should alert the House that immediately after the Chair puts the motion, that the gentleman from Minnesota will be offering a motion to instruct the conferees, and we will have a very short debate on that.

We will be having a vote on that, so I want to alert the Members. There should be a vote on this motion to instruct within the next 10 to 15 minutes. That should be the last vote, as I understand it.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. PETERSON OF MINNESOTA

Mr. PETERSON of Minnesota. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PETERSON of Minnesota moves that the House conferees on H.R. 2854, the Agricultural Market Transition Act, be instructed to insist on the House language regarding program extension of Conservation Reserve Program through the year 2002.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. PETERSON] and the gentleman from Kansas [Mr. ROBERTS] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very important issue that we dealt with in the committee, and also on the floor of the House. It has to do with the conservation reserve program, which has been a tremendous success in this country. We in this bill have come to a compromise between myself, the gentleman from New York [Mr. BOEHLERT], and the gentleman from Nebraska [Mr. BARRETT]. There were some differences of opinion, but we did come together on what we think is the best language, and we want to make sure that the Senate understands that the House has the best language in this area.

What we do, Mr. Speaker, is we cap the program at 36.4 million acres, we repeal the fiscal 1996 appropriation bill prohibition against new enrollments. We do provide for an early out option that has been sought by some people. What we do is we limit it to land that has been in the program for 5 years, that has to have an erodability index of less than 15, and then it will allow these people to opt out of the program with 60 days' notice.

There is another provision in here that was sought by some which would say that the conservation reserve contracts cannot exceed the average market rank for comparable land in that particular area.

Mr. Speaker, there have been some that have tried to put additional criteria and restrictions on this program that we are concerned are going to undermine the success and viability of this program. We just had a 13th sign-up around this country, in my district, because of some of the restrictions that some have tried to put on this. Hardly and land in my district qualified.

What we are trying to do here is to make sure we keep the program like it has been for the last 10 years, keep the criteria the same. What we have here is a straight, clean, reauthorization for 7 more years, along the lines of the way we set the program up in the first place.

We would encourage everyone's support, Mr. Speaker.

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

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

Mr. Speaker, I want to thank the gentleman from Minnesota, not only for his motion to instruct, but for his leadership in regard to the continuation of an outstanding program, the conservation reserve program. The gentleman has essentially described the House position, and the gentleman has very eloquently stated the positive aspects of this program. I want all Members to understand that every member of the Committee on Agriculture is supportive of his motion to instruct.

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

Mr. PETERSON of Minnesota. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Minnesota [Mr. PETERSON].

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

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

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 19, as follows:

[Roll No. 67]

YEAS—412

Abercrombie	Becerra	Brown (FL)
Ackerman	Beilenson	Brown (OH)
Allard	Bentsen	Brownback
Andrews	Bereuter	Bryant (TN)
Archer	Bevill	Bryant (TX)
Armey	Bilbray	Bunn
Bachus	Bilirakis	Bunning
Baesler	Bishop	Burr
Baker (CA)	Bliley	Burton
Baker (LA)	Blute	Buyer
Baldacci	Boehlert	Callahan
Ballenger	Boehner	Calvert
Barcia	Bonilla	Camp
Barr	Bonior	Campbell
Barrett (NE)	Bono	Canady
Barrett (WI)	Borski	Cardin
Bartlett	Boucher	Castle
Barton	Brewster	Chabot
Bass	Browder	Chambliss
Bateman	Brown (CA)	Chenoweth

Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—19

Berman
Chapman
Collins (IL)
de la Garza
Durbin
Franks (NJ)
Hall (OH)
Harman
Hayes
Johnston
McNulty
Menendez
Moakley
Moorhead
Quillen
Ros-Lehtinen
Smith (MI)
Stokes
Thomas

□ 1523

Mrs. WALDHOLTZ changed her vote from ''nay'' to ''yea.''

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. HOBSON). Without objection, the Chair appoints the following conferees: Messrs. ROBERTS, EMERSON, GUNDERSON, EWING, BARRETT of Nebraska, ALLARD, BOEHNER, POMBO, DE LA GARZA, ROSE, STENHOLM, VOLKMER, JOHNSON of South Dakota, and CONDIT.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON APPROPRIATIONS

Mr. HASTERT. Mr. Speaker, by direction of the Republican Conference, I offer a privileged resolution (H. Res. 382) and ask for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 382

Resolved, That the following named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Appropriations: Mr. PARKER of Mississippi, to rank following Mr. RIGGS of California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RESIGNATION AS MEMBER OF COMMITTEE ON THE JUDICIARY

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on the Judiciary:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, March 14, 1996.

Hon. NEWT GINGRICH,
U.S. House of Representatives, Washington, DC.

DEAR SPEAKER, I hereby resign from the House Committee on the Judiciary.

With best wishes, I am

Sincerely,

JOSÉ E. SERRANO,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON APPROPRIATIONS

Mr. FAZIO of California. Mr. Speaker, I offer a privileged resolution (H. Res. 383) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 383

Resolved, That the following named Member be, and is hereby, elected to the following standing committees of the House of Representatives: To the Committee on Appropriations, the following Member: José Serrano of New York.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I ask for this time for the purposes of asking the distinguished chief deputy whip about the schedule for this week and next.

I yield to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Michigan for yielding.

Mr. Speaker, I am pleased to announce that the House has finished all legislative business for the week. The House will next meet on Monday, March 18, at 2 p.m. in a pro forma session. There will be no recorded votes on Monday.

On Tuesday, March 19, the House will meet at 12:30 p.m. for morning hour and 2 p.m. for legislative business. Members should be advised that there will not be any recorded votes before 5 p.m. on Tuesday, March 19.

Mr. Speaker, on Tuesday we will consider five bills under suspension of the rules: H.R. 2937, reimbursement of former White House Travel Office employees; House Concurrent Resolution 148, expressing the sense of Congress that the United States is committed to the military stability of the Taiwan Straits; H.R. 2739, the House of Representatives Administrative Reform Technical Correction Act; and two House Oversight resolutions adopting congressional accountability regulations.

□ 1530

After consideration of the suspensions and for the balance of the week, the House will consider H.R. 2202, the Immigration in the National Interest Act of 1995.

Mr. Speaker, I expect toward the latter half of next week the House will

also consider an omnibus appropriations bill for fiscal year 1996. The House should finish business and have Members on their way home to their families by 2 p.m. on Friday, March 22.

Mr. BONIOR. Mr. Speaker, I have one inquiry of my friend from Illinois, and that relates to the immigration bill, which he referred to in his statement.

The Committee on Rules is now meeting on the rule for that particular bill, and one of the most important pieces or one of the most important amendments that is being offered up in the Committee on Rules is a bipartisan amendment being offered by the gentleman from Kansas [Mr. BROWNBACK], the gentleman from Michigan [Mr. CHRYSLER], and the gentleman from California [Mr. BERMAN].

My question to my friend is, will that amendment be made in order? It is probably, if not the most important one, one of the most important amendments in that bill, and it deals with the question of illegal immigrants separate from legal immigrants. It is better known as the amendment that would split the bill and in light of the fact that the Senate Republicans yesterday did so in the other body, I would hope that we would be able to have a debate on that particular amendment on the floor.

I yield to my friend from Illinois for a response.

Mr. HASTERT. I thank the gentleman for yielding. It would be speculation on my part to try to presuppose what the distinguished Committee on Rules would do. I really do not have an idea of what that final decision would be.

Mr. BONIOR. I thank the gentleman.

ADJOURNMENT TO MONDAY, MARCH 18, 1996

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 2. p.m. on Monday next.

The SPEAKER pro tempore (Mr. HOBSON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

HOUR OF MEETING ON TUESDAY, MARCH 19, 1996

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, March 18, 1996, it adjourn to meet at 12:30 p.m. on Tuesday, March 19, 1996, for morning hour debates.

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

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. HASTERT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

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

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TERM LIMITS GROUP NOT NONPARTISAN

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized for 5 minutes.

Mrs. SCHROEDER. Mr. Speaker, it is hard for me to do this because usually when Members come to the well to talk about something from their State, they are popping with pride and they feel very good.

But I am here saying I am really ashamed, I am very ashamed that a group that originates in my State of Colorado is out saying they are one thing and really doing something else. I think this tells you how far we have fallen when it comes to this body and when it comes to playing politics and every other such thing.

In today's newspaper called Rollcall, there is an article about this. It talks about the two Democrats who are for term limits quitting this group because of what they have done and how partisan this group has become. This group is a tax-exempt Colorado-based group. It has a wonderful name that everybody should be for. When you hear this name you say, yes, it is Americans back in charge. And it also got tax exemption because, again, it said it was doing grassroots voter education and so forth on the issue of term limits.

Now, I will be very honest, I am not for term limits. But they have every right to do voter education, education on term limits as long as it is bipartisan and they are out there. But what have they done? Because the term limits legislation failed in this body, and I hope everybody realizes this body is not Democratically controlled right now, the Democratic Party does not control this body, that may be news to somebody, apparently it is news to this group in Colorado, but the term limits legislation failed in this Republican-majority Congress. And guess what they have done? They have raised $3 million and targeted 14 Democrats. Not one Republican.

Now, there are Republican members of my delegation in Colorado who are not for term limits. But they did not target them. They did not target the local boys.

It is kind of embarrassing to think they did not know what the voting records were of people at home and, they are targeting 14 people nationwide.

One of these people has now said that they are not running, so we are now down to 13 people. And they say they are going to spend $3 million that people donated to them and got a tax exemption for because they thought it was voter education, $3 million for radio ads and fliers against Democrats only.

Now, what does that equal? That equals about $225,000-plus per district. That is a lot of radio ads. That is a lot of fliers.

I think a lot of us have gotten very concerned about how this money is collected under these wonderful sounding names, so people can deduct them and do all sorts of things, and then the next thing we know is it is being put to very political partisan usage.

I really salute the two Democrats who got off of this group and called it what it was, partisan, and saying it is doing one thing and really doing another. Those two Members were the gentleman from Massachusetts [Mr. MEEHAN] and the gentleman from Minnesota [Mr. MINGE]. And I must say, as a Coloradoan, I am ashamed to have to stand here and say I agree with this analysis. But I think the American people have got to wake up and as they see people targeted for these term limits that are only Democrats, maybe they should ask some questions about why did this group not target Senator THURMOND. He just turned 93. He is running again, and he is for term limits. Please.

That does not pass the straight-face test, and I could list a whole lot of others that are out there posturing as the poster children for term limits, yet when you look at their career and you look at what they are doing, it does not compute.

Now, again, I say one more time, this is America, and we have the right to debate term limits out front. But it is absolutely wrong when you blame only Democrats for the failure of the term limits legislation when the Democrats do not control this House and when there is absolutely no bipartisanship involved at all in this voter education and you are doing it with tax-exempt money under the name of voter education.

We in Colorado usually stand very firm for good government, clean government, and at least play by the rules. And if you say you are nonpartisan, be nonpartisan.

So all I say is, to those 13 Members who are going to have this $200,000-plus slapped at them, remind them who the real poster children are and what is really going on, and I hope Americans rise up and get very suspicious of this in the future.

WHY MEDICINE COSTS SO MUCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, one of the worst agencies in the entire Federal Government is the Food and Drug Administration. It is arrogant. It is abusive. It is bureaucratic. If people in this country wonder why medicine costs them so much, they need look no further than the FDA.

The bureaucratic rules and regulations and red-tape of the Food and Drug Administration sometimes cause needed safe drugs to be held off the market in this country for years, and sometimes it takes companies many, many millions of dollars to get approval and, as I say, only after years of paperwork and red-tape.

There are many safe lifesaving drugs and medical devices kept off the market in this country for years while they are being safely used, saving lives in countries around the world. I remember a couple of years ago reading a front page article in the Wall Street Journal about a device, a medical device used to detect breast cancer, that had been held off the market for years because this small company in Illinois did not bow down to the FDA sufficiently and they had gotten approval in every other country in the world in which they had sought approval, most of the time within just a few weeks.

One doctor was quoted saying that this had caused thousands and thousands of women to die from breast cancer because of the bureaucratic delays and dilatory and unfair tactics of the Food and Drug Administration.

So that is one reason why I read with such great interest a half page ad that was run yesterday in the Washington Times by a man named Jeffrey N. South of Arnold, MD. He had written a letter, an open letter to his Congressman, and he said this. This letter speaks adequately for itself, and I would like to read as much of it as time permits.

It says:

MARCH 4, 1996.

HON. WAYNE T. GILCHREST,
U.S. Congressman,
Annapolis, MD.

DEAR CONGRESSMAN GILCHREST: I have been a citizen of Maryland for most of my life and, until now, have never been moved to address any concern to my Congressman. I have witnessed something recently that deserves your attention.

On Monday, February 26, 1996, I attended a Food and Drug Administration Advisory Panel hearing in Gaithersburg, MD. A company called Biocontrol Technology, Inc. of Pittsburgh was presenting a medical device for the Panel's recommendation to the FDA for approval to market. This medical device reads blood glucose levels non-intrusively via light energy.

I am not a diabetic but I was exposed to the horrors of what it must be like to be diabetic for the first time in my life. I observed for the entire day a parade of dozens of those diabetics who cared enough to come to the Washington area to testify on behalf of being able to use this new technology towards improving the quality of their lives. Evidently insulin dependent diabetics must perform painful finger prick blood extraction tests numerous times a day in order to determine when they may need insulin. I was amazed to learn that this is such an unpleasant process that over 40% (American Diabetes Association Estimates) of diabetics choose to avoid this painful testing procedure at great risk to their lives. I noticed that their fingers looked like raw hamburger from years of sticking their fingers and extracting blood. This medical device would end all of this.

I was amused by a diabetic woman who passed finger sticks to all the FDA Panel members as she gave her testimony challenging each member to experience the pain of just one prick and to imagine doing it many times a day for their entire life. And to imagine being a very young diabetic child that must do this.

After ten minutes or so into her testimony she had noticed that not one Panel member had mustered the nerve to perform the stick on their own finger. The entire room of some three hundred plus broke into a laughter of disgust.

Most of the day was composed of various questions and discussion between the panel members and the scientists and technicians of Biocontrol Technology. I was absolutely shocked and dismayed that the FDA had delegated decision making authority to this body which openly displayed and admitted to very limited, if any, knowledge of the science behind this new technology. Several of the panelists never even received, much less reviewed, any of the vital supporting material that Biocontrol Technology had provided the FDA over two years ago! It wasn't any wonder that, guess what?!—they could not reach a decision to make this technology available to the diabetic public.

As all of this day unfolded I watched the faces of the public and the technology developers to observe that they too were extremely disillusioned and frustrated as they witnessed this government body embarrass itself with its' incompetence and aloofness. What a pathetic display it was of a bureaucratic process meandering in utter confusion.

On top of all this, a panel spokesperson disclosed that the FDA can and does exercise wavers for panel members that may have financial or other conflicts with companies whose products are under review. There were several on this panel that did disclose such conflicts and were still permitted to participate. Can you imagine!!!

I know now why health care costs have soared over the past several decades. Most medical technology developers have to spend millions upon millions of dollars over years waiting for this meandering, incompetent, and perhaps corrupt government process to wave its' magic wand.

I have enjoyed a healthy and carefree life and can only be thankful that I do not have to depend on such a system. I can only feel extreme sorrow for those who are not healthy and must fight a dreaded disease and wait for the workings of a federal agency the likes of which I witnessed. So very sad for those that forge on knowing that technology exists that could be of great value to them but they must gamble years of their life away waiting for some inept government agency.

I often hear some say that government is an evil entity and think of those that say it to be extreme. Now I think that they are far more insightful than most of us care to admit.

JEFFREY N. SOUTH.

□ 1545

Mr. Speaker, in this country today, if some individual came up with a cure for cancer, he probably could not get it to market unless he sold out to one of the big drug giants. This agency is very harmful to small business, and very harmful to the health of the American citizens.

UPDATE ON BOSNIAN DEPLOYMENT

The SPEAKER pro tempore (Mr. HOBSON). Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 5 minutes.

Mr. SKELTON. Mr. Speaker, the debate over the American deployment to Bosnia has ceased and in this, my third floor speech regarding that troubled part of the world, I wish to say a good word about the Americans in uniform stationed there.

From briefings that I have received and hearings before the National Security Committee, it is evident that the uniformed Americans are performing exceptionally well in this challenge called Bosnia. The Air Force is doing its duty flying above and flying into that country, delivering needed materiel. The Navy and Marine Corps stand guard in the Adriatic, ever ready to help if called upon.

But it is the foot soldier, stationed in the American sector—the northeast corner—of Bosnia, on which I center my remarks.

The Army is fully deployed, consisting of the 1st Armored Division and supporting units. To begin with, twin float bridges were built across the swollen Sava River. No other army has ever even attempted to bridge such a river, especially with the high water level. The first float bridge is the longest one in military history.

Junior soldiers and officers are performing at ''levels far above any reasonable expectation, cheerful and willing under the most trying of circumstances, innovative, and hard-working to the extreme,'' according to the Army Chief of Staff, Gen. Dennis Reimer, who recently returned from Bosnia.

The conditions under which our soldiers live are difficult. The winter snows are up to 10 inches. When the snow melts, the mud is deep. And yet, morale is high and military professionalism is the order of the day.

The thousands of land mines in Bosnia continue to be a major problem for our troops. Since the peacekeeping mission began, NATO troops have reported 14 accidents involving mines. Five of these incidents resulted in injuries, including the death of one American soldier. At my urging, the Army has accelerated its program of mine detection under the leadership of the Army Vice Chief of Staff.

The flag officers have been interviewed and quoted at length in the news media, but it is the enlisted ranks and junior officers that are making this peacekeeping deployment a success. The late Gen. William Tecumseh Sherman once said: ''We have good corporals and Sergeants, and some good lieutenants and Captains, and those are

far more important than good generals.'' General Sherman's words still ring true.

Our soldiers in and around the Tuzla area are reflecting the best of our American values. Their dedication and grit enable them to endure the challenges of land mines, deep mud, rock slides, and raging rivers. Their solid presence is winning the admiration and respect of the former warring parties. It is my hope that when their year-long deployment ends, they will be able to look back and see the valuable contribution they made in bringing stability to a sad and tragic corner of the globe.

I know that every Member of this body joins in wishing our troops continued success in this precedent-making deployment.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

[Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM WORKS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here to talk about the future of our young people. I believe if we have any important responsibility in this Congress and in this Nation, it is to actually realize that we only hold a lease on this place, as we do this Nation and all of its freedoms and opportunities. We are in fact the leaseholders for our children, children who need education, children who need opportunity, children who need exposure to careers.

Mr. Speaker, I stood this morning imploring this Congress, this Republican majority, to begin to understand what real investment is all about. It is not a $245 billion tax cut or a $177 billion tax cut; it is focusing on priorities. I would like to draw our attention to a bipartisan approach to the investment in our children and our communities.

I want to applaud the Senate for recognizing that we are in fact leaseholders; that we have a commitment to ensure that the doors of opportunity are not closed. They in fact added back $137 million to this year's budget for Head Start that was cut so drastically; $60 million for the administration's Goals 2000 program, which will see, if it is cut, 40,000 teachers with pink slips this spring; it added in I think a cornerstone of a work ethic in this Nation, $636 million for summer youth jobs. I did not say baby-sitting jobs, I did not say handholding jobs, I said summer youth jobs. Some $200 million for Safe and Drug-Free Schools, $182 million with the School-to-Work Program, $90 million for colleges and loans, and $10 million for technology programs.

This is an investment in our children's future. The tragedy is that because of the House Labor-HHS omnibus appropriations bill cuts, some 615,000 youth this summer will not be able to have jobs. They will not work or receive education assistance in about 650 communities across this country.

The funding for 1995 nationally was $867 million. Houston, my city alone, would have received $9.1 million. Again, not for baby sitting, but for an opportunity for our young people to work. The summer program helps generate economic growth. For each 1,000 kids employed the program brings between $1 million and $1.4 million to the community it serves. In the city of Houston, we had 6,000 positions for children to be able to be exposed to work, to understand responsibility. Now, in this Congress, we have nothing.

Recent history with the Federal Government shutdown has taught us the punitive impact on business that cuts in Federal revenue to our States and cities can generate. We ask that children care about people. We caution them to act in the best interests of their communities and protect those who are weaker than themselves.

The Government, through Congress' actions today, may send the wrong message by telling our youth we do not care, and that we will take from them because they are unable to defend themselves.

Listen to the story of LaQuista Stewart. This is a story of a young woman who at the age of 2 and shortly after her mother married her stepfather, the family was involved in a terrible car wreck that left her stepfather permanently disabled.

As a child her mother and grandmother would not let her do much, as much as some of her friends, and that gave her the courage and the incentive to aspire to bigger things.

As a result of this wreck, LaQuista was injured so severely that she lost her spleen and left kidney. At the time of her intake application for a summer job, there were family problems, and the stepfather was not in the home. She still lives at home and helps her family as much as she can, keeping only enough money for college expenses and personal needs.

She works in a summer youth job program. This program allowed her to work at Smiley High School, 1 year at Texas Children's Hospital, and as an assistant to the supervisor of the pulmonary laboratory, and as an assistant to council members in the city of Houston. She now is a member of National Honor Society, class parliamentarian, and the Future Business Leaders of America.

Mr. Speaker, Cynthia Rojas, 18, is in her third summer with Houston Works. When she was 15, another youth dropped out of the summer program which opened up a slot for her in the academic enrichment portion for the last weeks of the program. Last summer she worked in the city of Houston's legal department doing general office work. This summer she is working for the city of Houston's Public Works Department in the real estate section. There she helps with filing, typing and keeping track of all the paperwork involved with closing real estate transactions. Cynthia is an exceptional student and graduated high school with a 4.626 average.

What about Debora Bundage, 18, in her second summer at Houston Works, having previously participated in an academic enrichment program.

These are the stories of young people who get summer jobs. I am proud to say that the Houston Works Program has exceeded its performance, exceeded 10 percent of the predicted employment rate for welfare recipients who have been on the job 13 weeks. They sponsor a summer job program where they are inviting the corporate community to participate.

We realize we must do this with the private sector, but this Government must invest in our young people. I do not want to have to go home and tell them there will be no summer jobs for young people who want to work.

Mr. Speaker, I implore this House of Representatives, support the summer youth jobs program; put our Young people to work; teach them a work ethic that will help them be providers for America.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. RIGGS] is recognized for 5 minutes.

[Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Ms. DELAURO] is recognized for 5 minutes.

[Ms. DELAURO addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

A REPORT OF FAILURE IN WAR ON DRUGS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MICA] is recognized for 5 minutes.

Mr. MICA Mr. Speaker, I come to the floor this afternoon to talk about a report issued by one of the subcommittees on which I serve. I serve on the Committee on Government Reform and Oversight. The Subcommittee on National Security, International Affairs, and Criminal Justice has just released this report entitled ''The National Drug Policy: A Review of the Status of the Drug War.'' I am here to tell my colleagues that this is the review of a trail of tears. This is a review of a trail

of failure. It really talks about one of the greatest failures of this administration, and that is to ignore and to not address the drug problem and plague that is facing our Nation.

Let me say that President Clinton really has abandoned America and failed miserably in the fight against drugs during his first 3 years in office. In fact, if we look at what he did, first of all he cut the drug interdiction budget.

Then we talked about cuts in the White House. He ended up cutting 85 percent of the drug policy staff in the White House. Then he cut funding for DEA agents. That is part of what is detailed in this record.

Mr. Speaker, his lack of leadership on this issue in fact is appalling. The results should be sobering to every American. Listen to these facts in this report: Under President Clinton's watch, drug prosecution has dropped 12.5 percent in the past 2 years. After 11 years of drug use declining among high school seniors, the number of 12th graders using drugs on a monthly basis has increased 65 percent just since President Clinton has taken office.

A September 1995 survey shows that drug abuse in kids 12 to 17 jumped 50 percent in just 1994. This report also shows that marijuana use among 12- to 17-year-olds has doubled from 1992 to 1994, and heroin use by teenagers is up. Emergency room visits by heroin users rose 31 percent between 1992 and 1993 alone.

We might say, why? And I say, it is no wonder, when we look at the leadership that has been provided here. First of all, what did the President do? He appointed Joycelyn Elders, and she did not make a drug use and drug abuse a priority. In fact, she talked about legislation. In fact Mrs. Elders said, ''I do not feel that we would markedly reduce our crime rate if drugs were legalized.'' This is outrageous.

Mrs. Reagan, when she was the First Lady, instituted the theme of just say no. The Clinton administration has a new message, and that message has been just say maybe. And it has created a disaster. Again, it is outlined by this.

The emphasis and the money have flowed to treatment. What is the end product of all this? It is people that are using drugs. So we are putting our emphasis and money on treatment. Even a Rand study that the administration in fact touted finds that only 4 percent of heavy cocaine users who go through the treatment cut back on their use of cocaine. So we find where the administration is spending taxpayer money, in fact it is not having results.

Mr. Speaker, this administration destroyed a drug interdiction program. We have cut funding, we have cut emphasis, and we made ourselves the laughing stock of the Andean region.

□ 1600

With our drug control strategy already in disarray in 1994, the administration suddenly reversed its practice of sharing intelligence and radar equipment to attack narco-terrorist planes. Colombia, Peru, and Bolivia where almost 100 percent of the world's cocaine is produced was betrayed by this reversal of U.S. policy. Only after a chorus of Congress expressed its outrage did the administration change it policy, but the damage was done.

And then finally what did we do? We certified Mexico. I participated in drafting the certification language when I was a member of the staff of the other body, and this is a disgrace. DEA confirms that 70 percent of the cocaine coming into the United States comes from Mexico. So this is a record of disaster.

STOP PLAYING POLITICS WITH OUR NATION'S SCHOOLS

The SPEAKER pro tempore (Mr. HOBSON). Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, today the House averted another Gingrich Government shutdown by voting to fund the Government for 1 week. That is right, 1 week. In typical inside-the-Beltway lingo the Republican leadership called it a 1-week continuing resolution. But if you ask me, it amounts to nothing more than 1 more week of continuing madness, madness on Capitol Hill, and, more seriously, 1 more week of continuing uncertainty for our Nation's schools.

Let us talk about the continuing madness around here. I have been a member of the House Committee on the Budget since coming to Congress in 1993. Two years in a row we did our work, passed the necessary spending guidelines and met our deadlines. On top of that, we managed to cut the deficit in half in the process. We cut it by 50 percent. The new majority, however, wasted the beginning of 1995 trying to pass their Contract With America. As a result, we are halfway into the fiscal year, and the 1996 budget for most domestic programs has still, still not been set by this do-nothing majority. Instead, critical environmental protection, health care, and education programs have been funded on a month-to-month basis at a greatly reduced level. When you change that from a month-to-month to a week-to-week program, as the House did today, the new majority's piecemeal approach to governing means nothing more than continuing uncertainty for our Nation's schools.

In fact, today's continuing resolution leaves our schools and teachers with two main ingredients for disaster, too little time and too little money. Right now elementary schools, high schools, and colleges are beginning to plan for the 1996–97 school year, which in case my friends on the other side of the aisle do not understand, begins in September. Schools cannot wait until the new fiscal year to hire teachers, to buy books, and to plan for computers and to repair damaged buildings. They need to start planning now, and they simply cannot do it when the Gingrich Republicans, unlike their Republican colleagues in the other body, refuse to provide a fixed level of adequate education funding for the rest of the year. By leaving our schools in limbo and facing the prospect of receiving 13 percent less in education funds, less than they would normally expect from the Federal Government, elementary and secondary education—elementary schools will not know how many teachers they can afford to hire for the coming school year. Thus, students returning to school next fall could face larger class sizes and fewer teachers.

Schools are also faced with the respect of losing funds for crucial education programs because of the deep cuts that are contained in the majority's continuing resolution. For instance, schools in my home State of California would lose over $42 million in Goals 2000 funds. These are funds which help schools train teachers, increase parental involvement and meet higher standards. California schools will also lose $122 million in title I funds, funds for programs for students who need extra help in reading, writing, and math. Finally, programs aimed at protecting our children from crime and drugs and alcohol will be hurt because the Gingrich Republicans have voted to deny California schools $26.5 million in safe and drug-free school funding.

My friends, that is not how we should be treating our Nation's schools, that is not how we should be treating our Nation's students. Rather I believe, as the Democrats in the House believe, as the President believes and as a majority of the other body believes, that education must be our Nation's No. 1 priority.

Mr. Speaker, we can balance the budget, but it does not have to be on the backs of our children and their education.

CALLING FOR JUDGE BAER'S RESIGNATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. UPTON] is recognized for 5 minutes.

Mr. UPTON. Mr. Speaker, I would like to bring to the attention of this Chamber a rather disturbing element that I have learned about over the last couple of weeks and to share my thoughts with those in the Chamber with regard to an individual by the name of Judge Baer in New York. There is a Wall Street Journal editorial back in the end of January, and I will put all of these into the RECORD, but I just want to read a little piece of this article. It says:

> Winning the war on drugs won't be easy if the battles end up in courtrooms that like that of Harold Baer, Jr., of the Federal District Court in Manhattan. Judge Baer ruled

Wednesday that 80 pounds of cocaine and heroin that police found in a car in the drug-wracked neighborhood of Washington Heights could not be used as evidence.

It goes on to say that:

In his State of the Union address that Mr. Clinton gave here in this Chamber, he told Americans that 'Every one of us have to have a role to play on this team.' But the best anti-drug legislation and the best law enforcement won't work unless the judiciary is willing to enforce the laws.

In a New York Times editorial, the end of January; ''Judge Baer's Tortured Reasoning'' is the title. It goes on to say that:

What this judge managed to do through his sloppy reasoning was to undermine respect for the legal system, encourage citizens to flee the police and deter honest cops in drug-infested neighborhoods from doing their jobs.

It goes on to say that:

Consider the scene described by the officer. As he and his partner sat in their unmarked car, they saw four men approach the defendant's car. With team-like precision and without speaking to the driver, they opened the trunk, dumped two duffel bags in back, and then shut the door, running away when they spotted the officers. Surely these facts, taken together, present precisely the sort of suspicious circumstance police are supposed to be looking out for.

The police in this case saw these individuals put 80 pounds of drugs in the back of the car, 5:00 in the morning, that car. The driver admitted she was taking them to Michigan where the street value of these drugs was worth $84 million. Eighty pounds. And, lo and behold, the judge let them off the hook because it was not unusual for folks to run away from the police in New York.

Well, that is outrageous.

An article in today's Washington Post, page 3; the title says ''Accusations of Coddling Criminals Aimed at Two Judges in New York.'' The Speaker in a news conference last week is quoted as saying this is the kind of pro-drug dealer, pro-crime and police and anti-law enforcement attitude that makes it so hard for us to win the war on drugs.

Mr. Speaker, a number of us and my colleague from New York, Mr. FORBES, the chairman of the crime subcommittee, the gentleman from Florida, Mr. MCCOLLUM, and I circulated a letter among House colleagues this past week that asked the President to ask for Judge Baer's resignation, and I am proud to say that a majority of this House have now signed that letter, Republicans and Democrats alike. We are going to be sending that letter to the President on Tuesday next, and I would ask those of my colleagues that have not signed the letter to please find me between now and Tuesday so they can add their names to a majority of those in this House.

My colleague, the gentleman from Michigan [Mr. STUPAK] is a signatory; my colleague, the gentleman from Ohio [Mr. HOBSON], as well as the gentleman from Florida [Mr. FOLEY], are also signatories of that letter, so that we can let the President know that this man should not serve as a Federal judge for letting these folks on, and we merely ask the President to ask Judge Baer to step down based on the decision that he made.

The articles referred to are as follows:

[From the Wall St. Journal, Jan. 26, 1996]

THE DRUG JUDGE

Winning the war on drugs won't be easy if the battles end up in courtrooms like that of Harold Baer Jr. of the Federal District Court in Manhattan. Judge Baer ruled Wednesday that 80 pounds of cocaine and heroin that police found in a car in the drug-wracked neighborhood of Washington Heights could not be used as evidence. The drugs, which have a street value of $4 million, are ''tainted evidence,'' he said.

He ruled that the police had no good reason for searching the car, despite the fact that the four men putting duffel bags into the trunk took off running when they saw the cops. This, the judge ruled, was not suspicious behavior. Reason: the ''residents of this neighborhood tended to regard police officers as corrupt, abusive and violent.'' As a matter of fact: ''Had the men not run when the cops began to stare at them, it would have been unusual.''

The woman who was driving the car gave the police a videotaped confession. Carol Bayless, a 41-year-old Detroit woman, told police that she expected to be paid $20,000 for driving the drugs back home, and said that she had made a total of about 20 trips to New York to buy drugs. Judge Baer threw out the videotaped confession. Unless the ruling is overturned by the appeals court, the prosecutors say they no longer have a case; Ms. Bayless, who faced 10 years to life in jail, will be free to go.

The year's young, but we doubt Judge Baer will have any competition for this year's Judge Sarokin Award, named in honor of the federal judge in New Jersey who ruled for a homeless man who used to lurk inside the Morristown library, spreading his ''ambrosia.'' Liberalism manages to deliver us these rulings on a regular basis, so it's appropriate to raise a few concerns.

The first has to do with community standards. Aren't the mostly minority residents of Amsterdam Avenue and 176th Street, where the incident took place, entitled to the same level of protection as the mostly white residents 100 blocks south on Amsterdam in the heart of New York's Yuppiedom? We suspect the law-abiding residents of Washington Heights might take a different view about whether the bigger threat to their well-being is the police or fleeing drug runners.

The other issue raised by the Baer ruling is the politics of judicial appointments. Judge Baer is a Clinton appointee, named to the federal bench in 1994 on the advice of the Democratic Senator from New York, Patrick Moynihan. Now, certainly it is the case that Democrats have appointed first-rate jurists to the federal bench. But it's also the case that it is at the liberal end of the modern judiciary that communities find their interests trampled by overly expansive and even absurd legal claims for defendants.

If Mr. Clinton is re-elected, by the end of his second term he will have filled roughly half of the slots in the federal judiciary, including majorities on the federal appeals courts. And that he would get one, two or even three more appointments to the Supreme Court. Mr. Clinton no doubt would separate himself from decisions like Judge Baer's, but one then has to somehow believe that he would actually separate himself from the constituencies insisting that he pick from the same candidate pool that produces such judges.

As for the war on drugs, we commend Judge Baer's ruling to the attention of drug czar-designate, General Barry McCaffrey. In his State of the Union address Tuesday, Mr. Clinton told Americans that ''every one of us have a role to play on this team.'' But the best anti-drug legislation and the best law enforcement won't work unless the judiciary is willing to enforce the laws.

[From the New York Times, Jan. 31, 1996]

JUDGE BAER'S TORTURED REASONING

With his controversial ruling last week tossing out key evidence and a voluntary confession in a major drug conspiracy case, Federal District Judge Harold Baer Jr. apparently hoped to make a point about the serious problem of police corruption in New York City that he helped uncover as a member of the 1993 Mollen commission. What the judge managed to do instead, through his sloppy reasoning was to undermine respect for the legal system, encourage citizens to flee the police and deter honest cops in drug-infested neighborhoods from doing their job.

This is not to say that the judge was wrong to be concerned about Fourth Amendment issues and protections against illegal searches. But in this case he went badly overboard.

Like many Fourth Amendment challenges to police searches and seizures, the case turned on a question of whether officers had a ''reasonable suspicion'' to stop the defendant, a Detroit woman named Carol Bayless, whom police watched as she drove slowly up Amsterdam Avenue in Upper Manhattan in a car bearing Michigan plates at 5 A.M. last April 21. Judge Baer offers defensible, if not entirely convincing, reasons for believing the rendition of events provided by the defendant in her confession just after her arrest rather than the version provided by one of the arresting officers eight months later.

But even the somewhat less suspicious-looking circumstances described by the defendant would seem to meet the fairly low threshold of ''reasonable suspicion'' for stopping and questioning her. In a high-crime neighborhood, the police need reasonable leeway to question activity that seems unusual. Because the judge found no justification for stopping the car, he did not reach the issue of whether the officers had either the requisite consent from the woman or ''probable cause'' that criminal activity was afoot when they opened the trunk and seized 80 kilos of cocaine and heroin.

By far the most troubling aspect of the decision is the judge's superfluous finding that even if every detail of the police account were true, it would still not justify the investigatory stop. That is not just wrong, it is judicial malpractice. Consider the scene described by the officer. As he and his partner sat in their unmarked car, they saw four men approach the defendant's car. With teamlike precision and without speaking to the driver, they opened the trunk, dumped two duffle bags in back and then shut the door, running away when they spotted the officers. Surely the factors, taken together, present precisely the sort of suspicious circumstances police are supposed to be looking out for.

Judge Baer may be correct in observing that the corrupt scandal in upper Manhattan would have made it ''unusual'' had the men not run away. But that does not support a legal finding that flight is not a factor to be weighted in determining whether there is ''reasonable suspicion.'' Judge Baer's logic would guarantee that law-abiding citizens in minority neighborhoods, where tensions with the police are most strained, get a lower standard of policing.

[From the Washington Post, Mar. 1, 1996]

ACCUSATIONS OF CODDLING CRIMINALS AIMED AT TWO JUDGES IN NEW YORK

(By John M. Goshko)

NEW YORK.—Two recent judicial decisions here—one throwing out evidence in a big narcotics case and the other freeing a defendant who then killed his former girlfriend—have ignited a firestorm of outrage about alleged coddling of criminals.

The controversy has been so intense that many legal experts fear it could disrupt the dispensing of justice in local courts and spread beyond New York to become part of the election year debate about what ails America.

Several judges and legal scholars, while acknowledging that the decisions were controversial, nevertheless expressed concern that the abbreviated versions provided by much of the media have distorted the public's understanding of some very complex legal issues.

The unrelenting criticism directed against the two decisions, and the two judges, has put their colleagues at all levels here under heavy pressure to demonstrate in rulings and sentences that they are not soft on crime, these experts said. In an era of growing social conservatism, the rulings are providing fodder for those who think it is time for the courts to stop fine-combing evidence and simply lock up criminals.

Gov. George E. Pataki (R) recently fired the first salvo in such a campaign when he announced legislative plans to limit the powers of the state's highest court, the Court of Appeals, to impose what he called burdensome restrictions on the police and prosecutors. New York City's law-and-order police commissioner, William J. Bratton, also denounced ''the screwball Court of Appeals,'' saying it ''is living off in Disneyland somewhere. They're not living in the streets of New York.''

The two decisions at the heart of the controversy did not, in fact, emanate from the Court of Appeals, but from other, widely disparate levels of the criminal justice hierarchy.

First, in late January, Judge Harold Baer, Jr. of the U.S. District Court that serves Manhattan ruled that 80 pounds of cocaine and heroin found by police in a car could not be used as evidence. The fact that four men seen putting the narcotics in the car ran away when they spotted a police officer was understandable, given fear of the police in many inner-city neighborhoods, and did not constitute cause to search the car; the judge decided.

''As long as there are judges like that, criminals will be running wild in the streets,'' said Louis Materazzo, president of the New York Patrolmen's Benevolent Association. That actually was one of the milder comments in the chorus of criticism immediately sounded by Pataki, Bratton and even Mayor Rudolph W. Giuliani (R), an old friend and colleague of Baer from the days when Giuliani was the U.S. attorney in Manhattan and Baer was one of his aides.

By this week, the ripples from Baer's decision had spread to Congress, where 150 House members signed a letter to President Clinton calling on him to ask for the federal judge's resignation. Among the signers was House Speaker Newt Gingrich (R-Ga.), who told a news conference: ''This is the kind of pro-drug dealer, pro-crime, anti-police and anti-law enforcement attitude that makes it so hard for us to win the war on drugs.''

On Feb. 12, the dispute about what New York's raucous tabloids dubbed ''junk justice'' took a new turn. Benito Oliver, a convicted rapist with a history of domestic violence, walked into a car dealership where his former girlfriend, Galina Komar, worked, shot her to death and then killed himself. It quickly came out that three weeks earlier, Judge Lorin Duckman of the Criminal Court in Brooklyn, the lowest rung on New York's judicial ladder, had turned aside Komar's request for protection and allowed Oliver to go free while he awaited trial on charges of harassing her.

In transcripts of the court hearing Duckman sounded dismissive of the injuries Oliver had inflicted on Komar, noting that she had been ''bruised but not disfigured.'' The judge expressed repeated concern about the well-being of a dog that Oliver had left in Komar's care.

The uproar only intensified when it was further revealed that Duckman, in a similar case last summer, allowed a Brooklyn man, Maximino Pena, to go free hours after a jury had convicted Pena of attacking his former girlfriend. On Feb. 15, Pena was back in jail, this time charged with dragging the same woman down two flights of stairs and punching her in the face.

Duckman has since gone on an indefinite vacation. But his temporary retreat from the bench has not halted the torrent of denunciations from officials, women's rights advocates and newspaper editorialists. Giuliani said Duckman displayed ''a frightening lack of common sense'' that showed he ''should be doing something else for a living.''

Pataki, asserting that ''Judge Duckman is unfit to serve,'' called on the State Commission on Judicial Conduct to remove him from the bench. The governor added that if the commission fails to do so, he would ask the state Senate to oust Duckman, a punishment that it has administered only once before, in 1872.

The churning caused by these two cases has even been given a philosophical counterpoint by the coincidental publication of a new book, ''Guilty: The Collapse of Criminal Justice,'' written by state acting Supreme Court Justice Harold J. Rothwax. Rothwax argues that judges today often apply principles about evidence and defendants' rights so rigidly that the guilty go free.

However, there is real concern in legal circles that the fallout from these two cases is causing judges to protect themselves against charges of being excessively pro-defendant.

Judith Kaye, New York's chief judge, recently said she was worried that the castigation of Baer and Duckman could subtly affect the way cases are decided. And many lawyers say that, in contrast to just two or three months ago, they now see signs of defendants being subjected to higher bail, rulings that lean heavily toward the prosecution and tougher sentences when found guilty.

The most glaring example of how these pressures appear to be operating was the agreement by Judge Baer to permit a new hearing on the narcotics evidence that he earlier suppressed to such an outcry. A reconsideration like this is almost never done by federal judges. Moreover, many lawyers said they will not be surprised if Baer finds reasons to rule that the drug evidence is admissible.

''I have no idea what he'll do, but you'd have to be superhuman not to be affected by all the criticism and abuse that the man has taken over that ruling,'' said Albert Alschuler, a law professor at the University of Chicago.

The case turned on a judgment about whether police had a ''reasonable suspicion'' to stop and search a car at 5 a.m. in Washington Heights, a largely Hispanic enclave of Manhattan that is a known center of drug activity. Before becoming a judge, Baer had served on a commission investigating police brutality in that neighborhood. In his opinion, he noted that people there regard the police as ''corrupt, abusive and violent,'' and he said that under those circumstances it was not unusual for the suspects to run away.

''I'm a native New Yorker from the East Bronx,'' said Yale Kamisar, a University of Michigan law professor and a leading expert on criminal procedure. ''When we played stickball as kids and hit the ball through someone's window, everyone ran because you knew if the cops caught you, they'd give you a hard time. It's human nature to run from what you think might be trouble.''

Kamisar said Baer appears to have decided that the police used the flight as grounds for searching the car without following other procedures that might have safeguarded the legality of their actions.

Even in the Duckman controversy some lawyers think there were legal considerations involved that have been overlooked in the tragic aftermath of the case. ''He made what are undeniably some stupid and insensitive remarks,'' said one lawyer who asked not to be identified. ''But the facts are that this fellow, Oliver, had been in jail for 40 days and the Brooklyn district attorney's office failed to present any strong evidence that he posed a danger to the woman that justified holding him longer in what arguably would be a violation of his constitutional rights.''

The judge also appeared to be reacting to some ''sloppy handling'' of the case by the prosecutors, and the judge decided to ''teach them a lesson,'' the attorney said: ''The only problem with a judge doing something like that—trying to regulate the way a prosecutor's office works—was that the rights of the victim got overlooked.''

SHORT-TERM FUNDING OF OUR GOVERNMENT IS SHORTSIGHTED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. STUPAK] is recognized for 5 minutes.

Mr. STUPAK. Mr. Speaker, just one word before I talk about the continuing budget resolution we passed earlier today. My friend from the other side of the aisle, the gentleman from Michigan [Mr. UPTON], who I have great respect for, and I did sign his letter, when we fight drugs, and being a former law enforcement officer myself, the responsibility is with everyone from Judge Baer, to President Clinton, to the Speaker of the House, and that is why I am disturbed about the continuing budget resolution that was passed today in which the money for drug-free schools zones was deleted from the budget, so there will be no money for drug-free school zones. So, when the Speaker points to this as an example of merely words, I would have to remind the Speaker that his budget priorities have encouraged the use of drugs in drug-free school zones in schools across this country and not fight them. So, while we may ask for Judge Baer to resign, maybe we should ask the Speaker to renew the funding for drug-free school zones.

But, Mr. Speaker, funding of our Government on a week-to-week basis is shortsighted, destructive, and an irresponsible way that we could possibly manage the risks and the tasks of running the greatest country in the world.

Shortsighted has more than one meaning here. In the near term, we are being destructive and wasteful by forcing Government agencies to limp along on partial funding, continuing to operate, but unable to give full service to the American public. In the long term we are hurting our investment in that most basic and important of all services, public education.

Today we voted on an 11th continuing budget resolution to keep the Government going. This resolution was for 7 days, it was for 1 week. Underneath the new majority we have become a government by the week, for the week, and of the week. I voted ''no'' on this continuing resolution because of the drastic cuts in education, not only title I, not only Head Start, but also, as I said earlier, the drug-free safe school zones have been cut.

Here are some facts I would wish that the majority will remember:

A recent Gallup Poll showed two-thirds of all Americans ranked the quality of education as their top priority over such issues as crime, health care, and the deficit.

A January Wall Street Journal poll says 9 of 10 Americans favor the same or increased spending on education.

The January Washington Post poll says 8 out of 10 Americans oppose cutting education. Yet the current budget resolution, which was continued today, if extended for the year, will cut $3.1 billion from education, the largest education cut in our Nation's history.

Are such cuts in step or out of step with the will of the American public? The polls I cited would indicate that such cuts could not be more out of step.

If we extend this continuing budget resolution to the year's end, more than 1 million young people will be deprived of services in the title I program alone.

Here are some other ways to view the problem:

Failure to have assured funding in place is affecting the operations of America's 110,000 elementary and secondary schools that serve roughly 50 million students. State legislators and school administrators in all 50 States and in more than 14,000 school districts are unable to develop detailed financial plans for the coming year. Without these plans in place, this affects the hiring of teachers, the signing of contracts. Impact aid districts are squeezed by partial payments. This will affect roughly 2,000 school districts, including those in my home State of Michigan, and 1.3 million children. The Brimley School District in the Upper Peninsula of Michigan is looking at a $600,000 shortfall because title I has not been completed. Antrim County stands to lose $100,000; Benzie County schools, $58,200; Charlevoix schools, $77,700; Cheboygan schools, $140,200.

□ 1615

Crawford County will be over 70,000, Emmet County over 67,000, Grand Traverse, over 200,000.

Mr. Speaker, unless the Department of Education can make full payments, many schools will receive impact aid or run out of funds later this spring and will be unable to pay teachers' salaries. People with disabilities will not receive rehabilitation services. Vocational rehabilitation programs prepare some 1 million individuals each year to get a hold of and to hang onto their jobs.

This is only a partial look at the problem, but it lets us draw some sad conclusions. One of the tragedies of this Congress is that we have gotten away from rational discourse and debate. We have gotten away from the notion of agreeing to disagree, while completing the basic business of the people of the United States. There certainly can be rational debates over the long-team or long-range value of programs like drug resistance education, drug-free school zones, title I, and other specific education programs. In fact, having a debate over these programs is an excellent opportunity to restate their value and their importance to the American people.

However, Mr. Speaker, this process of destruction by attrition, of week-to-week continuing budget resolutions, of the slow wearing down of those who struggle in the field of education, is not rational, and it is not a debate. It is irrational, and the American people recognize it as the wrong way to do business.

Mr. Speaker, we would ask that when we come back next week and work on a continuing budget resolution, that we take into consideration the cuts we have made in education, the cuts we have made in the environment, in the enforcement of the Clean Water Act, the Safe Drinking Water Act, the gutting of the Clinton COPS Program. We ask that these be put forth in a continuing budget resolution, and we stand ready to work with the minority and the majority to work together to find the $8 billion we need to cut.

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from Michigan [Mr. EHLERS] is recognized for 5 minutes.

[Mr. EHLERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

MEDICAID BUDGET CUTS THREATEN TO IMPAIR THE QUALITY OF LIFE FOR MANY AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. TOWNS] is recognized for 5 minutes.

Mr. TOWNS. Mr. Speaker, balancing the budget is important, but the debate has taken the wrong turn. We should be focusing on saving lives and the quality of care, not just balancing the budget, balancing the budget at the expense of losing people, and at the expense of creating turmoil in the lives of so many.

For the past 30 years, Mr. Speaker, America has prided herself on protecting those vulnerable populations who, because of many circumstances, are not able to afford the health care they desperately need.

Last week, Mr. Speaker, the Committee on Commerce which I serve on, held a hearing on the Medicaid proposal by the National Governors Association. During the recess, we had a hearing in which six Governors came to testify. Due to the fact that many Members could not be there, we required another day of hearings.

The Governors' proposal is a bipartisan consensus which I must admit has done a lot to contribute to the debate and finding solutions to reforming the Medicaid program. I applaud them, Mr. Speaker, for trying to help. However, I am still concerned with several very, very important issues which, in my opinion, must be further reviewed.

Under the NGA proposal, not only will the recipients of the Medicaid safety net program suffer, but so will the inner cities, which house many of our great teaching institutions that train the majority of our Nation's physicians. New York alone trains 15 percent of the Nation's physicians. Public hospitals which care for over 30 million uninsured will also suffer much more than ever imagined.

If enacted, Mr. Speaker, the Medicaid cuts would deliver a blow to New York City that is double its proportionate share. Over the next 7 years, cuts to New York hospitals will total approximately $12 billion, that is B as in boy, billion, in New York City, and billions more in New York State. Payments for long-term care and personal health services will decline by approximately $7 billion in New York City, and $1 billion in New York State.

Furthermore, the Medicaid cuts will reduce needed service levels, and access to care will also suffer, as well as reduced projected employment by over 100,000 in New York City and 200,000 in New York State, and cause the personal income of New Yorkers to decline by at least 2.7 percent.

While the debate over Medicaid reform has largely focused on cost savings, it is important to refocus the debate on saving lives and quality of care. Mr. Speaker, let me just say that we need to recognize the fact that people are living longer, and as they live longer, they will need additional care. In order for them to have that care, we need to make certain that the resources are there to provide that care.

People in nursing homes today are doing a fantastic job. For a long time, we did not have standards like we have today. Of course, we had a mess. We had some nursing homes that were creating all kinds of problems for our elderly. However, we were able to get some statutes in the law that sort of turned that around. We now seem to be moving back toward where we were before those statutes came into being.

I visited a nursing home just recently in my district, the Cobble Hill Nursing Home. I listened to the staff as they talked about the kinds of things they have to do now, and recognized that if we continue to cut the programs, that they will not have the staff to be able to perform those duties.

I am hoping, Mr. Speaker, that we realize that as we talk about the budget cuts, that we do not forget that we are talking about quality of care, we are talking about the lives of human beings, and let us not let the debate make the wrong turn. Let us straighten it out and go in the right direction to protect the lives of our people.

EDUCATION CUTS ARE THE LARGEST IN THE NATION'S HISTORY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. PALLONE] is recognized for 5 minutes.

Mr. PALLONE. Mr. Speaker, education is one of the priorities that the President and Democrats in Congress have stressed should not be severely impacted during these constant budget battles that take place on the floor of this House of Representatives. Yet, once again, we face a situation where the House-passed spending bill for the remainder of this fiscal year would provide the largest cut in education in the history of the Federal Government.

Mr. Speaker, this is really the work primarily of Speaker GINGRICH and the House Republican leadership, whose radical plan would essentially cut $3.3 billion from the education programs, a 13-percent reduction in funds that schools around the country depend on to educate students of all ages.

The Senate, as was mentioned by one of my colleagues earlier, fortunately has voted to restore most, or about $2.5 billion, of this lost education funding. However, Mr. Speaker, the Senate bill will not prevail if Speaker GINGRICH and his extremist views hold sway.

Today, the House Republicans passed another stopgap funding bill. It is the 11th, I believe, since the beginning of this session. This measure would only keep the Government running for another week. Its purpose is to give House Republicans an opportunity to attack the reasonable education funding levels in the Senate bill. It is nothing more, in my opinion, than another attempt by House Republicans to hold the Federal Government hostage to their agenda.

President Clinton has already said that he will not sign any bill that funds education programs at the House-passed level. He also said that rather than sign any extremist Republican spending plan, he may refuse to sign all stopgap spending bills sent to him after Easter. Thus, if the House Republicans continue to insist on steamrolling through these radical cuts in Federal education programs, we could face yet another Government shutdown.

I believe preserving a strong educational framework was something that traditionally Members on both sides of the aisle, in both Houses in Congress, used to be able to agree on before the current House Republican majority took over. What is happening here is that the Speaker and the House Republican leadership are basically going against this consensus, or shattering the consensus that we have had for years that says that education should be a priority.

If we compare the differences between the House and Senate education proposals, we can see the differences between the radical Republicans here in the House and the more sane, if you will, Republicans in the Senate. The House-passed bill cuts title I programs by $1.2 billion. The Senate restored $815 million of that. The House-passed bill would eliminate the Goals 2000 Education Reform Program. The Senate restores $60 billion for Goals 2000. The House-passed bill cuts $266 billion from the Safe and Drug-Free Schools Program. The Senate restores $182 million. The House-passed bill cuts $27.5 million from the School-to-Work Program. The Senate puts back $182 million.

Mr. Speaker, I could go on with this list, but the point is that it is here in the House that the education cuts are being implemented. The fact that Senate Republicans will not go along with that only goes to prove, essentially, that it is the House Republicans that are forcing or taking this stand.

Mr. Speaker, what does it mean back in our States and back in our districts? It means if this House Republican plan goes through, the teachers and teachers' assistants could be laid off, and schools in search of alternative sources of funding could force their local governments to raise taxes in order to maintain the same number of teachers. If alternative sources of funding cannot be found, fewer teachers would need dramatically decreased sizes of classes, and students in need of assistance in areas such as basic reading and writing would be denied the help of their local schools, because education money will have dried up.

Mr. Speaker, there is no mistake about it. If we look at my own State of New Jersey, my own district, the taxpayers simply cannot afford these increases. The local property taxes, the local budgets, are usually turned down, because people do not want to have to pay higher property taxes. It is much more difficult for them if they do not have the Federal funding sources.

What I am saying, Mr. Speaker, is that it is time for the House Republican leadership to wake up. There should be no more of these stopgap funding bills for 1 week, 2 weeks, or 3 weeks. They should simply return to the mainstream and joint the congressional Democrats, the President, and now even the Senate Republicans in saying that education is a priority, that there should be adequate funding for it, and that education programs should not be part of this constant battle back and forth which leads us to these stopgap funding plans.

Mr. Speaker, I think that more and more over the next few weeks, as we continue to battle over the budget and over spending priorities, hopefully we will see the House Republican leadership come over to the point of view that says education should remain a priority and should not be something that we cut severely, because it really is the future of America and the future of our young people.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess subject to the call of the Chair.

Accordingly (at 4 o'clock and 29 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1836

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GOSS) at 6 o'clock and 36 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2202, THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–483) on the resolution (H. Res. 384) providing for consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE IMMIGRATION IN THE NATIONAL INTEREST ACT OF 1995

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DREIER] is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I know that I first want to express my great appreciation to my very good friends who are sitting and standing behind me at this point, and I will be as brief as possible.

I have risen to briefly talk about the rule that we are going to be considering next Tuesday, which the Committee on Rules has reported out just a

couple of hours ago and which I have just filed at the desk.

The issue of reform of both legal and illegal immigration is one of the most contentious debates that we will have, and it will take place next week. The rule that we are considering is one of the most fair and balanced rules that could possibly be offered. In fact, we had over 100, I believe 104, amendments that were filed to the Committee on Rules by noon yesterday, and we spent today considering those amendments, and we have made in order 32 amendments that will be considered.

The issue of illegal immigration is a very difficult and pressing one for my State of California. We in California deal daily with the flood of illegal immigrants who are coming across the border seeking either government services, job opportunities, seeking family members, and it is very important that we take strong and decisive action here at the Federal level to deal with that problem.

In the area of legal immigration, I am very pleased that this legislation will allow us to maintain the highest level of legal immigration in 70 years and that in itself is a very good and positive move, because this country was founded on legal immigration and this country has had tremendous benefits because of immigrants who continue to come to this country today.

In fact, my State of California and other parts of this country are on the cutting edge technologically and in many other areas because of legal immigration.

So I would like to congratulate the chairman of the subcommittee, the gentleman from Texas [Mr. SMITH], who has worked long and hard throughout the past year and up until just recently, and he has been working, as he said today, nearly 12 hours a day constantly trying to bring this legislation forward.

As we look at the many different amendments that are going to be considered next week when we proceed with this legislation, one of the most controversial and hotly debated has been the proposal that was offered by the gentleman from Michigan, Mr. CHRYSLER, and my California colleague, Mr. BERMAN, and the gentleman from Kansas, Mr. BROWNBACK, seeking to split the legislation. That is an amendment that will be made to order, will be considered.

So, as we look at the resolution which I have just sent down that will allow us to bring about debate on the issue of legal and illegal immigration, I believe that we are taking a very bold and positive step toward getting the Federal Government to step up to the plate and acknowledge its responsibility. It has been a long time since we have been able to do this, and there are many problems that have taken place because of the 1986 Immigration Reform and Control Act, IRCA, that need to be addressed, and I am pleased that we will in time be doing that.

I would simply say, Mr. Speaker, that I anxiously look forward to a very interesting debate which will be far-reaching and allow every single proposal that has come forward to be considered and discussed.

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
March 14, 1996.

I hereby designate the Honorable DAVID DREIER to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Tuesday, March 19, 1996.

NEWT GINGRICH,
Speaker of the House of Representatives.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MYERS of Indiana (at the request of Mr. ARMEY), for today until 12:30 p.m., on account of illness in the family.

Mr. UNDERWOOD (at the request of Mr. GEPHARDT), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mrs. SCHROEDER, for 5 minutes, today.

Mr. SKELTON for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. TOWNS, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. GOODLING for 5 minutes on March 20.

Mr. SMITH of Michigan, for 5 minutes, on March 19 and 20.

Mr. FOLEY, for 5 minutes, today.

Mr. RIGGS, for 5 minutes, today.

Mr. UPTON, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. EHLERS, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks:)

Mr. DREIER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Ms. WOOLSEY) and to include extraneous matter:)

Mr. LANTOS.

Mr. RUSH in two instances.

Mr. TOWNS.

Mr. LEVIN in two instances.

Mr. MONTGOMERY.

Mr. NEAL of Massachusetts.

Mrs. THURMAN.

Mr. KILDEE.

Mrs. MALONEY.

Mrs. MEEK of Florida.

Mrs. KENNELLY.

Mr. GONZALEZ.

Mr. BARRETT of Wisconsin.

Mr. POSHARD.

Mr. HASTINGS of Florida.

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. NETHERCUTT.

Mr. HORN.

Mr. COLLINS of Georgia.

Mr. WALSH.

Mr. FAWELL.

Mr. MARTINI in two instances.

(The following Members (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. ZELIFF.

Mr. BALLENGER.

Mr. NEAL.

Mr. ESHOO.

Mr. BARCIA.

Mr. CHRISTENSEN.

Mrs. MORELLA.

Mr. PACKARD.

Mrs. JOHNSON of Connecticut.

Ms. MCCARTHY.

Mr. KANJORSKI.

Mr. HASTINGS of Florida.

Mr. GRAHAM.

Mr. TEJEDA.

Mr. BENTSEN.

Mr. COX of California.

Mr. BURTON of Indiana.

Mr. BONIOR.

Mr. PASTOR.

ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2036. An Act to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.

ADJOURNMENT

Mr. DREIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until Monday, March 18, 1996, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2248. A communication from the President of the United States, transmitting his request for an fiscal year 1996 supplemental appropriation for support of the Israeli Government's urgent requirement for counter-terrorism assistance, and to designate the

amount made available as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, pursuant to 31 U.S.C. 1107 (H. Doc. No. 104–187) to the Committee on Appropriations and ordered to be printed.

2249. A letter from the Director, Office of Management and Budget, transmitting OMB's estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 2000 resulting from passage of H.R. 2196, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on the Budget.

2250. A letter from the Director, Defense Security Assistance Agency, transmitting notification concerning the cooperative production and support of an expendable offboard active electronic decoy for antiship missile defense (Transmittal No. 07–96), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

2251. A letter from the Chairman, National Endowment for the Humanities, transmitting a report of activities under the Freedom of Information Act for calendar year 1995, pursuant to 5 U.S.C. 552; to the Committee on Government Reform and Oversight.

2252. A letter from the Director, Office of Administration, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1995, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

2253. A letter from the Chairman, Railroad Retirement Board, transmitting the Board's justification of budget estimates for fiscal year 1997, pursuant to 45 U.S.C. 231f; to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HYDE: Committee of Conference. Conference report on H.R. 956. A bill to establish legal standards and procedures for product liability litigation, and for other purposes (Rept. 104–481). Ordered to be printed.

Mr. THOMAS: Committee on House Oversight. H.R. 2739. A bill to provide for a representational allowance for Members of the House of Representatives, to make technical and conforming changes to sundry provisions of law in consequence of administrative reforms in the House of Representatives, and for other purposes; with an amendment (Rept. 104–482). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 384. Resolution providing for consideration of the bill (H.R. 2202) to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes (Rept. 104–483). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BILBRAY (for himself, Mr. MOORHEAD, Mr. PACKARD, Mr. HUNTER, Mr. CUNNINGHAM, Mr. THOMAS, Mr. YOUNG of Alaska, Mr. SCHAEFER, and Mr. BARTON of Texas):

H.R. 3083. A bill to direct a property conveyance in the State of California; to the Committee on Commerce.

By Mr. GENE GREEN of Texas:

H.R. 3084. A bill to provide for the furnishing of medical care and disability benefits for former civilian prisoners of war; to the Committee on Economic and Educational Opportunities, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CHRISTENSEN (for himself, Mr. ENSIGN, Mr. CHRYSLER, Mr. ENGLISH of Pennsylvania, Mrs. SEASTRAND, and Mr. SAM JOHNSON):

H.R. 3085. A bill to control crime by increasing penalties for armed violent criminals and drug dealers; to the Committee on the Judiciary.

By Mr. COX (for himself, Mrs. JOHNSON of Connecticut, Mr. HERGER, Ms. LOFGREN, Mr. TRAFICANT, Mr. BRYANT of Tennessee, Mr. ROHRABACHER, Mr. CRANE, Mr. RADANOVICH, Mr. HOSTETTLER, Mr. GOSS, Mr. SMITH of Texas, and Mrs. MYRICK):

H.R. 3086. A bill to permit the Secretary of the Treasury to designate qualified delivery services, in addition to the U.S. Postal Service, for purposes of timely filing of tax documents with the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. BALLENGER (for himself, Mr. GOODLING, and Mr. FAWELL):

H.R. 3087. A bill to amend the Fair Labor Standards Act of 1938 to provide that an employee's regular rate for purposes of calculating overtime compensation will not be affected by certain additional payments; to the Committee on Economic and Educational Opportunities.

By Mr. BREWSTER (for himself, Mr. DICKEY, and Mr. HUTCHINSON):

H.R. 3088. A bill to provide for the exchange of certain federally owned lands and mineral interests therein, and for other purposes; to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ESHOO (for herself, Ms. PELOSI, Mr. DELLUMS, Mr. FARR, Mr. GEJDENSON, and Ms. WOOLSEY):

H.R. 3089. A bill to amend the Communications Act of 1934 in order to provide parents with greater control of their children's access to online material; to the Committee on Commerce.

By Mr. FARR (for himself, Mr. STUDDS, Mr. ABERCROMBIE, Mr. MILLER of California, Mr. FALEOMAVAEGA, Mr. GEJDENSON, Mr. TAUZIN, Mr. GALLEGLY, Mr. GILCHREST, Mr. JONES, Mr. LONGLEY, Mr. TORKILDSEN, Ms. WOOLSEY, Ms. LOFGREN, Ms. ESHOO, Mr. ORTIZ, Mrs. SEASTRAND, Mrs. MINK of Hawaii, Mr. RIGGS, Mrs. SMITH of Washington, Mr. GOSS, Mr. SAXTON, Mr. DEUTSCH, and Mr. CAMPBELL):

H.R. 3090. A bill to authorize appropriations for the National Marine Sanctuaries, and for other purposes; to the Committee on Resources.

By Mr. FAWELL:

H.R. 3091. A bill to amend the National Labor Relations Act to allow individuals against whom injunctive relief is sought an opportunity to be heard; to the Committee on Economic and Educational Opportunities.

By Mr. FRANKS of Connecticut:

H.R. 3092. A bill to amend the Internal Revenue Code of 1986 to encourage State unemployment insurance laws to establish a system under which workers may purchase insurance to cover the costs of health insurance during periods of unemployment; to the Committee on Ways and Means.

H.R. 3093. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a brownfield cleanup loan program; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRAHAM:

H.R. 3094. A bill to amend the Fair Labor Standards Act of 1938 to provide for an exemption from the overtime compensation provisions of such act for professional employees of contractors and subcontractors of the Federal Government; to the Committee on Economic and Educational Opportunities.

By Mr. HUTCHINSON (for himself, Mr. PAXON, Mr. BOEHNER, Mr. LARGENT, Mr. SMITH of Texas, Mr. BALLENGER, Mrs. MEYERS of Kansas, Mr. SAM JOHNSON, Mr. MCKEON, Mr. CUNNINGHAM, Mr. GRAHAM, Mr. SOUDER, Mr. FUNDERBURK, Mr. GOSS, Mr. BARRETT of Nebraska, Mr. KNOLLENBERG, Mr. CREMEANS, Mr. CALVERT, Mr. TAYLOR of North Carolina, Mr. DOOLITTLE, Mr. DORNAN, Mr. CHRISTENSEN, Mr. STEARNS, Mr. LINDER, Mr. COOLEY, Mr. HAYWORTH, Mr. GOODLATTE, Mr. CRANE, and Mr. RAMSTAD):

H.R. 3095. A bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors; to the Committee on Economic and Educational Opportunities.

By Mr. JACOBS (for himself and Mr. BURTON of Indiana):

H.R. 3096. A bill to mandate the use of instant replay in the event of conflicting calls in a professional sports league game played in the United States; to the Committee on Commerce.

By Mrs. JOHNSON of Connecticut (for herself and Mrs. KENNELLY):

H.R. 3097. A bill to amend title 18, United States Code, to prohibit the mailing of certain mail matter; to the Committee on the Judiciary.

By Ms. LOFGREN:

H.R. 3098. A bill to amend title II of the Social Security Act to diversify the investments of the Social Security trust funds by providing for investment of 40 percent of each year's surplus in such trust funds in certain private obligations, securities, or other instruments; to the Committee on Ways and Means.

By Mr. LUCAS (for himself and Mr. BREWSTER):

H.R. 3099. A bill to establish the Washita Battlefield National Historic Site in the State of Oklahoma; to the Committee on Resources.

By Mr. MANZULLO:

H.R. 3100. A bill to limit the authority of Federal courts to fashion remedies that require local jurisdictions to assess, levy, or collect taxes, and for other purposes; to the Committee on the Judiciary.

By Mr. TOWNS:

H.R. 3101. A bill to require health plans to provide coverage for a minimum period of time for a mother and child following the

birth of the child; to the Committee on Commerce.

By Mr. VISCLOSKY:

H.R. 3102. A bill to amend the Internal Revenue Code of 1986 with respect to treatment of corporations, and for other purposes; referred to the Committee on Ways and Means, and in addition to the Committees on Resources, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SANDERS (for himself, Mr. LAFALCE, and Mr. METCALF):

H. Con. Res. 152. Concurrent resolution expressing the sense of Congress that legislation containing a cross-border fee for vehicles and pedestrians entering the United States from Canada or Mexico is unwise and should not be enacted; to the Committee on the Judiciary.

By Mr. HASTERT:

H. Res. 382. Resolution electing Representative MIKE PARKER of Mississippi to the Committee on Appropriations; considered and agreed to.

By Mr. FAZIO of California:

H. Res. 383. Resolution electing Representative JOSE SERRANO of New York to the Committee on Appropriations; considered and agreed to.

By Mr. BAKER of Louisiana (for himself, Mr. HAYES, Mr. BACHUS, Mr. LAZIO of New York, Mr. KENNEDY of Massachusetts, Ms. VELAZQUEZ, Ms. ROYBAL-ALLARD, Mr. KANJORSKI, Mr. LOBIONDO, Mrs. MEEK of Florida, Mr. CHRYSLER, Mr. KING, Mr. FRANK of Massachusetts, Mr. SCHUMER, Mr. MCCRERY, Mrs. MALONEY, Mr. CREMEANS, Mr. HEINEMAN, Mr. ACKERMAN, Mr. SANDERS, Mr. STOCKMAN, Mr. GUTIERREZ, Mr. WATT of North Carolina, Mr. TAUZIN, Mr. LAFALCE, Mr. EHRLICH, Mr. FLAKE, Mr. BONO, and Mr. ROTH):

H. Res. 385. Resolution expressing the sense of the House of Representatives regarding tactile currency for the blind and visually impaired; to the Committee on Banking and Financial Services.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

208. By the SPEAKER: Memorial of the House of Representatives of the State of Washington, relative to the control or eradication of nonnative noxious weeds in the State of Washington; to the Committee on Agriculture.

209. Also, memorial of the House of Representatives of the State of Georgia, relative to petitioning the President of the United States and the Congress of the United States to recind and remove any action that would give the Food and Drug Administration regulatory powers over the tobacco industry; to the Committee on Commerce.

210. Also, memorial of the Senate of the State of Washington, relative to requesting the Congress of the United States to implement clarification of the Indian Gaming Regulatory Act of 1988; to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 580: Mr. SOUDER, Mr. POSHARD, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 761: Mr. WATT of North Carolina and Mr. MENENDEZ.

H.R. 773: Mr. CAMPBELL and Mr. FROST.

H.R. 784: Mr. ROTH and Mrs. VUCANOVICH.

H.R. 969: Mr. FILNER.

H.R. 997: Mr. GORDON and Mr. MEEHAN.

H.R. 1073: Mrs. SCHROEDER, Mr. FAZIO of California, Mr. PALLONE, Mr. HILLIARD, Ms. PRYCE, and Mr. KILDEE.

H.R. 1074: Mrs. SCHROEDER, Mr. FAZIO of California, Mr. PALLONE, Mr. HILLIARD, Ms. PRYCE, and Mr. KILDEE.

H.R. 1227: Mr. HOSTETTLER.

H.R. 1406: Mr. LIPINSKI, Mr. JOHNSTON of Florida, Mr. TEJEDA, Mr. FAZIO of California, Mr. WYNN, Ms. LOFGREN, and Mr. RICHARDSON.

H.R. 1434: Mr. ENGLISH of Pennsylvania.

H.R. 1496: Mr. PAYNE of New Jersey.

H.R. 1514: Mr. BILIRAKIS, Mr. DAVIS, Mr. SALMON, Mr. POSHARD, and Mr. ROBERTS.

H.R. 1684: Mr. BARRET of Wisconsin, Mr. BERMAN, Mr. BLUTE, Mr. BONILLA, Mr. BREWSTER, Mr. BROWDER, Mr. CALLAHAN, Mr. CONDIT, Mr. DEAL of Georgia, Mr. EVERETT, Mr. GONZALEZ, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KINGSTON, Mr. MONTGOMERY, Mr. NEUMANN, Mr. PALLONE, Mr. PETERSON of Minnesota, Mr. PORTMAN, Mr. QUINN, Mr. RAHALL, Mr. ROEMER, Mr. STENHOLM, Mr. STUMP, Mr. TALENT, Mr. TAUZIN, Mrs. THURMAN, Mr. TANNER, Mr. ZELIFF, Mr. ABERCROMBIE, Mr. BAESLER, Mr. BROWN of Ohio, Mr. COLEMAN, Ms. DANNER, Mr. DOYLE, Mr. FIELDS of Texas, Mr. GIBBONS, Mr. GRAHAM, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HOLDEN, Mr. HOUGHTON, Ms. JACKSON-LEE, Mr. SAM JOHNSON, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Mrs. LINCOLN, Mr. MCHALE, Mr. PASTOR, Ms. RIVERS, Mr. SANDERS, Mrs. SCHROEDER, Mr. SPRATT, and Mr. TORICELLI.

H.R. 1893: Mr. FRAZER and Mr. PAXON.

H.R. 1916: Mr. GILLMOR and Mr. COX.

H.R. 1972: Mr. HAYES.

H.R. 2391: Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. KIM, and Ms. PRYCE.

H.R. 2407: Mr. ACKERMAN, Mr. PORTER, Mr. DELLUMS, Mr. CARDIN, Ms. WOOLSEY, Mr. BERMAN, Ms. NORTON, Ms. LOFGREN, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2416: Mr. MARKEY and Mr. TAYLOR of North Carolina.

H.R. 2434: Mr. LINDER, Mr. HERGER, and Mr. BARTLETT of Maryland.

H.R. 2531: Mr. BREWSTER.

H.R. 2543: Mr. BONO.

H.R. 2608: Mr. THOMPSON.

H.R. 2634: Mr. QUILLEN.

H.R. 2651: Mr. LEWIS of Georgia.

H.R. 2655: Mr. ANDREWS.

H.R. 2723: Mr. SALMON.

H.R. 2727: Mr. MCKEON and Mr. SMITH of Michigan.

H.R. 2740: Mr. TATE.

H.R. 2779: Mr. ORTIZ.

H.R. 2807: Ms. LOFGREN and Ms. VELÁZQUEZ.

H.R. 2815: Mr. CLEMENT and Mr. DUNCAN.

H.R. 2827: Mr. ROSE.

H.R. 2885: Mr. HORN and Mr. MCCOLLUM.

H.R. 2909: Mr. SANDERS.

H.R. 2912: Mr. TAYLOR of North Carolina.

H.R. 2915: Mr. MCHALE.

H.R. 2925: Mr. ROGERS, Mr. SOUDER, Mr. TAYLOR of Mississippi, Mr. CONDIT, Mr. FRELINGHUYSEN, Mr. GILLMOR, Mr. DEFAZIO, Mr. LIVINGSTON, Mr. KILDEE, and Mrs. FOWLER.

H.R. 2928: Mr. MCINTOSH, Mr. COOLEY, Mr. BURR, and Mr. ENGLISH of Pennsylvania.

H.R. 2930: Mr. BURR.

H.R. 2931: Mr. QUINN and Mr. THOMPSON.

H.R. 2933: Mr. HINCHEY and Mr. FATTAH.

H.R. 2959: Mr. HOUGHTON, Mr. SAWYER, Mr. EHLERS, Mr. FOX, Mr. DAVIS, Mr. STUPAK, Mr. OWENS, Mr. BLUTE, and Mr. MILLER of Florida.

H.R. 2963: Mrs. MORELLA, Mr. FRAZER, Mr. BENTSEN, Mr. STOKES, Mr. FROST, Ms. EDDIE BERNICE JOHNSON of Texas, Ms. DELAURO, Mr. ABERCROMBIE, Mr. TORRES, Ms. MCKINNEY, Mr. HASTINGS of Florida, Mrs. CLAYTON, Ms. WATERS, Mr. SCOTT, Mr. OWENS, Mr. BISHOP, Mr. LEWIS of Georgia, Mr. CLYBURN, Mr. THOMPSON, Mr. FATTAH, Mr. RANGEL, Mr. HILLIARD, Ms. JACKSON-LEE, and Mr. JEFFERSON.

H.R. 2976: Mr. FRANK of Massachusetts, Mr. MILLER of California, Mr. NEAL of Massachusetts, Mr. OXLEY, and Mr. TORKILDSEN.

H.R. 2991: Mr. BERMAN, Mr. LEWIS of Georgia, and Mr. FOGLIETTA.

H.R. 3002: Mr. WELLER and Mr. GUNDERSON.

H.R. 3004: Mr. PAYNE of Virginia, Mr. TANNER, Mr. DICKEY, Mr. MASCARA, and Mr. EWING.

H.R. 3048: Mr. SKELTON.

H.R. 3060: Mr. CALVERT and Mr. FOLEY.

H.J. Res. 70: Mr. ANDREWS.

H.J. Res. 127: Mr. CREMEANS.

H.J. Res. 159: Mr. SMITH of Michigan, Mr. FAWELL, Mr. CONDIT, and Mr. FIELDS of Texas.

H. Con. Res. 47: Mr. BONO and Mr. CRAMER.

H. Con. Res. 73: Mrs. MINK of Hawaii.

H. Con. Res. 144: Mr. ROSE and Mr. VISCLOSKY.

H. Con. Res. 148: Mr. BARTLETT of Maryland, Mr. LARGENT, Mr. STUMP, Mr. QUILLEN, Mr. BILBRAY, Mr. SHADEGG, Mr. EHRLICH, Mr. ACKERMAN, Mr. SAXTON, Mr. WOLF, Mr. CHRISTENSEN, and Mr. LEWIS of Kentucky.

H. Res. 348: Ms. DANNER.

H. Res. 359: Mr. EMERSON, Mr. MILLER of California, and Mrs. MEYERS of Kansas.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 11 by Mr. BARR on House Resolution 364: Wes Cooley and Tom A. Coburn.