Mr. SANTORUM. Mr. President, the agenda for the 105th Congress reflects a continuance of the very significant debate that occurred in the 104th Congress on the issue of partial birth abortion.

Four months ago, we debated and considered a presidential veto override on a bill to ban the partial birth abortion procedure. On a final vote, we came very close to banning this very gruesome procedure, and the number of colleagues who supported the override set the stage for consideration again this year.

A wide spectrum of individuals have coalesced around the effort to ban partial birth abortions. These varied individuals and groups have raised their voices in support of a ban both because of the brutality of partial birth abortions and because they recognize that this debate is not about Roe vs. Wade, the 1973 Supreme Court decision legalizing abortion. It is not about when a fetus becomes a baby. And it is certainly not about women's health. It is about infanticide. It is about killing a child as he or she is being born, an issue that neither Roe vs. Wade nor the subsequent Doe vs. Bolton decision addressed.

During the Senate debate last year, various traditionally pro-choice legislators voted in support of legislation to ban this particular procedure. Among them was a colleague who stated on the floor of the Senate, "In my legal judgement, the issue is not over a woman's right to choose within the constitutional context of Roe versus Wade. ** The line of the law is drawn, in my legal judgement, when the child is partially out of the womb of the mother. It is no longer abortion; it is infanticide." He was joined in these sentiments by other like-minded Senators.

This perspective is significant in that it captures the scope of the tragedy that this procedure represents. And for those who may still be unclear what a partial birth abortion procedure is, it is this: a fully formed baby—in most cases a viable fetus of 23-26 weeks—is pulled from its mother unharmed but the head is delivered. Then, scissors are plunged into the base of the skull, a tube is inserted and the child's brains are suctioned out so that the head of the now-dead infant collapses and is delivered.

Partial birth abortion is tragic for the infant who loses his or her life in this brutal procedure. It is also a personal tragedy for the families who choose the procedure, as it is for those who perform it—even if they aren't aware of it. But partial birth abortion is also a profound social tragedy. It rips through the moral cohesion of our public life. It cuts into our most deeply held belief of protecting and cherishing vulnerable human life. It fractures our sense that the laws of our country should reflect long-held, commonly accepted moral norms.

Yet this kind of tragedy—even as it calls forth and exposes our outrage—can be an unexpected catalyst for consensus, for new coalitions and configurations in our public life. The partial birth abortion debate moved beyond the traditional lines of confrontation to hollow out a place in the public square where disparate individuals and groups can come together and draw a line that they know should not be crossed.

The stark tragedy of partial birth abortion can be the beginning of a significant public discussion where we define—or re-define—our first principles. Why is this particularly important? Precisely because it throws into relief the fundamental truths around which a moral consensus is formed in this country. And, as John Courtney Murray reminds us in "We Hold These Truths, Catholic Reasoning on the American Proposition", a public consensus which finds its expression in the law should be "an ensemble of substantive truths, a structure of basic knowledge, an order of elementary affirmations...". If we allow ourselves to move beyond agreement about first principles, we simply cannot engage one another in civil debate. All we have is the confusion of different factions locked in their own moral universe. If we could agree publicly on just this one point—that partial birth abortion is not something our laws should sanction, and if we could then reveal the consensus—a consensus that I know exists—against killing an infant before it is born, we would have significantly advanced the discussion about what moral status and dignity we give to life in all its stages. Public agreement, codified by law, on this one prohibition gives us a common point of departure. It gives us a common language even, because we agree, albeit in a narrow sense, on the meaning of fundamental terms such as life and death. And it is with this common point of departure and discourse—however narrow—that we gain a degree of coherence and unity in our public life and dialogue.

I truly believe that out of the horror and tragedy of partial birth abortions, we can find points of agreement across ideological, political and religious lines which enable us to work toward a life-sustaining culture. So, as hundreds of thousands of faithful and steadfast citizens come together to participate in this effort, let us remember that such a culture, the culture for which we hope and pray daily, might very well be achieved one argument at a time.

Mr. President, I am proud to have the opportunity to sponsor this legislation and to continue the very significant achievements of my colleague, Senator Bob Smith. I look forward to continuing that effort in cooperation with Representative Charlie Canady, and I thank my colleagues for making this initiative a priority in our legislative agenda.

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

**S. 6**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, **SECTION 1. SHORT TITLE.** This Act may be cited as the "Partial-Birth Abortion Ban Act of 1997." **SEC. 2. PROHIBITION ON PARTIAL-BIRTH ABORTIONS.** (a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 73 the following:

"CHAPTER 74—PARTIAL BIRTH ABORTIONS"

"§ 1531. Partial-birth abortions prohibited."

(1) Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus or infant shall be fined under this title or imprisoned not more than two years, or both.

(2) The term 'fetus' and 'infant' are interchangeable.

(3) Unless the pregnancy resulted from the commission of a crime which caused or resulted in the plaintiff's injury, the plaintiff may in a civil action obtain appropriate relief.

(4) Such relief shall include—

(A) money damages for all injuries, psychological and physical, occasioned by the partial-birth abortion and thereby kills a human fetus or infant shall be fined under this title or imprisoned not more than two years, or both.

(5) The following title 18, United States Code, is amended by inserting after chapter 73 the following new item:

"§ 1531. Partial-birth abortions prohibited."

Mr. ABRAHAM. Mr. President, I rise today to cosponsor S. 6. In doing so I add my voice to the chorus calling for
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an end to partial birth abortion. The bill we are considering is designed to outlaw medical procedures ‘‘in which the person performing the abortion partially delivers a living fetus before killing the fetus and completing the delivery if involuntary.’’ I am firmly pro-life. But in my view one need not resort to broad, ideological arguments in this case. Partial birth abortions occur only in the third trimester of pregnancy. They are never required to save the life, health, or child-bearing ability of the mother. They are unnecessary and regrettable.

We in this chamber failed to override the President’s veto of this legislation during the last Congress. But I remain convinced that all of us can agree that this Nation can do without this particular, rare, and grisly procedure. I urge my colleagues to support this legislation.

By Mr. LOTTE for himself, Mr. THURMOND, Mr. SMITH, Mr. WARNER, Mr. KYL, Mr. COCHRAN, Mr. ABRAHAM, Mr. ALARD, Mr. ASHcroft, Mr. COVERDALE, Mr. CRAIG, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HUTCHISON, Mr. HUTCHISON, Mr. INHOFE, Mr. MURkowski, Mr. NIGLIO, Mr. SESSIONS, and Mr. KEMPThorne):

S. 7. A bill to establish a U.S. policy for the deployment of a national missile defense system and for other purposes; to the Committee on Armed Services.

THE NATIONAL MISSILE DEFENSE ACT OF 1997

Mr. LOTTE. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

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

S. 7

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Missile Defense Authorization Act of 1997”.

SEC. 2. NATIONAL MISSILE DEFENSE POLICY.

(a) NATIONAL MISSILE DEFENSE.—It is the policy of the United States to deploy by the end of 2003 a National Missile Defense system that—

(1) is capable of defending the territory of the United States against limited ballistic missile attacks (whether accidental, unauthorized, or deliberate); and

(2) could be augmented over time to provide a layered defense against larger and more sophisticated ballistic missile threats if they emerge.

(b) COOPERATIVE TRANSITION.—It is the policy of the United States to seek a cooperative transition to such a system that does not feature an offense-only form of deterrence as the basis for strategic stability.

SEC. 3. NATIONAL MISSILE DEFENSE SYSTEM ARCHITECTURE.

(a) REQUIREMENT FOR DEVELOPMENT OF SYSTEM.—To implement the policy established in section 2(a), the Secretary of Defense shall develop for deployment a National Missile Defense (NMD) system which shall achieve an initial operational capability (IOC) date specified in section 3(a); and

(b) ELEMENTS OF THE NMD SYSTEM.—The system to be developed for deployment shall include—

(1) INTERCEPTORS.—An interceptor system that optimizes defensive coverage of the continental United States, Alaska, and Hawaii against limited ballistic missile attack (whether accidental, unauthorized, or deliberate).

(2) GROUND-BASED RADARS.—Fixed ground-based radars.

(3) SPACE-BASED SENSORS.—Space-based sensors, including the Space and Missile Tracking System.

(4) BM/C: Battle management, command, control, and communications (BM/C).

SEC. 4. IMPLEMENTATION OF NATIONAL MISSILE DEFENSE SYSTEM.

The Secretary of Defense shall—

(1) upon the enactment of this Act, promptly initiate required preparatory and planning actions that are necessary so as to be capable of meeting the initial operational capability (IOC) date specified in section 3(a); and

(2) not later than the end of fiscal year 1997, conduct an integrated systems test which uses elements (including BM/C elements) that are representative of, and traceable to, the national missile defense system architecture specified in section 3(b); and

(3) prescribe any streamlined acquisition policies and procedures to reduce the cost and increase the efficiency of developing the system specified in section 3(a); and

(4) develop a national missile defense follow-on program that—

(A) leverages off of the national missile defense system specified in section 3(a); and

(B) could augment that system, if necessary, to provide for a layered defense.

SEC. 5. REPORT ON PLAN FOR NATIONAL MISSILE DEFENSE SYSTEM DEVELOPMENT AND DEPLOYMENT.

Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall report to Congress a report on the Secretary’s plan for development and deployment of a national missile defense system pursuant to this Act. The report shall include the following matters:

(1) The Secretary’s plan for carrying out this Act, including—

(A) a detailed description of the system architecture selected for development under section 3(b); and

(B) a discussion of the justification for the selection of that particular architecture.

(2) The Secretary’s estimate of the amount of appropriations required for research, development, test, evaluation, and for procurement, for each of fiscal years 1998 through 2003 in order to achieve the initial operational capability date specified in section 3(a).

(3) A determination of the point at which any activity that is required to be carried out under this Act would conflict with the terms of the ABM Treaty, together with a description of any such activity, the legal basis for an agreement, and an estimate of the time at which such point would be reached in order to meet the initial operational capability date specified in section 3(a).

SEC. 6. POLICY REGARDING THE ABM TREATY.

(a) ABM TREATY NEGOTIATIONS.—In light of the findings in section 232 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 228, 10 U.S.C. 2431 note) and the policy established in section 2, Congress urges the President to pursue such negotiations with the Russian Federation to achieve an agreement to amend the ABM Treaty to allow deployment of the national missile defense system being developed for deployment under section 3.

(b) REQUIREMENT FOR SENATE ADVICE AND CONSENT.—If an agreement described in subsection (a) is achieved in discussions described in that subsection, the President shall present that agreement to the Senate for its advice and consent. No funds appropriated or otherwise available for any fiscal year may be obligated or expended to implement such an amendment to the ABM Treaty unless the amendment is made in the same manner as the manner by which a treaty is made.

(c) ACTION UPON FAILURE TO ACHIEVE NEGOTIATED CHANGES WITHIN ONE YEAR.—If an agreement described in subsection (a) is not achieved in discussions described in that subsection within one year after the date of the enactment of this Act, the President and Congress, in consultation with each other, shall consider exercising the option of withdrawing the United States from the ABM Treaty in accordance with the provisions of Article XV of that treaty.

SEC. 7. DEFINITIONS.

In this Act:

(1) ABM TREATY.—The term “ABM Treaty” means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, and signed at Moscow on May 26, 1972, and includes the Protocols to that Treaty, signed at Moscow on July 3, 1974.

(2) LIMITED BALLISTIC MISSILE ATTACK.—The term “limited ballistic missile attack” refers to a limited ballistic missile attack as that term is used in the National Ballistic Missile Defense Capstone Requirements Document, dated August 24, 1996, that was issued by the United States Space Command and validated by the Joint Requirements Oversight Council of the Department of Defense.

Mr. HELMS, Mr. President, the Federal America Act of 1997 is a vital piece of legislation—one which provides a clear and concise blueprint for protecting an American world from the growing threat of attack from ballistic missiles carrying nuclear, chemical, or biological warheads.

It is critical that the United States begin immediately the 8-year task of building and deploying a national missile defense. I am grateful to the distinguished majority leader, Mr. LOTT, for introducing this bill and I am honored to join him as a cosponsor.

Just over a year ago the Clinton administration vetoed the 1996 Defense Authorization Act. In its veto message, the President explicitly objected to the missile defense provisions of the Act. At that time, along with others, I found it beyond belief that the administration could be so arrogant as to block the deployment of a national missile defense. I remember wondering, given the fact that North Korea is known to be developing a missile capable of striking United States cities, how such a decision could be made.

The chairman of the National Intelligence Council, Richard Cooper, testified before the House National Security
Mr. President, a September 29, 1995, article in the Washington Times reported that the Defense Intelligence Agency has estimated that the Taepo Dong 2 could, in fact, have a range of 4,860 miles and, with a smaller warhead, could reach 6,200 miles—approximately 10,000 km. Similarly, a September 11, 1995, article in a South Korean newspaper stated that Russia believes that once the Taepo Dong 2's inertial navigation system, warhead weight, and range of the Taepo Dong 1 are improved, the missile could reach over 9,600 kilometers. At those ranges, the Taepo Dong 2 could drop a nuclear or biological warhead on U.S. cities as far east as Denver or Minneapolis.

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Mr. President, this is the same country, mind you, that flexed its military might by conducting live missile-firing exercises in the Strait of Taiwan in an obviously intentional effort to bully and cower a valued and longstanding ally of the United States. This is the same country that issued thinly-veiled threats to the United States. This is the same country that is building the very strategic missile defenses necessary to protect the American people from such an attack.

Mr. President, it is time for the defense of the ABM Treaty to give up the arms control theology, and to come to grips with the realities of the post-cold war world. Dr. Henry Kissinger—the architect of the ABM Treaty—put it best when he recently wrote: "The time it takes for a foreign nuclear power to develop a strategy of mutually assured destruction (MAD) largely irrelevant. Barely plausible when there was only one strategic opponent, the theory makes no sense in a multipolar world of proliferating nuclear powers."

Dr. Kissinger went on to note specifically that MAD would not work against blackmail with nuclear weapons. Yet that is exactly what we faced when China blatantly threatened Los Angeles.

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developing is believed to have a maximum range of 10,000 km—which means that the U.S. mainland would be within its range—and will be ready for actual deployment around 2000.

According to a ROK intelligence official on 10 September, the assessment is based on a Russian-source intelligence on North Korea's missile program.

The data Russia handed over to the ROK reveal that North Korea is continuing the research and development of Taepodong No. 1 and No. 2 at a missile test site in Sanum-tong and that it recently conducted a missile engine test.

A computer simulated test by the U.S. Defense Intelligence Agency estimated that the Taepodong No. 2 has a 4,300 to 6,000-km range, but the Russian authorities projected that when some technical problems are solved, the range could be expanded to over 9,600 km.

The Russian source analyzed that the safety of the inertial navigation system, adjustment of the warhead weight, and fuel injection device are the technologies North Korea needs to improve.

North Korea is expected to continue development of Taepodong No. 2 and other long-range weapons to block the support from the neighboring countries in case of an emergency on the Korean peninsula.

By Mr. BOB SMITH (for himself, Mr. CHAFEE, and Mr. LOTT):

S. 8, to authorize and amend the Comprehensive Environmental Response, Liability, and Compensation Act of 1980, and for other purposes; to the Committee on Environment and Public Works.

SUPERFUND CLEANUP ACCELERATION ACT OF 1997

Mr. CHAFEE. Mr. President, Senator SMITH from New Hampshire and I have been working on this not only this year, but in past years also. I think after 7 years, it is time to fix this program. Tens of billions of dollars have been spent with very modest results, as far as cleanups go. This bill, which Senator SMITH and I have submitted, addresses the so-called brownfields problem, for example.

What are brownfields? They are contaminated sites, usually within our cities, which can be cleaned up relatively quickly and inexpensively and can be returned to productive industrial commercial use, thereby generating jobs and revenue.

In the budget, we deal with who will have to pay. Obviously, this is where the intense legal arguments have occurred, where you need to hire a hall because there are so many lawyers involved.

We eliminate the unfairness of joint and several liability at most sites, and we replace it with proportional allocations where each polluter pays its fair share.

We eliminate from liability anyone who really sent waste to a municipal landfill.

We eliminate small businesses and persons whose share was less than 1 percent and persons who sent less than 200 pounds or 110 gallons.

In deciding how clean the cleanup ought to be, we take into consideration, what is the future use of the site going to be? Is it going to be for a community or is it going to be for a parking lot that is paved? Obviously, it makes a difference as to how clean the site should be cleaned up.

Mr. President, this bill is not written in stone. Senator ABRAHAM, for example, is deeply concerned that we do not include here within our legislation tax incentives for brownfields cleanup in empowerment zones and in enterprise communities. Senator ABRAHAM, who is deeply concerned about our inner cities and the jobs that will flow from it if these sites within the inner cities are cleaned up, believes there should be some tax incentives provided.

We have not done that because of a cost problem, but we have assented Senator ABRAHAM will work with him to try to come up with the result that he seeks. I want to commend Senator ABRAHAM for the work that he has done on this and the intense concern he has shown throughout the process of formulating this legislation.

Mr. President, now I would like to turn it over to Senator SMITH who has labored so hard in this vineyard, not only this year but last year. I do not think anybody in this Senate knows more about this legislation or has worked harder on it than Senator SMITH from New Hampshire.

Mr. BOB SMITH addressed the Chair. The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. BOB SMITH. Thank you, Mr. President. Thank you, Mr. President. I thank my distinguished colleague and chairman of the Environment and Public Works Committee for his kind remarks. He, too, has been deeply involved in this issue. We have spent a lot of hours on this.

I am just very excited about the fact that Senator CHAFEE and I have submitted proposals over the past 2 years, which Senator ABRAHAM and his colleagues on the other side of the aisle, have been productive. We have learned a lot. We are ready to roll up our sleeves again and get it done. We have a proposal not only this year but last year. I think that is a tremendous improvement over current law. So the discussions over the past 2 years, which Senator CHAFEE has mentioned, which I have been involved in with the administration, Administrator Browner, and my colleagues on the other side of the aisle, have been productive. We have learned a lot. We are ready to roll up our sleeves again and get it done. We are very close to an agreement last time. We look forward to working with our colleagues and with the President of the United States to get it done in a bipartisan way.

As the Chairman of the Senate Subcommittee on Environment, Conservation and Control and Risk Assessment, I am here today, along with Senator CHAFEE, the Chairman of the Environment Committee, to introduce some commonsense
legislation to put the Superfund law back on track toward achieving its original goal of protecting our Nation's children from environmental pollutants in the quickest practical manner possible.

I would like to thank the Republican Leader, Senator LOTT and all of the members of the Republican Conference who have co-sponsored our legislation—The Superfund Cleanup Acceleration Act—for recognizing the importance of the Superfund program. By making this one of the “top 10” Senate priorities for the 105th Congress, I believe we have demonstrated our strong commitment toward protecting our environment, improving environmental laws, and preserving the health of our Nation's children.

Before I describe our legislation, I would like to take a few minutes to talk about Superfund and how we find ourselves here today.

The legacy of Superfund is long and somewhat checkered. The program was created in 1980 to clean up abandoned hazardous waste sites, and at that time, it was anticipated that this program would clean up around 400 sites nationwide. Begun with the best of intentions, the program has not performed the way it should. So far Superfund has cost our Nation more than $40 billion dollars, yet, only 125 out of a total of around 1,300 sites have been removed from the Superfund list over the last 16 years. Superfund has become the classic example of a Federal program awash in redtape, litigation and gold plated spending. The problems in Superfund are many. First, the Superfund liability scheme allows the Environmental Protection Agency to hold any potentially responsible party liable for the entire cleanup cost at a site—irrespective of the type of contamination, when the material was disposed of, or whether the activity that produced the contamination is simple or complex and, not surprisingly, results in enormous litigation costs with 30 to 70 percent of every dollar spent on lawyers.

Because of the fear of Superfund liability, many of our Nation's inner cities contain abandoned or underutilized properties—dubbed Brownfields—which lay fallow because private developers and municipalities don't want to be dragged into Superfund's litigation quagmire. In order to spur economic redevelopment, we must place a priority on fixing this problem.

Superfund sets out unrealistic cleanup goals which frequently ignore common sense in considering the future use of the site. All too often, sites that are destined to become industrial parks or parking lots are required to be cleaned to standards compatible with school playgrounds. We need to inject common sense into this program to make sure that we protect real people from real dangers, not hypothetical people from hypothetical dangers. We must also recognize that the States, which are much better able to understand the concerns and needs of residents who live near these sites, should have the lead in determining how these sites are going to be cleaned up, and when.

Because I am also the Chairman of the Armed Services Subcommittee on Strategic Forces, which funds the Department of Energy cleanup program, I am keenly aware that the real costs of Superfund are not limited solely to the private sector. Not only are there more than 255 Federal facilities on the Superfund list but they represent the most complex and costly cleanup challenges in the program. The inability to create commonsense cleanup plans results in billions of dollars of additional liability to Federal agencies—costs that come from the taxes we all pay. In a period of budget deficits and declining resources, we need to do a better job of making cleanup decisions.

While Superfund was created with the hope of quickly dealing with the serious problem of toxic waste sites endangering our citizens, it is evident that Superfund has proceeded at a snail's pace and that most sites are still not cleaned up. I commend Carol Browner, the Administrator of the EPA, for recognizing this fact, and for instituting a series of administrative reforms in the last year—reforms that reflect changes that I, and other Republicans have advocated for many years.

Although I applaud the administration for making these changes, I believe it is too soon to declare victory in the effort to make Superfund work better. While improvements have been made in some areas, it is far too early to determine their true or lasting effect. I certainly do not agree with some in the Administration that feel that the administrative reforms have corrected all the problems of Superfund. The fact remains that even with the administrative reforms, too much money is spent on litigation, sites aren't being cleaned up fast enough, and children are being needlessly exposed to toxins.

Rather than reform Superfund on a piecemeal basis, as some may suggest, it is clear that comprehensive legislation is necessary to correct Superfund's deeper problems. The bill we have introduced will address those problems in a top-to-bottom fashion so that we can clean up all of these waste sites as quickly as possible.

To achieve meaningful Superfund reform, it is essential to meet three goals. The first is to cut the transaction costs of the program. That means cutting out the lawyers and ensuring that every dollar spent for cleanup goes to cleanup. The second goal is to reduce the time necessary to complete cleanup at these sites. Currently, it takes more than 12 years to complete this process. We can do better than that. The last goal is to inject common sense into our cleanup program to make sure that our children and protect the environment.

In January 1997, I introduced today's bill which will clean up around 400 sites. The bill improves the serious problem of brownfields by providing $60 million in new funding each year to States and localities for grant and loan programs to spur the cleanup and redevelopment of these sites.

It increases citizen participation by allowing them to take primary responsibility for conducting Superfund cleanups.

It eliminates potential liability from tens of thousands of average citizens, small businesses, schools, churches, and others who are currently caught in the Superfund liability net.

It caps the liability of municipalities and other entities that owned or operated a site on the Superfund list.

And finally, it reduces litigation by creating a fair-share allocation process at multi-party sites where the Trust Fund will pick up the cost of defunct or insolvent parties, or wastes that cannot be corrected by the potentially responsible party.

Among the significant issues we have focused on is the issue of brownfields. As many of my colleagues may know, there are a variety of bills that have been introduced by Senator Abraham, Senator Lieberman, Senator Lautenberg and others which attempt to take a crack at this issue.

Many of the brownfield bills that have been introduced rely on tax credits or tax deductions to promote the cleanup of these sites. One issue of tax credits does not fall within the jurisdiction of the Environment Committee, as this bill progresses toward passage, it is my intention to work with my colleagues to find common ground and provide additional support for these areas.

Liability has always been one of the most contentious issues in the Superfund reform debate. My position has been clear from the beginning. I believe that retroactive liability is fundamentally unfair and if I had my way, I would repeal it. Some of my colleagues see things differently. It is important to understand that the bill we are introducing represents many hours of intense discussions and all the parties involved will recognize some of their positions. The bill does not go as far as I would like. Equally, it asks that the other side take a step forward as well. We each must take this step to improve a system which is not working for our citizens, as it should.

Over the last 2 years, my staff and that of Senator Chafee have been engaged in bi-partisan discussions with
Democrats and the Clinton administration. These discussions were long and sometimes pointed, but the participants in these negotiations understood that the Superfund program has flaws which need to be corrected.

While there was general agreement that cleanups should occur faster, and that there are too many lawyers in the system, there are many ideas about how to correct these problems. The discussions over the past 2 years have been productive and on many issues we are close to agreement. We look forward to working with our colleagues and the with the President to craft a bipartisan solution to the problems of Superfund.

The bill we introduce today incorporates many good ideas from our bipartisan negotiations. It represents a significant step away from where we started last Congress, and I believe it deserves, and will receive, bipartisan support.

Much has been said about the Republican and Democratic positions on the environment. I urge my colleagues to move beyond the rhetoric and the posturing of the last election and examine the real situation. The bill we are introducing today will speed cleanups, take lawyers out of the system, inject common sense back into the process, and protect children much faster from toxic exposure than under current law. This should not merely be a top-10 priority on the Republican agenda, but it should be a top ten item on our shared agenda. I urge all of my colleagues to join us to reform this program this year.

I thank you, Mr. President. I thank my colleagues.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to stress the comments that Senator SMITH made about a bipartisan approach.

As I mentioned before, this is legislation that we worked on. We believe it is very, very good legislation. We are not saying it is the end all and be all. Obviously, in our committee we will have hearings on it. All the members of the committee will have a chance to have their views expressed.

We look forward to contributions from the members of the Democratic Party who are part of our Environment Committee. It is our hope that when we come forward with a bill to present on this floor finally for consideration by the body, that it will come unanimously from our committee, will have the support of the administration, and will fulfill the desires of all of us that this legislation become law.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 8

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
(D) a redevelopment agency that is chartered or otherwise sanctioned by a State; and
(E) an Indian tribe.

(2) BROWNFIELD REMEDIATION GRANT PROGRAM.

(A) Establishment of Program. — The Administrator shall establish a program to provide grants for the site characterization and assessment of brownfield facilities.

(B) Assistance for Site Characterization and Assessment. —

(1) In general. — On approval of an application made by an eligible entity, the Administrator may make grants out of the Fund to the eligible entity for the site characterization and assessment of 1 or more brownfield facilities or to capitalize a revolving loan fund.

(2) Appropriateness Inquiry. — A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(3)(B).

(3) Maximum Grant Amount. — A grant under subparagraph (A) shall not exceed, with respect to any individual brownfield facility covered by the grant, $1,000,000 for any fiscal year or $200,000 in total.

(c) BROWNFIELD REMEDIATION GRANT PROGRAM.

(A) Establishment of Program. — The Administrator shall establish a program to provide grants to be used for capitalization of revolving loan funds for response actions (excluding site characterization and assessment) at brownfield facilities.

(B) Appropriateness Inquiry. — A site characterization and assessment carried out with the use of a grant under subparagraph (A) shall be performed in accordance with section 101(3)(B).

(3) Maximum Grant Amount. — A grant under subparagraph (A) shall not exceed, with respect to any individual brownfield facility covered by the grant, $150,000 for any fiscal year or $300,000 in total.

(d) SUNSET. — No amount shall be available after the fifth fiscal year after the date of enactment of this section, the Administrator shall make an annual evaluation of each application received during the prior fiscal year that the Administrator considers appropriate to carry out the purposes of this section.

(2) PROHIBITION. — No part of a grant under paragraph (4) may be used for response actions (including site characterization and assessment) at brownfield facilities.

(3) Ranking Criteria. —

(A) The extent to which a grant will stimulate the availability of other funds for environmental remediation and subsequent redevelopment in the area in which the brownfield facilities are located.

(B) The potential of the development plan for the area in which the brownfield facilities are located to stimulate economic development of the area on completion of the cleanup, such as the following:

(i) The relative increase in the estimated fair market value of the area as a result of any necessary response action.

(ii) The potential of a grant to create new or expand existing business and employment opportunities (including full-time employment opportunities) on completion of any necessary response action.

(iii) The estimated additional tax revenues generated by economic redevelopment in the area in which a brownfield facility is located.

(iv) The estimated extent to which a grant would facilitate the identification of or facilitate a reduction of health and environmental risks.

(v) The financial involvement of the State and local government in any response action planned for a brownfield facility and the extent to which the response action and the subsequent development of a brownfield facility involves the active participation and support of the local community.

(vi) Such other factors as the Administrator considers appropriate to carry out the purposes of this section.

(b) FUNDING. — Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) is amended by adding at the end the following:

"(g) BROWNFIELD REMEDIATION GRANT PROGRAM. — For each of fiscal years 1998 through 2002, not more than $10,000,000 of the amounts available in the Fund may be used to carry out section 127(c)."

"(h) SEC. 102. ASSISTANCE FOR QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS. (a) DEFINITION. — Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9001) is amended by adding at the end the following:

"(39) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAM. — The term ‘qualifying State voluntary response program’ means a State program that includes the elements described in section 128(b)."

(b) QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS. — Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9001 et seq.) (as amended by section 101(a)) is amended by adding at the end the following:

"(38) SEC. 128. QUALIFYING STATE VOLUNTARY RESPONSE PROGRAMS. (a) ASSISTANCE TO STATES. — The Administrator shall provide technical and other assistance to States to establish and expand qualifying State voluntary response programs that include the elements listed in subsection (b).

(b) ELEMENTS. — The elements of a qualifying State voluntary response program are the following:

(1) Opportunities for technical assistance for voluntary response actions.

(2) Adequate opportunities for public participation, including prior notice and opportunity for comment in all circumstances, in selecting response actions.

(3) Streamlined procedures to ensure expeditious voluntary response actions.

(4) Oversight and enforcement authorities or other mechanisms that are adequate to ensure that—

(A) voluntary response actions will protect human health and the environment;

(B) the person conducting the voluntary response action will comply with all applicable Federal and State law; and

(C) the person conducting the voluntary response actions will complete all necessary response activities, including operation and maintenance or long-term monitoring activities, the necessary response activities are completed.

(5) Mechanisms for approval of a voluntary response action plan.
“(6) A requirement for certification or similar documentation from the State to the person conducting the voluntary response action indicating that the response is complete.

“(c) Compliance With Act.—A person that conducts a voluntary response action under this section at a facility that is listed or proposed to be listed on the National Priorities List shall implement applicable provisions of this Act or of similar provisions of State law in a manner complying with State policy, so long as the voluntary action that is selected protects human health and the environment to the same extent as would a remedial action selected by the Administrator under section 102(a).

“(c) Funding.—Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) (as amended by section 101(a)) is amended by adding at the end the following:

“(d) Qualifying State Voluntary Response Program.—For each of fiscal years 1998 through 2002, not more than $25,000,000 of the amounts available in the Fund may be used for assistance to States to establish and administer qualifying State voluntary response programs. A qualifying State voluntary response program shall—

“(A) issue assurance that no enforcement action under this Act will be initiated against a person described in paragraph (1); and

“(B) grant a person described in paragraph (1) protection against a cost recovery or contribution action under section 113(a).

“(d) Conforming Amendment.—Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by striking "of this section" and inserting "the extent to which" after each references to "this Act or of similar provisions of State law."
(a) DEFINITIONS.—In this section:

"(1) COMPREHENSIVE DELEgATION STATE.—The term "comprehensive delegation state," with respect to a facility, means a State to which the Administrator has delegated authority to perform all of the categories of delegable authorities.

"(2) DELEGABLE AUTHORITY.—The term "delegable authority" means authority to perform (or ensure performance of) all of the authorities included in any 1 or more of the categories of authority:

(A) CATEGORY A.—All authorities necessary to perform technical investigations, evaluations, and risk analyses, including—

(i) a preliminary assessment or facility evaluation under section 104;

(ii) facility characterization under section 104;

(iii) a remedial investigation under section 104;

(iv) a facility-specific risk evaluation under section 130;

(v) enforcement authority related to the authorities described in clauses (i) through (iv); and

(vi) any other authority identified by the Administrator under subsection (b).

(B) CATEGORY B.—All authorities necessary to perform alternatives development and decisionmaking, including—

(i) a feasibility study under section 104; and

(ii) remedial action selection under section 130 (including issuance of a record of decision); or

(iii) remedial action planning under section 133(b)(5);

(iv) enforcement authority related to the authorities described in clauses (i) and (ii); and

(v) any other authority identified by the Administrator under subsection (b).

(C) CATEGORY C.—All authorities necessary to perform remedial design, including—

(i) remedial design under section 122; and

(ii) enforcement authority related to the authority described in clause (i); and

(iii) any other authority identified by the Administrator under subsection (b).

(D) CATEGORY D.—All authorities necessary to perform remedial action and operation and maintenance, including—

(i) a removal under section 104;

(ii) a remedial action under section 104 or section 109(a) or (c); and

(iii) enforcement authority related to the authorities described in clauses (i) through (ii); and

(iv) any other authority identified by the Administrator under subsection (b).

(E) CATEGORY E.—All authorities necessary to perform information collection and allocation of liability, including—

(i) information collection activity under section 104;

(ii) allocation of liability under section 136;

(iii) a search for potentially responsible parties under section 104 or 107;

(iv) settlement under section 122;

(v) enforcement authority related to the authorities described in clauses (i) through (iv); and

(vi) any other authority identified by the Administrator under subsection (b).

(2) I NTERIM STANDARDS AND PRACTICES.—In issuing or designating alternative standards and practices under section 104, the Administrator shall consider including each of the following:

(a) The results of an inquiry by an environmental professional:

(b) Interviews with past and present owners, operators, and occupants of the facility and the facility's real property for the purpose of gathering information regarding the presence or likely presence of contamination at the facility and the facility's real property.

(c) Reviews of historical sources, such as chair of title documents, aerial photographs, building department records, and land use records to determine previous uses and occupancies of the real property since the property was first developed.

(d) Searches for recorded environmental cleanup liens, filed under Federal, State, or local law, against the facility or the facility's real property.

(e) Reviews of Federal, State, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste treatment, disposal, and spill records, concerning contamination at or near the facility or the facility's real property.

(f) Visual inspections of the facility and facility's real property and of adjoining properties.

(gg) Specialized knowledge or experience on the part of the defendant.

(hh) The relationship of the purchase price to the value of the property if the property was uncontaminated.

(ii) Commonly known or reasonably ascertainable information about the property.

(jj) The degree of obviousness of the presence or likely presence of contamination at the facility and the ability to detect such contamination by appropriate investigation.

(3) SITE INSPECTION AND TITLE SEARCH.—In the case of property for residential use or other similar use, purchased by a nonfederal, government or noncommercial, entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph.

(b) STANDARDS AND PRACTICES.—(1) ESTABLISHMENT BY REGULATION.—The Administrator of the Environmental Protection Agency shall issue the regulation required by section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a) not later than 1 year after the date of enactment of this Act).

(2) INTERIM STANDARDS AND PRACTICES.—Until the Administrator issues the regulation described in paragraph (1), in making a determination under section 101(35)(B)(ii) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by subsection (a)), there shall be taken into account—

(A) any specialized knowledge or experience on the part of the defendant;

(B) the relationship of the purchase price to the value of the property if the property was uncontaminated;

(C) commonly known or reasonably ascertainable information about the property;

(D) the degree of obviousness of the presence or likely presence of contamination at the property; and

(E) the ability to detect the contamination by appropriate investigation.
the Administrator that shall be included in a delegation of any category of delegable authority described in subsection (a)(2).

(2) LIMITATION.—The Administrator shall not delegate any delegable authority for inclusion in a delegation of any category of delegable authority.

(c) DELEGATION OF AUTHORITY.—

(1) IN GENERAL.—Pursuant to an approved State application, the Administrator shall delegate authority to perform 1 or more delegable authorities with respect to or for more non-Federal listed facilities in the State.

(2) APPLICATION.—An application under paragraph (1) shall—

(A) identify each non-Federal listed facility for which delegation is requested;

(B) identify each delegable authority that is requested to be delegated for each non-Federal listed facility for which delegation is requested; and

(C) certify that the State, supported by such documentation as the State, in consultation with the Administrator, considers to be appropriate—

(i) has statutory and regulatory authority (including appropriate enforcement authority) to exercise the delegated authority and authorities in a manner that is protective of human health and the environment;

(ii) is in place to adequately administer and enforce the authorities;

(iii) has procedures to ensure public notice and, as appropriate, opportunity for comment on remedial action plans, consistent with sections 117 and 133; and

(iv) agrees to exercise its enforcement authorities to require that persons that are potentially liable under section 307(a), to the extent practicable, perform and pay for the response actions set forth in each category described in subsection (a)(2).

(3) APPLICATION—

(A) IN GENERAL.—Not later than 60 days after receiving an application under paragraph (2) by a State that is authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), and not later than 120 days after receiving an application from a State that is not authorized to administer and enforce the corrective action requirements of a hazardous waste program under section 3006 of the Solid Waste Disposal Act (42 U.S.C. 6926), unless the State agrees to a greater length of time for the Administrator to make a determination, the Administrator shall—

(i) issue a notice of approval of the application (including approval or disapproval regarding the facility or facilities with respect to which a delegation of authority is requested or with respect to any or all of the authorities that are requested to be delegated);

(ii) if the Administrator determines that the State does not have adequate legal authority, financial and personnel resources, organization with the enforcement of the requirement under paragraph (A), the application shall be deemed to have been granted.

(C) RESUBMISSION OF APPLICATION.—

(1) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application at any time after receiving the notice of disapproval.

(2) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the applicable time period under subparagraph (A), the resubmitted application shall be deemed to have been granted.

(D) NO AUTHORITY TO ISSUING TERMS OR CONDITIONS.—The Administrator shall not impose any term or condition on the approval of an application that meets the requirements stated in subparagraph (A) with respect to any technical deficiencies in the application be corrected.

(E) JUDICIAL REVIEW.—The State (but not other persons) may be entitled to judicial review under section 113(b)(1) of a disapproval of a resubmitted application.

(2) DELEGATION AGREEMENT.—On approval of a delegation authority under this section, the Administrator and the delegated State shall enter into a delegation agreement that identifies each category of delegable authority that is delegated with respect to each delegated facility.

(3) LIMITED DELEGATION.—

(A) IN GENERAL.—In the case of a State that does not meet the requirements under paragraph (2), the Administrator may delegate to the State limited authority to perform the enforcement and administrative functions of this Act specified in section 121, if the State pays for the response cost for a remedial action selected by the Administrator under section 121.

(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of the resubmitted application under subparagraph (A), the Administrator shall be deemed to have been granted.

(C) NONCOMPREHENSIVE DELEGATION STATES.—A noncomprehensive delegation State shall implement each applicable provision of this Act with the concurrence of the Administrator and any other Federal or State law from any other person for the difference in cost.

(D) COST RECOVERY.—If a noncomprehensive delegation State selects a more costly remedial action under subclause (I), the State shall not be entitled to seek cost recovery under this Act or any other Federal or State law from any other person for the difference in cost.

(4) JUDICIAL REVIEW.—An order that is issued under section 106 by a delegated State that is requested to be delegated shall be reviewable only in United States district court under section 113.

(5) DELISTING OF NATIONAL PRIORITIES LIST AUTHORITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (a)(2), a State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegable authority, or any other Federal or State law that identifies each category of delegable authority described in subparagraph (A) of this section.

(B) AGREEMENT FOR PERFORMANCE OF DELEGATED AUTHORITIES.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (a)(2), a State may enter into an agreement with a political subdivision of the State, an interstate body comprised of that State and another delegable authority, or any other Federal or State law that identifies each category of delegable authority described in subparagraph (A) of this section.

(B) AGREEMENT WITH POTENTIALLY RESPONSIBLE PARTY.—A delegated State shall enter into an agreement with a potentially responsible party under subparagraph (A), the Administrator shall specify the extent to which the State shall be entitled to consider a delegated facility for the purposes of this Act.

(C) PERFORMANCE OF DELEGATED AUTHORITIES.—

(A) IN GENERAL.—A delegated State, with the concurrence of the potentially responsible parties, if the State has an enforceable agreement to perform all required remedial action and operation and maintenance for the facility or any part of the facility under any applicable law to protect human health and the environment consistent with section 121(a)(1) and (2), may enter into an agreement with a potentially responsible party to perform the activities of the parties to the agreement agree in the agreement to undertake response actions that are consistent with this Act.

(B) EFFECT OF DELISTING.—A delisting under subparagraph (A) (i) or (ii) shall not affect—

(i) the authority or responsibility of the State to complete remedial action and operation and maintenance for the facility.

(ii) the eligibility of the State for funding under this Act.

(iii) notwithstanding the limitation on section 106(i), the concurrence of the Administrator to make expenditures from the Fund relating to the facility or

(iv) the enforceability of any consent order or decree relating to the facility.

(C) NO RELISTING.—

(I) IN GENERAL.—Except as provided in clause (ii), the Administrator shall not relist under subparagraph (A) a facility that has been removed from the National Priorities List under subparagraph (A).

(II) CLEANUP NOT COMPLETED.—The Administrator may relist a facility or portion of a facility that has been removed from the National Priorities List under subparagraph (A).

(iii) 25 percent of the amount of any Federal response cost recovered with respect to
a manner that is inconsistent with this Act.

(ii) IN GENERAL.—The Administrator may take action under section 107 to recover response costs from a responsible party for a delegated facility if: 

(iii) is failing to materially carry out the State's delegated authorities,

the Administrator may withdraw a delegation of authority with respect to a delegated facility after providing notice and opportunity to correct deficiencies under subparagraph (D).

(B) STATES WITH LIMITED DELEGATIONS OF AUTHORITY.—If the Administrator finds that a State has a delegation of authority was made under subsection (c)(5) of the Administrator has materially breached the delegation agreement, the Administrator may withdraw the delegation after providing notice and opportunity to correct deficiencies under subparagraph (D).

(C) NOTICE AND OPPORTUNITY TO CORRECT.—If the Administrator proposes to withdraw a delegation of authority for any or all delegated facilities, the Administrator shall give the State written notice and allow the State at least 90 days after the date of receipt of the notice to correct the deficiencies cited in the notice.

(D) FAILURE TO CORRECT.—If the Administrator finds that the deficiencies have not been corrected within the time specified in a subparagraph (C), the Administrator may withdraw delegation of authority after providing public notice and opportunity for comment.

(E) JUDICIAL REVIEW.—A decision of the Administrator to withdraw a delegation of authority shall be subject to judicial review under section 113(b).

(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Administrator under this Act to:

(A) take a response action at a facility listed on the National Priorities List in a State to which a delegation of authority has not been made under this section or at a facility not included in a delegation of authority;

(B) perform a delegable authority with respect to a facility that is not included among the authorities delegated to a State with respect to the facility.

(4) RETAINED AUTHORITY.—

(A) NOTICE.—Before performing an emergency removal action under section 104 at a facility to which a delegation of authority has not been made under this section, the Administrator shall notify the State to which the delegation of authority was made under subsection (c)(5) of the Administrator's intention to perform the removal.

(B) STATE ACTION.—If, after receiving a notice under subparagraph (A), the State notifies the Administrator within 48 hours that the State intends to take action to perform an emergency removal action at the facility, the Administrator shall not perform the emergency removal action unless the Administrator determines that the State has failed to act within a reasonable time to perform the emergency removal.

(C) IMMEDIATE AND SIGNIFICANT DANGER.—If the Administrator finds that an emergency removal action at a facility poses an immediate and significant danger to human health or the environment, the Administrator shall not be required to provide notice under subparagraph (A).

(5) PROHIBITED ACTIONS.—Except as provided in subsections (d)(6)(B), (e)(4), and (g) or except with the concurrence of the delegable authorities, the Administrator shall not take any action under section 104, 106, 107, 109, 121, or 122 in performance of a delegable authority unless the Administrator has been notified by the State with respect to a delegated facility.

(f) FUNDING.—

(1) IN GENERAL.—The Administrator shall provide grants to or enter into contracts or cooperative agreements with delegated States to carry out this section.

(2) NO CLAIM AGAINST FUND.—Notwithstanding any other law, funds to be granted under this subsection shall not constitute a claim against the Fund or the United States.

(3) UNCONDITIONAL FUNDS AVAILABLE.—If funds are unavailable in any fiscal year to satisfy all commitments made under this section by the Administrator, the Administrator shall take necessary or appropriate actions to delay payments until funds are available.

(4) DETERMINATION OF COSTS ON A FACILITY-SPECIFIC BASIS.—The Administrator shall—

(A) determine—

(i) the delegable authorities the costs of performing which it is practicable to determine on a facility-specific basis; and

(ii) the delegable authorities the costs of performing which it is not practicable to determine on a facility-specific basis; and

(B) publish a list describing the delegable authorities in each category.

(F) NONFACILITY-SPECIFIC GRANTS.—The costs described in paragraph (4)(A)(iii) shall be funded as such costs arise with respect to each delegated facility.

(G) LIMITED DELEGATION OF AUTHORITY.—

(A) IN GENERAL. The costs described in paragraph (4)(A)(ii) shall be funded through nonfacility-specific grants under this paragraph.

(B) FORMULA.—The Administrator shall establish a formula under which funds available for nonfacility-specific grants shall be allocated among the delegated States, taking into consideration—

(i) the cost of administering the delegated authority;

(ii) the number of sites for which the State has been delegated authority;

(iii) the types of activities for which the State has been delegated authority;

(iv) the number of facilities within the State that are listed on the National Priorities List or are delegated facilities under section 103(d)(5);

(v) the number of other high priority facilities within the State;

(vi) the need for the development of the State program;

(vii) the need for additional personnel;

(viii) the resources available through State programs for the cleanup of contaminated sites; and

(ix) the benefit to human health and the environment of providing the needed resources.

(7) PERMITTED USE OF GRANT FUNDS.—A delegated State may use grant funds, in accordance with this Act and the National Contingency Plan, to take any action or perform any necessary or appropriate actions to implement the authority delegated to the State under this section.

(B) COST SHARE.—

(A) ASSURANCE.—A delegated State to which a grant is made under this subsection shall provide an assurance that the State will pay any amount required under section 104(c)(3).

(B) PROHIBITED USE OF GRANT FUNDS.—A delegated State to which a grant is made under this subsection may not use grant funds to pay any amount required under section 104(c)(3).

(9) CERTIFICATION OF USE OF FUNDS.—

(A) IN GENERAL.—The Governor of the State may not submit a certification under this subsection until 1 year after the date on which a delegated State receives funds under this subsection, and annually thereafter, the Governor of the State shall submit to the Administrator—

(i) a certification that the State has used the funds in accordance with the requirements of this Act and the National Contingency Plan;

(ii) information describing the manner in which the State used the funds;
"(B) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a regulation describing with particularity the information that is required to provide under subparagraph (A)(ii).

"(g) COOPERATIVE AGREEMENTS.—Nothing in this section shall affect the authority of the Administrator to enter into a contract or cooperative agreement with the State, a political subdivision of a State, or an Indian Tribe to carry out actions under section 104.

"(b) STATE COST SHARE.—Section 104(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)) is amended—

(1) by striking "(c)(i)" and inserting the following:

"(c) MISCELLANEOUS LIMITATIONS AND REQUIREMENTS.—

"(1) CONTINUANCE OF OBLIGATIONS FROM FUND.—Unless;

(2) by striking "(2) The President" and inserting the following:

"(2) CONSULTATION.—The President"; and

(3) by striking paragraph (3) and inserting the following:

"(3) STATE COST SHARE.—

"(A) IN GENERAL.—The Administrator shall not provide any remedial action under this section unless the State in which the facility is located enters into a contract or cooperative agreement with the Administrator providing assurances adequate by the Administrator that the State will pay, in cash or through in-kind contributions, a specified percentage of the costs of the remedial action and operation and maintenance costs.

"(B) ACTIVITIES WITH RESPECT TO WHICH STATE COST SHARE IS REQUIRED.—No State cost share shall be required except for remedial actions under section 104.

"(C) AFFECTED VENGEANCE.

"(i) IN GENERAL.—The specified percentage of costs that a State shall be required to share shall be the lower of 10 percent or the percentage determined under clause (ii).

"(ii) MAXIMUM IN ACCORDANCE WITH LAW PRIOR TO 1996 AMENDMENTS.—

(1) On petition by a State, the Director of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(37)(B)) is amended —

(i) the recipient of the grant shall coordinate its activities and share information and technical expertise with the community response organization; and

(ii) a person representing the grant recipient shall serve on the community response organization.

"(E) MEMBERSHIP—

"(A) NUMBER.—The Administrator shall select not less than 15 nor more than 20 persons to serve on a community response organization.

"(B) NOTICE.—Before selecting members of the community response organization, the Administrator shall provide a notice of intent to establish a community response organization to person who reside in the local community.

"(C) REPRESENTED GROUPS.—The Administrator shall, to the extent practicable, appoint members to the community response organization from each of the following groups of persons:

(i) Persons who reside or own residential property near the facility;

(ii) Persons who, although they may not reside or own property near the facility, may be adversely affected by a release from the facility;

(iii) Persons who are members of the local public health or medical community and are practicing in the community.

(iv) Representatives of Indian tribes or Indian communities that reside or own property near the facility or that may be adversely affected by a release from the facility.

(v) Local representatives of citizen, environmental, or public interest groups with members residing in the vicinity of the facility.

(vi) Representatives of local governments, such as city or county governments, or both, and any other governmental unit that regulates land use or land use planning in the vicinity of the facility.

(vii) Members of the local business community.

(D) PAY.—Local residents shall comprise not less than 60 percent of the membership of a community response organization.

"(H) ADMINISTRATIVE SUPPORT.—The Administrator, to the extent practicable, shall provide administrative services and meeting
facilities for community response organizations.

(9) FACA. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a cost-reimbursement grant.

(f) Technical Assistance Grants.—

(1) Definitions.—In this subsection:

(A) Citizen group.—The term "affected citizen group" means a group of 2 or more individuals who may be affected by the release or threatened release of a hazardous substance, vapor, gas, or other contaminant at a facility on the State Registry or the National Priorities List.

(B) Technical Assistance Grant.—The term "technical assistance grant" means a grant made under paragraph (2).

(2) Authority.—

(A) In General.—In accordance with a regulation issued by the Administrator, the Administrator may make grants available to affected citizen groups.

(B) Availability of Application Process.—To ensure that the application process for a technical assistance grant is available to all affected citizen groups, the Administrator shall periodically review the process and, based on the review, implement appropriate changes to improve availability.

(3) Special Rules.—

(A) Matching Contribution.—No matching contribution shall be required for a technical assistance grant.

(B) Availability in Advance.—The Administrator may make all or a portion (not less than 5,000 or 10 percent of the grant amount, whichever is greater) of the grant amount available to a grant recipient in advance of the total expenditures to be covered by the grant.

(4) Limit Per Facility.—

(A) Grant Per Facility.—Not more than 1 technical assistance grant may be made with respect to a single facility, but the grant may be renewed to facilitate public participation at all stages of response action.

(B) Duration.—The Administrator shall set a limit by regulation on the number of years for which a technical assistance grant may be made available based on the duration, type, and extent of response action at a facility.

(5) Availability for Facilities Not Yet Listed.—If a facility does not appear on the National Priorities List, additional technical assistance grants shall be made available to affected citizen groups in communities containing facilities on the State Registry as of the date on which the grant is awarded.

(6) Funding Limit.—

(A) Percentage of Total Appropriations.—Not more than 2 percent of the total amount of funds used to make technical assistance grants for a fiscal year may be used to make technical assistance grants.

(B) Allocation Between Listed and Unlisted Facilities.—Not more than the portion of funds equal to 1/3 of the total amount of funds used to make technical assistance grants for a fiscal year may be used to make technical assistance grants with respect to facilities not listed on the National Priorities List.

(7) Funding Amount.—

(A) In General.—Except as provided in subparagraph (B), the amount of a technical assistance grant may not exceed $50,000 for a single grant made available to carry out this Act for a fiscal year may be used to make technical assistance grants.

(B) Increase.—The Administrator may increase the amount of a technical assistance grant, or renew a previous technical assistance grant, up to a total grant amount not exceeding $100,000, to reflect the complexity of the response action, the nature and extent of contamination at the facility, the level of public concern, projected costs that need as requested by the grant recipient, the size and diversity of the affected population, and the ability of the grant recipient to identify and raise funds from other non-Federal sources.

(8) Use of Technical Assistance Grants.—

(A) Permitted Use.—A technical assistance grant may be used to obtain technical assistance in interpreting information with respect to a single facility; and

(B) Prohibited Use.—A technical assistance grant may not be used for the purpose of collecting field sampling data.

(9) Grant Duration.—

(A) In General.—Not later than 90 days after the date of enactment of this paragraph, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of any study or analysis conducted under subparagraph (A), including any public meetings held for purposes of allowing public review of the results of a study or analysis conducted under subparagraph (A).

(B) Hiring of Experts.—A recipient of a technical assistance grant that hires technical experts and other experts shall act in accordance with the guidelines under subparagraph (A).

(10) Reimbursement of Expenses.—

(A) In General.—To the extent practicable, the Administrator shall solicit and evaluate costs, interests, and information from the community.

(B) Procedure.—An evaluation under subparagraph (A) shall include, as appropriate—

(i) face-to-face community surveys to identify the location of private drinking water wells; historical and current or potential use of water, and other environmental resources in the community; and

(ii) a public meeting;

(C) Limitation.—Nothing in this subsection shall be construed—

(i) to provide for public participation in decisions made under this Act that may affect the Administrator's decision to carry out responsibilities under this Act, the Administrator shall provide the opportunity to all affected citizen groups, the Administrator shall develop and publish guidelines concerning the management of technical assistance grants by grant recipients.

(B) Hiring of Experts.—A recipient of a technical assistance grant that hires technical experts and other experts shall act in accordance with the guidelines under subparagraph (A).

(g) Improvement of Public Participation in the Superfund Decisionmaking Process.—

(1) In General.—

(A) Meetings and Notice.—In order to provide an opportunity for meaningful public participation in every significant phase of response activities under this Act, the Administrator shall provide the opportunity for, and publish notice of, public meetings before or during performance of any study or analysis conducted under subparagraph (A), including any public meetings held for purposes of allowing public review of the results of a study or analysis conducted under subparagraph (A).

(B) Information.—A public meeting under subparagraph (A) shall be designed to obtain information from the community, and disseminate information concerning the community's role with respect to a facility concerning the Administrator's facility activities and pending decisions.

(2) Participants and Subject.—The Administrator shall provide reasonable notice of an opportunity for public participation in meetings in which—

(A) The proposed response actions include Federal officials (or State officials, if the State is conducting response actions under a delegated or authorized program or through facility responsibility agreements) with authority to make significant decisions affecting a response action, and other persons (unless all of such other persons are coregulators that are not potentially responsible parties or are government contractors); and

(B) The subject of the meeting involves discussions directly affecting—

(i) a facility evaluation, as appropriate; and

(ii) a final remedial design plan.

(3) Information.—

(A) To the Community.—The Administrator, with all significant phases of the response action at the facility.

(B) Technical Staff.—The Administrator shall ensure that information gathered from the community during community outreach efforts shall reach appropriate technical staff in a timely and effective manner.

(C) Responses.—The Administrator shall ensure that reasonable written or other appropriate responses will be made to such information.

(8) Nonprivileged Information.—Throughout all phases of response action at a facility, the Administrator shall make all nonprivileged information relating to a facility available to the public for inspection and copying without the need to file a formal request with the appropriate service charges as appropriate.

(9) Presentation.—

(A) Documents.—

(B) General.—The Administrator, in carrying out responsibilities under this Act, shall ensure that the presentation of information on risk is complete and informative.

(C) To the Community.—The Administrator shall provide the opportunity for public participation in decisions made under this Act that may affect the Administrator's decision to carry out responsibilities under this Act.
(B) ISSUANCE OF GUIDELINES. The Administrator shall issue guidelines under section 117(e)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601) that are consistent with the criteria stated in subparagraph (D) and that the State may apply to remedial actions at a facility.

(IV) CONTAMINATED MEDIA. Compliance with this clause shall not be required with respect to return, replacement, or disposal of contaminated media or residuals of contaminated media into the same media in or very near then-existing areas of contamination once at a facility.

(VI) PROCEDURAL REQUIREMENTS. Procedural requirements of Federal and State standards, requirements, criteria, and limitations (including permitting requirements) shall not apply to response actions conducted onsite at a facility.

(VII) WAIVER PROVISIONS.

(II) DETERMINATION BY THE PRESIDENT. The Administrator shall evaluate and determine if it is not appropriate for a remedial action to attain a Federal or State standard, requirement, criterion, or limitation as required by clause (I).

(III) SELECTION OF REMEDIAL ACTION THAT DOES NOT COMPLY. The Administrator may select a remedial action at a facility that meets the requirements of subparagraph (B) but does not comply with or attain a Federal or State standard, requirement, criterion, or limitation described in subparagraph (C) if the Administrator makes any of the following findings:

(a) IMPROPER IDENTIFICATION. The standard, requirement, criterion, or limitation, which was improperly identified as an applicable requirement under clause (I)(I)(aa), fails to comply with the rulemaking requirements of this title.

(b) PART OF REMEDIAL ACTION. The selected remedial action is only part of a total remedial action that will comply with or attain the applicable requirements when the total remedial action is completed.

(c) GREATER RISK. Compliance with or attainment of the standard, requirement, criterion, or limitation will result in greater risk to human health or the environment than alternative actions.

(dd) TECHNICALLY IMPOSSIBLE. Compliance with or attainment of the standard, requirement, criterion, or limitation is technically impracticable.

(ee) EQUIVALENT TO STANDARD PERFORMANCE. The selected remedial action will attain a standard of performance that is equivalent to that required under a standard,
requirement, criterion, or limitation de-
scribed in clause (i) through use of another
approach.

(fff) INCONSISTENT APPLICATION.—With re-
spect to a facility-specific risk, require-
ment, criterion, or limitation, the State has not
consistently applied (or demonstrated the in-
tention to apply consistently) the standard, require-
ment, or limitation or level in similar circumstances to other remedial
actions in the State.

(gg) BALANCE. In the case of a remedial ac-
tion undertaken under section 104 or 136 using amounts from the Fund, a selection of a remedial action that complies with or at least approximates a standard, requirement, criterion, or limitation described in clause (i) will not provide a balance between the need for pro-
tection of public health and welfare and the envi-
enment at the facility, and the need to make amounts from the Fund available to
respond to other facilities that may present a threat to public health or welfare or the environment, taking into consideration the relative immediacy of the threats posed by the various facilities.

(iii) PUBLICATION. The Administrator
shall provide findings made under sub-
clause (ii), including an explanation and ap-
propriate documentation.

(D) REMEDY SELECTION CRITERIA.—In se-
lecting a remedial action from among alter-
atives that achieve the goals stated in sub-
paragraph (B) pursuant to a facility-specific risk
evaluation, the Administrator, in accordance with subpart
131, the Administrator shall balance the follow-

ing factors, ensuring that no single factor predominates over the others:

(i) The technical practicability of the remedy in pro-
tecting human health and the environment.

(ii) The reliability of the remedial action in achieving the protectiveness standards over the long term.

(iii) Any short-term risk to the affected community, those engaged in the remedial action effort, and to the environment posed by the implementation of the remedial ac-
tion.

(iv) The acceptability of the remedial action to the affected community.

(v) The implementability and technical feasibility of the remedial action from an engi-
neering perspective.

(vi) The cost-effectiveness of the cost.

(2) TECHNICAL IMPRACTICABILITY.—

(A) MINIMIZATION OF RISK.—If the Admin-
istrator, after reviewing the remedy selec-
tion under paragraph (B), determines that achieving the goals stated in paragraph (1)(B) is technically impracticable, the Ad-
ministrator shall evaluate remedial mea-
ures for mitigating the risks to human health and the environment and select a technically prac-
ticable remedial action that will most closely achieve the goals stated in paragraph (1) through cost-effective means.

(B) BASIS FOR FINDING.—A finding of tech-
nical impracticability may be made on the basis of a determination, supported by appro-
riate documentation, that at the time at which the finding is made—

(i) there is no known reliable means of achieving at a reasonable cost the goals stated
in paragraph (1)(B); and

(ii) it has not been shown that such a means is likely to be developed within a reason-
able period of time.

(3) PREVENTIVE REMEDIAL ACTIONS.—A remedial action that implements a presump-
tive remedial action issued under section 132 shall be considered to have achieved the goals stated in paragraph (1)(B) and balance ade-
quately the factors stated in paragraph (1)(D).

(4) GROUND WATER.

(A) IN GENERAL.—The Administrator or the preparer of the remedial action plan
shall select a cost effective remedial action
for ground water that achieves the goals of
protecting human health and the environ-
ment as stated in paragraph (1)(B) and with
the requirements of this paragraph, and com-
lines with Federal and State laws in accordance with subparagraph (C) on
the basis of a facility-specific risk evalua-
tion in accordance with section 131 and in ac-
cordance with the criteria stated in subpara-
graph (D) and the requirements of paragraph (2). If appropriate, a remedial action for ground water shall be phased, allowing col-
lection of sufficient information on the ef-
fect of any other remedial action taken at
the site and to determine the appropriate scope of the remedial action.

(B) CONSIDERATIONS FOR GROUND WATER REMEDIAL ACTION.—A decision regarding a re-
medial action for ground water shall take into consideration:

(i) the actual or planned or reasonably anticipated future use of ground water and the timing of that use; and

(ii) any attenuation or biodegradation that would occur if no remedial action were taken.

(C) UNCONTAMINATED GROUND WATER.—A remedial action shall protect uncontaminated ground water that is suit-
able for use as drinking water by humans or livestock if the water is uncontaminated and suitable for such uses. The Administrator shall not plan for restoration of
contaminated ground water to an un-
contaminated state without a requirement for the construction
of a remedial action that complies with or is so contaminated by the effects of broad-scale human activity unrelated to the site.

(D) CONTAMINATED GROUND WATER.—

(i) IN GENERAL.—In the case of contami-
nated ground water for which the actual or
planned or reasonably anticipated future use of the resource is as drinking water for
humans or livestock, the Administrator
determines that restoration of some portion of
the contaminated ground water to a condi-
tion suitable for the use is technically prac-
ticable, the Administrator shall seek to re-
store the ground water to a condition suit-

able for the use.

(ii) DETERMINATION OF RESTORATION PRAC-
TICABILITY.—In making a determination re-
garding the technical practicability of
ground water restoration—

(A) the Administrator shall seek to
restore the water to the conditions neces-
sary for the construction or installation and operation of a remedial ac-
tion.

(B) DETERMINATION OF NEED FOR AND ME-
THODOLOGY FOR POINT-OF-USE TREAT-
MENT.—The Administrator shall, at a minimum, as a result of the determination and selecting a remedial action regarding restoration of contaminated ground water the Administrator shall take into account—

(i) the ability to substantially accelerate the availability of ground water for use as drinking water beyond the rate achievable by natural attenuation; and

(ii) the nature and timing of the actual or planned or reasonably anticipated use of such ground water.

(iv) RESTORATION TECHNICALLY IMPRACTI-
CABLE.—

(A) IN GENERAL.—A remedial action for contaminated ground water having an actual or planned or reasonably anticipated future use as a drinking water source for humans or livestock that is not technically prac-
ticable may rely on point-of-use treatment or other measures to ensure that there will be no in-

gestion of drinking water at levels exceeding the requirement of paragraph (1)(B)(iii) (I) or (II).

(III) INCORPORATION AS PART OF OPERA-
TION AND MAINTENANCE.—The operation and main-
tenance of any treatment device installed at the point of use shall be included as part of the operation and maintenance of the reme-
dy.

(E) GROUND WATER NOT SUITABLE FOR USE AS DRINKING WATER.—In any other evalu-
ation or determination of the poten-
tial suitability of ground water for drinking
water use, ground water that is not suit-
able for use as drinking water by humans or livestock because of naturally occurring conditions, or is so contaminated by the effects of

(iv) BRIDGES TO OTHER CONSIDERATIONS APPLICABLE TO REMEDIAL ACTIONS.—A remedial action that uses institutional and engineering controls shall be considered to be on an equal basis with all other remedial action alter-

atives;—

(2) by redesigning subsection (c) as sub-
section (b);

(3) by striking subsection (d); and

(4) by redesigning subsections (e) and (f) as subsections (c) and (d), respectively.

SEC. 403. REMEDY SELECTION METHODOLOGY.

Title I of the Comprehensive Environ-
mental Response, Compensation, and Liabil-
ity Act of 1980 (42 U.S.C. 9601 et seq.) (as
enacted by section (b)) is amended by
adding at the end the following:

SEC. 131. FACILITY-SPECIFIC RISK EVALUA-
TIONS.

(A) USE.—

(i) IN GENERAL.—A facility-specific risk evalua-
tion shall be used to—

(A) identify the significant components of potential risk posed by a facility;

(B) screen out potential contaminants, areas, or exposure pathways from further study at a facility;

(C) compare the relative protective effectiveness of alternative potential remedies proposed for a facility; and

(D) demonstrate that the remedial action selected for a facility is capable of protect-
ing human health and the environment con-
sidering the actual or planned or reasonably anticipated future use of the land and water resources.

(ii) COMPLIANCE WITH PRINCIPLES.—A facili-
ty-specific risk evaluation shall comply with the principles stated in this section to ensure that—

(A) an actual or planned or reasonably anticipated future use of the land and water resources is given appropriate consideration; and

(B) all of the components of the evaluation are, to the maximum extent practicable,
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(b) Risk Evaluation Principles.—A facility-specific risk evaluation shall—
(1) be based on actual information or scientifically derived information or scientific estimates of exposure considering the actual or planned or reasonably anticipated current or future releases of contaminants and the likelihood that potential exposures will occur based on the actual or planned or reasonably anticipated future use of the land or water resources and
(2) present risk estimates, including any such expression of intention that the Administrator finds is not made in violation of section 121(a)(1)(B).

(c) Risk Communication Principles.—The document reporting the results of a facility-specific risk evaluation shall—
(I) express an intention to prepare a work plan, facility evaluation, proposed remedial action, and remedial design and implement the remedial action plan (not including any such expression of intention that the Administrator finds is not made in good faith);
(II) demonstrates that the potentially responsible party or group of potentially responsible parties has the financial resources, technical expertise, and histories of the various parties' comparative financial resources, technical expertise, and histories of cooperation with respect to facilities that are listed on the National Priorities List, that the Administrator shall designate the potentially responsible party or group of potentially responsible parties to perform those functions; and
(III) provides an initial assessment of the facility-specific risk evaluation that is available at the time of the facility-specific risk evaluation.

SEC. 132. Presumptive Remedial Actions.
(a) In General.—Not later than 1 year after the date of enactment of this section, the Administrator shall issue a final regulation implementing this section that promotes a realistic characterization of risk that reasonably accounts for the risks and potential risks posed by a facility or a proposed remedial action.

(b) Practicability and Cost-Effectiveness.—Such presumptive remedies must have been demonstrated to be technologically and economically feasible and to meet the specific risk-based standards of such remedial action.

(c) Limitation.—The Administrator may not require a potentially responsible party or group of potentially responsible parties to perform those functions.

(d) APPROVAL REQUIRED AT EACH STEP OF PROCEDURE.—No action shall be taken with respect to a facility evaluation, proposed remedial action plan, remedial action plan, or remedial design, respectively, unless the work plan, facility evaluation, proposed remedial action plan, and remedial action plan, respectively, have been approved by the Administrator.

(3) Use of Presumptive Remedial Actions.—
(A) Proposal to Use.—In a case in which a presumptive remedial action applies, the Administrator (if the Administrator is conducting the remedial action) or the preparer of the action shall publish a joint notice in a newspaper of general circulation in the area where the facility is located, and in a newspaper of general circulation in the area in which the facility is located, and that comments concerning the work plan can be submitted to the preparer.
of the work plan, the Administrator, the State, or the local community response organization.

(D) FORWARDING OF COMMENTS.—If comments are submitted to the Administrator, the State, or the community response organization, the Administrator, State, or community response organization shall forward the comments to the preparer of the work plan.

(E) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a work plan, the Administrator shall:

(i) notify the community response organization; and

(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

(F) NOTICE OF DISAPPROVAL.—If the Administrator disapproves the remedial action plan, the Administrator shall—

(i) identify the preparer of the work plan, with specificity, any deficiencies in the submission; and

(ii) request that the preparer submit a revised remedial action plan within a reasonable period of time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

(G) REMEDIAL ACTION PLAN—FOR REVIEW.—Subject to clause (ii), a proposed remedial action plan prepared by a potentially responsible party or the Administrator shall be submitted to the Administrator in a facility evaluation at which the facility is located and posted in other conspicuous places in the local community.

(H) NOTICE OF DISAPPROVAL.—If the Administrator does not approve a proposed remedial action plan, the Administrator shall—

(i) inform the preparer of the proposed remedial action plan, with specificity, of any deficiencies in the submission; and

(ii) request that the preparer submit a revised remedial action plan within a reasonable time, which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator.

(I) JUDICIAL REVIEW.—A recommendation under subparagraph (E)(iv) and the Administrator's review of such a recommendation shall be subject to the limitations on judicial review under section 131h.

(J) IMPLEMENTATION OF REMEDIAL ACTION PLAN—FOR REVIEW.ÐSubject to clause (ii), a proposed remedial action plan prepared by a potentially responsible party or the Administrator shall be submitted to the Administrator, or in a case in which the Administrator is preparing the remedial action plan, shall be completed by the Administrator.

(K) REMEDIAL DESIGN.—

(A) SUBMISSION.—A remedial design shall be submitted to the Administrator, or in a case in which the Administrator is preparing the remedial action plan, shall be completed by the Administrator.

(B) PUBLICATION.—After receipt by the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall—

(i) notify the community response organization; and

(ii) cause a notice of submission or completion of the remedial design to be published in a newspaper of general circulation and posted in conspicuous places in the area where the facility is located.

(C) COMMENT.ÐThe Administrator shall provide an opportunity to the public to submit written comments on the remedial design.

(D) APPROVAL.—Not later than 90 days after the submission to the Administrator of (or completion by the Administrator of) the remedial design, the Administrator shall approve or disapprove the remedial design.

(E) NOTICE OF APPROVAL.—If the Administrator approves a remedial design, the Administrator shall—

(i) notify the community response organization; and

(ii) publish in a newspaper of general circulation in the area where the facility is located, and post in conspicuous places in the local community, a notice of approval.

(F) NOTICE OF DISAPPROVAL.—If the Administrator disapproves the remedial design, the Administrator shall—

(i) identify with specificity any deficiencies in the submission; and

(ii) allow the preparer submitting a remedial design a reasonable time (which shall not exceed 90 days except in unusual circumstances, as determined by the Administrator) in which to submit a revised remedial design.

(G) ENFORCEMENT OF REMEDIAL ACTION PLAN.—

(I) NOTICE OF SIGNIFICANT DEVIATION.—If the Administrator determines that the implementation of the remedial action plan has
deviated significantly from the plan, the Administrator shall provide the implementing party a notice that requires the implementing party, within a reasonable period of time specified by the Administrator to—

"(a) comply with the terms of the remedial action plan; or

(b) submit a notice for modifying the plan.

"(2) FAILURE TO COMPLY.—

"(A) CLASS ONE ADMINISTRATIVE PENALTY.—In issuing a notice under paragraph (1), the Administrator may impose a class one administrative penalty consistent with section 109(a).

"(B) ADDITIONAL ENFORCEMENT MEASURES.—If the party fails to either comply with the plan or submit a proposed modification, the Administrator may pursue all additional appropriate enforcement measures pursuant to this Act.

"(d) MODIFICATIONS TO REMEDIAL ACTION.—

"(1) DEFINITION.—In this subsection, the term 'major modification' means a modification that—

"(A) fundamentally alters the interpretation of site conditions at the facility; or

"(B) fundamentally alters the interpretation of the facility's boundaries.

"(2) MAJOR MODIFICATIONS.—

"(A) IN GENERAL.—If the Administrator or other implementing party proposes a major modification to the plan, the Administrator or other implementing party shall demonstrate that—

"(i) the major modification constitutes the most cost-effective remedial alternative that is technologically feasible and is not unreasonably costly; and

"(ii) that the revised remedy will continue to satisfy section 122(a).

"(B) NOTICE AND COMMENT.—The Administrator shall provide the implementing party, the community response organization, and the local community notice of the proposed major modification and shall provide at least 30 days' opportunity to comment on any such proposed modification.

"(C) CLOSURE ACTION.—At the end of the comment period, the Administrator shall promptly approve or disapprove the proposed major modification and order implementation of the modification in accordance with any reasonable requirements that the Administrator may specify.

"(3) MINOR MODIFICATIONS.—Nothing in this section modifies the discretionary authority of the Administrator to make a minor modification of a record of decision or remedial action plan to conform to the best science and engineering, the requirements of this Act, or changing conditions at a facility.

SEC. 405. COMPLETION OF PHYSICAL CONSTRUCTION AND DELISTING.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 404) is amended by adding at the end the following:

"SEC. 135. TRANSITION RULES FOR FACILITIES CURRENTLY INVOLVED IN REMEDY SELECTION.

Title I of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) (as amended by section 404) is amended by adding at the end the following:

"SEC. 135. TRANSITION RULES FOR FACILITIES INVOLVED IN REMEDY SELECTION ON DATE OF ENACTMENT.

"(a) NO RECORD OF DECISION.—

"(1) OPTION.—In the case of a facility or other potentially responsible parties that, as of the date of enactment of this section, is the subject of a remedial investigation and feasibility study (whether completed or incomplete), the potentially responsible parties or the Administrator may elect to follow the remedial action plan process stated in section 133 rather than the remedial investigation and feasibility study and record of decision process under regulations in effect on the date of enactment of this section that would otherwise apply if the request for the notice of completion and delisting or the potential responsible party agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to satisfy section 122(a), considering the different use of the facility.

"(2) SUBMISSION OF FACILITY EVALUATION.—For purposes of section 122(a), the Administrator shall determine that a facility or portion of a facility is complete and in compliance with section 122(a), when—

"(A) the facility or portion of the facility is complete, as defined in section 122(a), considering the different use of the facility; and

"(B) the facility or portion of the facility is complete and in compliance with section 122(a), considering the different use of the facility.

"(c) CHANGE OF USE OF FACILITY.—

"(1) PETITION.—Any person may petition the Administrator to change the use of a facility described in subsection (a) or (b) from that which was the basis of the remedial action plan.

"(2) GRANT.—The Administrator shall grant a petition under paragraph (1) if the petitioner agrees to implement any additional remedial actions that the Administrator determines are necessary to continue to satisfy section 122(a), considering the different use of the facility.

"(3) RESPONSIBILITY FOR RISK.—When a petition has been granted under paragraph (2), the person requesting the change in use of the facility shall be responsible for all risk associated with altering the facility and all costs of implementing any necessary additional remedial actions.

"(d) FACILITY AVAILABLE FOR UNRESTRICTED USE.—If, after completion of physical construction and any cleanup activities necessary to render a facility unrestricted use and there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable facts and information, that the facility does not satisfy section 122(a).

"(e) FUTURE USE OF A FACILITY.—

"(1) FACILITY AVAILABLE FOR UNRESTRICTED USE.—If, after completion of physical construction and any cleanup activities necessary to render a facility unrestricted use, there is no need for continued operation and maintenance, the potentially responsible parties shall have no further liability under any Federal, State, or local law (including any regulation) for remediation at the facility, unless the Administrator determines, based on new and reliable facts and information, that the facility does not satisfy section 122(a).

"(f) REMEDY REVIEW BOARDS.—

"(1) REMEDY REVIEW BOARD.—A review board established under section 133(b)(5)(E) (referred to in this subsection as a 'remedy review board') shall have authority to consider a petition under paragraph (3) of this subsection.

"(2) GENERAL PROCEDURE.—
"(A) COMPLETION OF REVIEW.—The review of a petition submitted to a remedy review board under this subsection shall be completed not later than 180 days after the receipt of the petition unless the Administrator, for good cause, grants additional time.

(B) COSTS OF REVIEW.—All reasonable costs incurred by a remedy review board, the Administrator, or a State in conducting a review or evaluating a petition for possible objections shall be borne by the petitioner.

(C) DECISIONazioN.—(1) The decision of the completion of the 180-day review period, a remedy review board shall issue a written decision including responses to all comments submitted during the review process with regard to a petition. (2) OPPORTUNITY FOR COMMENT AND MEETINGS.—In reviewing a petition under this subsection, a remedy review board shall provide an opportunity for all interested parties, including representatives of the State and local community in which the facility is located, to comment on the petition and, if requested, to meet with the remedy review board under this subsection.

(E) REVIEW BY ADMINISTRATOR.—(1) The Administrator shall have final review of any decision of a remedy review board under this subsection.

(f) STANDARD OF REVIEW.—In conducting a review of a remedy review board under this subsection, the Administrator shall accord substantial weight to the following:

(iii) CONTENTS OF PETITION.—For the purposes of facility-specific risk assessment and basing decision described in subparagraph (A) shall rely on risk assessment data that were available prior to issuance of the record of decision.

(iv) ADDITIONAL CONSTRUCTION.—(A) PETITION.—A petition describing a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section and meets the criteria of subparagraph (B), but for which additional construction or long-term operation and maintenance activities are anticipated, the implementor of the record of decision may file a petition with a remedy review board within 90 days after the date of enactment of this section to determine whether another remedial action should apply to the facility or operable unit.

(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if:

(i) the alternative remedial action proposed in the petition satisfies section 121(a); and

(ii) the decision of the record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of at least 50 percent of the total costs of cost savings of the record of decision; or

(ii) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of at least 50 percent of the total costs of the record of decision; or

(iii) in the case of a record of decision involving ground water extraction and treatment described in subparagraph (B), the remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information.

(4) ADDITIONAL CONSTRUCTION.—(A) PETITION.—A petition describing a facility or operable unit with respect to which a record of decision has been signed and construction has begun prior to the date of enactment of this section and meets the criteria of subparagraph (B), but for which additional construction or long-term operation and maintenance activities are anticipated, the implementor of the record of decision may file a petition with a remedy review board within 90 days after the date of enactment of this section to determine whether another remedial action should apply to the facility or operable unit.

(B) CRITERIA FOR APPROVAL.—Subject to subparagraph (C), a remedy review board shall approve a petition described in subparagraph (A) if:

(i) the alternative remedial action proposed in the petition satisfies section 121(a); and

(ii) the decision of the record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of at least 50 percent of the total costs of the record of decision; or

(iii) in the case of a record of decision valued at a total cost greater than $10,000,000, the alternative remedial action achieves cost savings of at least 50 percent of the total costs of the record of decision; or

(iv) in the case of a record of decision involving ground water extraction and treatment described in subparagraph (B), the remedy review board may approve a petition if the petitioner demonstrates that technical data generated subsequent to the issuance of the record of decision indicates that the decision was based on faulty or incorrect information, and the alternative remedial action achieves cost savings of at least $2,000,000 or more.

(D) MANDATORY REVIEW.—A remedy review board shall not be required to entertain more than 1 petition under subparagraph (A). (E) DELAY.—In determining whether an alternative remedial action will substantially improve the cost-effectiveness of implementing the alternative remedial action, no consideration shall be given to the time necessary to review a petition under paragraph (3) or (4) by a remedy review board or the Administrator.

(F) OBJECTION BY THE GOVERNOR.—Not later than 7 days after receiving a notice under paragraph (A) the Governor shall notify the Governor of the State in which the facility is located and provide the Governor a copy of the petition.

(G) OBJECTION BY THE ADMINISTRATOR.—The Governor may object to the petition or the modification of the remedial action, if not later than 90 days after receiving a notification under subparagraph (A) the Governor demonstrates to the remedy review board that the selection of the proposed alternative remedial action would cause an unreasonably long delay that would be likely to result in significant adverse human health impacts, environmental risks, disruption of planned future use, or economic hardship.

(H) OBJECTION BY THE ADMINISTRATOR.—The Governor may object to the petition or the modification of the remedial action, if not later than 90 days after receiving a notification under subparagraph (A) the Governor demonstrates to the remedy review board that the selection of the proposed alternative remedial action would cause an unreasonably long delay that would be likely to result in significant adverse human health impacts, environmental risks, disruption of planned future use, or economic hardship.

(I) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(II) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(J) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(K) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(L) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(M) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(N) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(O) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(P) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(Q) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(R) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(S) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(T) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(U) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(V) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(W) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(X) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(Y) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.

(Z) OBJECTION BY THE ADMINISTRATOR.—The Governor or any other person that is liable, for any response costs at the facility, through any direct or indirect financial relationship, or any contractual, corporate, or other relationship that created by the instruments by which title to the facility is conveyed or financed.
1980 (42 U.S.C. 9607) (as amended by section 401) is amended by adding at the end of the following:

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(43) CODISPOSAL LANDFILLS.—The term 'codisposal landfill' means a landfill that—

(A) was listed on the National Priorities List as of January 1, 1997;

(B) received for disposal municipal solid waste or sewage sludge; and

(C) may also have received, before the effective date of requirements under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), any hazardous waste, if a substantial portion of the total volume of waste disposed of at the landfill consisted of municipal solid waste or sewage sludge that was transported to the landfill from outside the facility.

(44) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means waste material generated by—

(i) a household (such as a single- or multi-family residence) or a public lodging (such as a hotel or motel); or

(ii) a commercial, institutional, or industrial source, to the extent that—

(I) the waste material is essentially the same as waste normally generated by a household or public lodging; or

(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, if generated by a household or public lodging, is a business that, during the taxable year including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any person (including liability for contribution) for any response costs at the facility under the date of enactment of this subsection, if the person specifically attributable to the person resulted in—

(1) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility before January 1, 1997; or

(2) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility before January 1, 1997, or shall accept municipal solid waste through January 1, 1997.

(b) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendments made by subsection (a) not later than 180 days of the date of enactment of this Act.

VII—LIABILITY
SEC. 303. LIABILITY EXCEPTIONS AND LIMITATIONS
(a) DEFINITIONS.—Section 101 of the Comprehensive Environmental Response, Liability, and Compensation Act of 1980 (42 U.S.C. 9601) (as amended by section 401) is amended by adding at the end of the following:

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(43) CODISPOSAL LANDFILLS.—The term 'codisposal landfill' means a landfill that—

(A) was listed on the National Priorities List as of January 1, 1997;

(B) received for disposal municipal solid waste or sewage sludge; and

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(ii) a commercial, institutional, or industrial source, to the extent that—

(I) the waste material is essentially the same as waste normally generated by a household or public lodging; or

(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, if generated by a household or public lodging, is a business that, during the taxable year including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any person (including liability for contribution) for any response costs at the facility under the date of enactment of this subsection, if the person specifically attributable to the person resulted in—

(1) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility before January 1, 1997; or

(2) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility before January 1, 1997, or such person shall accept municipal solid waste through January 1, 1997.

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(I) the waste material is essentially the same as waste normally generated by a household or public lodging; or

(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, if generated by a household or public lodging, is a business that, during the taxable year including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any person (including liability for contribution) for any response costs at the facility under the date of enactment of this subsection, if the person specifically attributable to the person resulted in—

(1) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility before January 1, 1997; or

(2) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility before January 1, 1997, or such person shall accept municipal solid waste through January 1, 1997.

(b) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendments made by subsection (a) not later than 180 days of the date of enactment of this Act.

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(A) was listed on the National Priorities List as of January 1, 1997;

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(C) may also have received, before the effective date of requirements under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.), any hazardous waste, if a substantial portion of the total volume of waste disposed of at the landfill consisted of municipal solid waste or sewage sludge that was transported to the landfill from outside the facility.

(44) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' means waste material generated by—

(i) a household (such as a single- or multi-family residence) or a public lodging (such as a hotel or motel); or

(ii) a commercial, institutional, or industrial source, to the extent that—

(I) the waste material is essentially the same as waste normally generated by a household or public lodging; or

(II) the waste material is collected and disposed of with other municipal solid waste or sewage sludge as part of normal municipal solid waste collection services, and, if generated by a household or public lodging, is a business that, during the taxable year including liability for contribution) under this section for any response costs at a facility listed on the National Priorities List, no person described in subparagraph (C) or (D) of subsection (a)(1) (other than the United States or any department, agency, or instrumentality of the United States) shall be liable to the United States or to any person (including liability for contribution) for any response costs at the facility under the date of enactment of this subsection, if the person specifically attributable to the person resulted in—

(1) the disposal or treatment of more than 1 percent of the volume of material containing a hazardous substance at the vessel or facility before January 1, 1997; or

(2) the disposal or treatment of not more than 200 pounds or 110 gallons of material containing hazardous substances at the vessel or facility before January 1, 1997, or such person shall accept municipal solid waste through January 1, 1997.

(b) REVISION OF NATIONAL PRIORITIES LIST.—The President shall revise the National Priorities List to conform with the amendments made by subsection (a) not later than 180 days of the date of enactment of this Act.
(F) LIABILITY AT SUBTITLE D FACILITIES.—
With respect to a codisposal landfill listed on the National Priorities List that is owned and operated by a small municipality, large municipality other than a municipality, or a combination of thereof, and that is subject to the criteria for solid waste landfills published under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) at part 258 of title 40, Code of Federal Regulations (or a successor regulation), the aggregate liability of such municipalities and persons shall be no greater than the costs of compliance with the requirements of subtitle D of the Solid Waste Disposal Act which the Administrator considers necessary to ensure compliance with this subsection.

(3) APPLICABILITY.—This subsection shall not apply to—

(A) a person that acted in violation of the provisions of the Solid Waste Disposal Act (42 U.S.C. 6902 et seq.),

(B) a person that operated or owned a codisposal landfill in violation of the applicable requirements for municipal solid waste disposal facilities under subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) after October 9, 1991;

(C) a facility that was not operated pursuant to and in substantial compliance with any other applicable permit, license, or other approval or authorization relating to municipal solid waste or sewage sludge disposal issued by an appropriate State, Indian tribe, or local government authority;

(D) a person described in section 136(j); or

(E) a person that impedes the performance of a response action.

(c) EFFECTIVE DATE AND TRANSITION RULES.
The amendments made by this section—

(1) shall take effect with respect to an action under section 106, 107, or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606, 9607, and 9613) that becomes final on or after the date of enactment of this Act; but

(2) shall not apply to an action brought by any person under section 107 or 113 of that Act (42 U.S.C. 9607 and 9613) for costs or damages incurred by the person before the date of enactment of this Act.

SEC. 502. CONTRIBUTION FROM THE FUND.
Section 112 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9632) is amended by adding at the end the following:

(1) COMPLETION OF OBLIGATIONS.—A person that is subject to an administrative order issued under section 106 or has entered into a settlement or consent decree with the United States or a State as of the date of enactment of this subsection shall complete the person’s obligations under the order or settlement decree.

(2) CONTRIBUTION.—A person described in paragraph (1) shall receive contribution from the Fund for any portion of the costs (excluding attorneys’ fees) incurred for the performance of the response action after the date of enactment of this subsection if the person is not liable for such costs by reason of a liability exemption or limitation under this section.

(3) APPLICABILITY FOR CONTRIBUTION.—

(A) IN GENERAL.—Contribution under this section shall be made upon receipt by the Administrator of an application requesting contribution.

(B) PERIODIC APPLICATIONS.—Beginning with the 7th month after the date of enactment of this subsection, 1 application for each facility shall be submitted every 6 months for all persons with contribution rights (as determined under subparagraph (A)).

(4) REGULATIONS.—Contribution shall be made in accordance with such regulations as the Administrator shall issue within 180 days after the date of enactment of this section.

(5) DOCUMENTATION.—The regulations under paragraph (4) shall, at a minimum, require that an application for contribution contain such documentation of costs and expenditures as the Administrator considers necessary to ensure compliance with this subsection.

(6) EXPEDITION.—The Administrator shall develop and implement such procedures as may be necessary to provide contribution to such persons in an expeditious manner, but in no case shall a contribution be made later than 1 year after submission of an application under this subsection.

(7) CONSIDERATION.—In determining whether a person qualifies as a potentially responsible party, the Administrator shall—

(A) incurred response costs with respect to a response action; or

(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

(8) OTHER MATTERS.—This section shall not limit or affect—

(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that is subject to a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of a response action.

(9) ORPHAN SHARE.—An allocation performed at a vessel or facility identified under subsection (b) (2) or (3) shall not require submission of an orphan share under subsection (h) or contribution under subsection (p).

(10) EXCLUDED FACILITIES.—
In general.—A codisposal landfill listed on the National Priorities List at which costs are incurred after January 1, 1997, and at which all potentially responsible persons are entitled to the liability exemption under section 107(t)(1). This section does not apply to a response action at a mandatory allocation facility for which there was in effect as of the date of enactment of this section, a settlement, decree, or order that determines the liability and allocated shares of all potentially responsible parties with respect to the response action.

(B) AVAILABILITY OF ORPHAN SHARE.—For any mandatory allocation facility that is otherwise excluded by subparagraph (A) and for which there is a final judicial order that determined the liability of all parties to the action for response costs incurred after the date of enactment of this section, an allocation shall be conducted for the sole purpose of determining the availability of orphan share funding pursuant to section 107(f)(2) for response costs incurred after the date of enactment of this section.

(11) SCOPE OF ALLOCATIONS.—An allocation under this section shall apply to—

(A) response costs incurred after the date of enactment of this section, with respect to a mandatory allocation facility described in subsection (a)(10) (A); and

(B) response costs incurred at a facility that is the subject of a requested or permis- sive allocation under subsection (b) (2) or (3).

(12) OTHER MATTERS.—This section shall not limit or affect—

(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that is subject to a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of a response action.

(13) LIABILITY AT SUBTITLE D FACILITIES.—For each mandatory allocation facility involving 2 or more potentially responsible parties, including 1 or more potentially responsible parties that are qualified for an exemption under section 107(q), (r), or (s), the Administrator shall conduct the allocation process under this section.

(14) REQUESTED ALLOCATIONS.—For a facility other than a mandatory allocation facility involving 2 or more potentially responsible parties, the Administrator shall conduct the allocation process under this section.

(15) PERMISSIVE ALLOCATIONS.—For any facility other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

(16) ORPHAN SHARE.—For any facility other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

(17) CONSIDERATION.—In determining whether a person qualifies as a potentially responsible party, the Administrator shall—

(A) incurred response costs with respect to a response action; or

(B) resolved any liability to the United States with respect to a response action in order to assist in allocating shares among potentially responsible parties.

(18) OTHER MATTERS.—This section shall not limit or affect—

(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that is subject to a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of a response action.

(19) ORPHAN SHARE.—For any facility other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

(20) OTHER MATTERS.—This section shall not limit or affect—

(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that is subject to a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of a response action.

(21) ORPHAN SHARE.—For any facility other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

(22) OTHER MATTERS.—This section shall not limit or affect—

(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that is subject to a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of a response action.

(23) ORPHAN SHARE.—For any facility other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

(24) OTHER MATTERS.—This section shall not limit or affect—

(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that is subject to a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of a response action.

(25) ORPHAN SHARE.—For any facility other than a mandatory allocation facility or a facility with respect to which a request is made under paragraph (2) involving 2 or more potentially responsible parties, the Administrator may conduct the allocation process under this section if the Administrator considers it to be appropriate to do so.

(26) OTHER MATTERS.—This section shall not limit or affect—

(A) the obligation of the Administrator to conduct the allocation process for a response action at a facility that is subject to a partial or expedited settlement with respect to a response action that is not within the scope of the allocation;

(B) the ability of any person to resolve any liability at a facility to any other person at any time before initiation or completion of a response action.
of the allocation process, subject to subsection (h)(3);

"(C) the validity, enforceability, finality, or merits of any judicial or administrative order, decision, or allocation in respect of this matter, or the date of enactment of this section with respect to liability under this Act; or

"(D) the validity, enforceability, finality, or merits of any judicial or administrative order, decision, or allocation in respect of this matter, or the date of enactment of this section with respect to liability under this Act; or

"(E) failure of a person to obey a subpoena issued under subparagraph (C) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

(ii) in the case of contumacy or failure of a person to obey a subpoena issued under subparagraph (C), an allocator may request the Attorney General to compel the production of a document or the appearance of a witness.

"(D) DISCLOSURE.—Notwithstanding any other law, any information submitted to the Attorney General in response to a request for the information submitted under subparagraph (C) shall be exempt from disclosure to any person under section 552 of title 5, United States Code.

"(iii) if the person moves to quash the subpoena, to defend the motion.

"(F) FAILURE OF ATTORNEY GENERAL TO RESPOND.—If the Attorney General fails to provide any response to the allocator within 30 days of a request for the information submitted under subparagraph (C), the Allocator shall be paid.

"(G) OPPORTUNITY TO BE HEARD.—Each allocation party shall be afforded an opportunity to be heard (orally or in writing, at the option of the allocation party) and an opportunity to comment on a draft allocation report.

"(H) RESPONSES.—The allocator shall not be required to respond to comments.

"(I) STREAMLINING.—The allocator shall make every effort to streamline the allocation process and minimize the cost of conducting the allocation.

"(J) ALLOCATION REPORT.—The allocator shall provide a written allocation report to the Administrator and the allocation parties that specifies the allocation share of each allocation party and any orphan shares, as determined by the allocator.

"(K) EQUITABLE FACTORS FOR ALLOCATION.—

"(1) IN GENERAL.—The Allocator shall conduce the allocation process and render a decision based solely on the provisions of this section, including the allocation factors described in subsection (g).

"(2) AMOUNT OF HAZARDOUS SUBSTANCES CONTRIBUTED.

"(3) THE DEGREE OF TOXICITY OF HAZARDOUS SUBSTANCES CONTRIBUTED.

"(4) THE MOBILITY OF HAZARDOUS SUBSTANCES CONTRIBUTED.

"(5) THE DEGREE OF INVOLVEMENT OF EACH ALLOCATION PARTY.

"(6) THE DEGREE OF INVOLVEMENT OF EACH ALLOCATION PARTY.

"(7) THE DEGREE OF CARE EXERCISED BY EACH ALLOCATION PARTY.

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"(43) THE DEGREE OF CARE EXERCISED BY EACH ALLOCATION PARTY.
"(6) the cooperation of each allocation party in contributing to any response action and in providing complete and timely information to the allocator; and

(7) any equitable factors as the allocator determines are appropriate.

(1) ORPHAN SHARES.—

(1) PROVIDE.—The allocator shall determine whether any percentage of reponsibilty for the response action shall be allocable to the orphan share.

(1) EXPAND.—The orphan share shall consist of—

(A) any share that the allocator determines is attributable to an allocation party that is insolvent and that is not affiliated with any financially viable allocation party;

(B) the difference between the aggregate share attributable to a person or group of persons entitled to an exemption or limitation under section 107 (q), (r), (s), or (t) for the same response action; or

(C) all response costs at a codisposal landfill that cannot be attributed to any identifiable party.

(2) PROCEDURE.—The allocator determines was disposed at the facility that is insolvent or defunct and that is not associated with any financially viable allocation party.

(2) CONFIDENTIALITY.ÐSubject to subsection (i), the allocator shall establish and maintain a document repository and the orphan share in accordance with section 122 based on limited ability to pay response costs;

(i) the liability of the person is eliminated, limited, or reduced by any provision of this Act; or

(ii) the person settled with the United States before the completion of the allocation.; and

(3) CERTIFICATION.—An answer to an information request or subpoena issued by an allocator on a matter within the jurisdiction of the United States otherwise if—

(A) the answer is correct to the best of the person’s knowledge and belief;

(B) the answer accurately reflects information obtained in the course of conducting the search and the inquiry;

(C) the person executing the certification understands that there is a duty to supplement any answer if, during the allocation process, any significant additional, new, or different information becomes known or available to the person; and

(D) the answer accurately reflects information obtained in the course of conducting the search and the inquiry.

(4) NOTICE.ÐA person that receives a request for the production of a document, or a summons from an allocator, submits a response that lacks the certification required under subsection (i)(2), or knowingly makes a false or misleading representation in any information request, or subpoena issued by the allocator under subsection (i) shall be considered to have made a false statement on a matter within the jurisdiction of the United States within the meaning of section 1001 of title 18, United States Code.

(5) CIVIL PENALTY.ÐA person that fails to maintain the confidentiality of any statement, document, or material or the record generated or obtained during an allocation proceeding, or that releases any information in violation of this section, shall be subject to a civil penalty of not more than $25,000 per violation.

(6) DOCUMENT REPOSITORY; CONFIDENTIALITY.—

(A) IN GENERAL.—Each document or material submitted to an allocator shall be maintained in a document repository, containing copies of all documents and information provided by the allocator or any allocation party under this section or generated by the allocator during the allocation process.

(B) AVAILABILITY.—Subject to paragraph (2), the documents and information in the document repository shall be available only to an allocation party for review and copying at the expense of the allocation party.

(7) UNATTRIBUTABLE SHARES .ÐA share attributable to a hazardous substance that the allocator determines was disposed at a facility that is insolvent or defunct and that is not affiliated with any financially viable allocation party may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

(8) UNATTRIBUTABLE SHARES .ÐA share attributable to a hazardous substance that the allocator determines was disposed at the facility that is insolvent or defunct and that is not affiliated with any financially viable allocation party may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.

(9) UNATTRIBUTABLE SHARES .ÐA share attributable to a hazardous substance that the allocator determines was disposed at the facility that is insolvent or defunct and that is not affiliated with any financially viable allocation party may be assessed by the Administrator in accordance with section 109 or by any allocation party in a citizen suit brought under section 310.
``(3) JUDICIAL REVIEW.—Any determination by the Administrator or the Attorney General under this subsection shall not be subject to judicial review unless 2 successive allocations at the same location relating to the same response action are rejected, in which case any allocation party may obtain judicial review of the second rejection in a United States district court under subchapter II of chapter 5 of part I of title 5, United States Code.
``(4) DELEGATION.—The authority to make a determination under this subsection may not be delegated by any officer or employee below the level of an Assistant Administrator or Acting Assistant Administrator or an Assistant Attorney General or Acting Assistant Attorney General with authority for implementing this Act.
``(m) SECOND AND SUBSEQUENT ALLOCATIONS.—
``(1) IN GENERAL.—If a report is rejected under subsection (l), the allocation parties shall select an allocator to perform, on an expedited basis, a new allocation based on the same record available to the previous allocator.
``(2) MORATORIUM AND TOLLING.—The moratorium and tolling provisions of subsection (c) shall apply to all the allocations included in the rejected allocation report under paragraph (1).
``(3) SAME ALLOCATOR.—The allocation parties may select the same allocator who performed 1 or more previous allocations at the facility, except that the Administrator may determine that an allocator whose previous report was rejected under subsection (I) is disqualified to serve.
``(n) SETTLEMENTS BASED ON ALLOCATIONS.—
``(1) DEFINITION.—In this subsection, the term 'all settlements' includes any orphan share allocated under subsection (h).
``(2) NOT CONTINGENT.—The right to contribution under paragraph (1) shall not be contingent on recovery by the United States of any response costs from any person other than the settling party.
``(3) TERMS AND CONDITIONS.—(A) The Administrator shall include in the allocation process under this section, the premium—
``(i) may consist of a cash-out settlement, provisions regarding any orphan share; an agreement entered into under subsection (n), or
``(ii) shall include—
``(I) a waiver of contribution rights against any other person against the allocation party, as determined by the allocator,
``(II) a covenant not to sue that is consistent with section 122(f) and, except in the case of a cash-out settlement, provisions regarding performance or adequate assurance of performance of the response action.
``(3) AMOUNTS OWED.—
``(A) DELAY IF FUNDS ARE UNAVAILABLE.—If funds are unavailable in any fiscal year to reimburse all allocation parties pursuant to paragraph (1), the Administrator may delay payment until funds are available.
``(B) PAYMENT OF PREMIUM.—The priority for reimbursement shall be based on the length of time that has passed since the settlement between the United States and the allocation party, except that no premium shall apply if all allocation parties participate in the settlement or if the settlement covers 100 percent of the response costs subject to the allocation;
``(IV) complete protection from all claims for contribution regarding the response action.
``(V) provisions through which a settling party shall receive prompt contribution from the Fund under subsection (o) of any response costs incurred by the party for any response action that is the subject of the allocation in excess of the allocated share of the party, including the allocated portion of any orphan share.
``(B) RIGHT TO CONTRIBUTION.—A right to contribution under subparagraph (A)(i)(I) shall not be recovered by the United States of any response costs from any person other than the settling party.
``(4) REPORT.—The Administrator shall report annually to the Congress on the administration of the allocation process under this section, providing in the report—
``(A) information comparing allocation results with actual settlements at multiparty facilities;
``(B) a cumulative analysis of response action costs recovered through post-allocation litigation or settlements of post-allocation litigation;
``(C) a description of any impediments to achieving complete recovery;
``(D) a comparison of the costs incurred in administering and participating in the allocation process.
``(5) PREMIUMS.—Each settlement under this subsection, the premium authorized—
``(A) shall be determined on a case-by-case basis to reflect the actual litigation risk faced by the United States with respect to any response action addressed in the settlement;
``(B) shall not exceed—
``(i) 15 percent of the total costs assumed by a settling party if all settlements (including any orphan share account for more than 40 percent and less than 100 percent of responsibility for the response action;
``(ii) 10 percent of the total costs assumed by a settling party if all settlements (including any orphan share account for more than 60 percent and not more than 80 percent of responsibility for the response action;
``(III) shall be reduced proportionally by the percentage of the allocated share for that party paid through orphan funding under subsection (h).
``(C) PAYMENT FROM FUNDS MADE AVAILABLE IN SUBSEQUENT FISCAL YEARS.—Any amount due and owing in excess of available appropriations in any fiscal year shall be paid from amounts made available in subsequent fiscal years, along with interest on the unobligated balance of such amounts.
``(D) DOCUMENTATION AND AUDITING.—The Administrator—
``(1) shall require that any claim for contribution be supported by documentation of actual costs incurred;
``(2) may require an independent auditing of any claim for contribution.
``(E) (!(M)) ALLOCATION CONTRIBUTION.—
``(1) IN GENERAL.—An allocation party (including a party that is subject to an order under section 106 or a settlement decree) that incurs costs after the date of enactment of this section for implementation of a response action that is the subject of an allocation shall be supported by documentation of actual costs incurred.
``(2) NOT CONTINGENT.—The right to contribution under paragraph (1) shall not be contingent on recovery by the United States of a response cost from any other person.
``(F) WAIVER.—An allocation party seeking contribution waives the right to seek recovery of response costs in connection with the response action, or contribution toward the response costs, from any other person.
``(G) FUND.—An administrative order shall be in lieu of any action by the United States or any other person against the allocation party concerning the response action.
``(H) POST-SETTLEMENT LITIGATION.—
``(1) IN GENERAL.—Subject to subsections (m) and (n), and on the expiration of the moratorium period under subsection (c)(4), the Administrator may commence an action under section 107 against an allocation party that has not recovered the liability of the party to the United States following allocation. The Administrator may seek recovery of response costs not recovered through settlements with other persons.
``(I) ORPHAN SHARE.—The recoverable costs shall include any orphan share determined under subsection (h), but shall not include any share allocated to a Federal, State, or...
local governmental agency, department, or instrumentality.

''(3) IMPELADER.—A defendant in an action under paragraph (1) may imply an allocation to its own party after the expiration of the moratorium period under subsection (c)(4), the Attorney General shall certify in the complaint that the defendant failed to act in a timely manner with respect to any response action, and determine that the allocation report assigned to the party.

''(5) RESPONSE COSTS.—

(A) REGULATORY AND POLICY EXECUTION.—The cost of implementing the allocation procedure under this section, including reasonable fees and expenses of the allocator, shall be considered as a necessary response cost.

(B) FUNDING OF ORPHAN SHARES.—The cost attributable to funding an orphan share under this section shall be considered as a necessary cost of response cost and

(i) shall be recoverable in accordance with section 107 only from an allocation party and

(ii) shall be recoverable in accordance with section 107 only from an allocation party if the allocation party does not receive an administrative order under subsection (n) or (p).

(RE) NEW ALLOCATION.—Any new allocation under this section shall be final, except that any settlement by presenting the Administrator with clear and convincing evidence that—

(A) the allocator did not have information concerning—

(i) 35 percent or more of the materials containing hazardous substances at the facility; or

(ii) 1 or more persons not previously named as an allocation party that contributed 15 percent or more of materials containing hazardous substances at the facility;

(B) the information was discovered subsequent to the issuance of the report by the allocator.

(2) NEW ALLOCATION.—Any new allocation of responsibility—

(A) shall proceed in accordance with this section;

(B) shall be effective only after the date of the new allocation report; and

(C) shall not alter or affect the original allocation with respect to any response costs previously incurred.

(DISCRETION OF ALLOCATOR.—A contract by which the Administrator retain an allocator shall give the allocator broad discretion to conduct the allocation process in a fair, efficient, and impartial manner, and the Administrator shall not issue any rule or order that limits the discretion of the allocator in the conduct of the allocation.

ILLEGAL ACTIVITIES.—Section 107 (a), (c), (d), (e), (f), and (g) of section 112(g) shall not apply to any person whose liability for response costs under section 107(a)(2) is otherwise based on any act, omission, or status that is determined by a court of competent jurisdiction, within the applicable statute of limitation, with a fair and impartial trial, and the Administrator shall make a decision whether to enter into an indemnification agreement with a response action contractor.

SEC. 304. LIABILITY OF RESPONSE ACTION CONTRACTORS.—

(a) LIABILITY OF CONTRACTORS.—Section 101(20) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(20)) is amended by adding at the end the following:

(1) IN GENERAL.—No action may be brought as a result of the performance of a response action contract against a response action contractor after the date that is 7 years after the date of completion of work at any facility under the contract to remove any potential liabilities.

(2) LIMITATION ON ACTIONS AGAINST RESPONSE ACTION CONTRACTORS.—

(A) injury to property, real or personal;

(B) personal injury or wrongful death;
(C) other expenses or costs arising out of the performance of services under the contract; or

(D) contribution or indemnity for damages sustained as a result of an injury described in subparagraphs (A) through (C).

(2) Exception.—Paragraph (1) does not bar recovery for a claim caused by the conduct of the response action contractor that is grossly negligent or that constitutes in- tentional misconduct.

(3) Indemnification.—This subsection does not affect any right of indemnification that a response action contractor may have under this section or may acquire by contract with any person.

(i) Standards of Repose.—Subsections (a)(1) and (h) shall not apply in determining the liability of a response action contractor if the State has enacted a statute or ordinance regulating the liability of a response action contractor.

(b) Requirement To Provide Potentially Responsible Parties Evidence of Liability.—

(1) Abatement Actions.—Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9606(a)) is amended—

(A) by striking "(a) in addition", and inserting in its place "(a) generally"; and

(B) by adding at the end the following:

"(2) CONTENTS OF ORDER.—An order under paragraph (1) shall provide information concerning the evidence that indicates that each element of liability described in sections 107(a)(1), (A), (B), (C), and (D), as applicable, is present."

(2) Settlements.—Section 122(e)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(a)(1)) is amended—

(A) by striking "in addition", and inserting in its place "in general"; and

(B) by adding at the end the following:

"(1) in general.—In addition; and

(ii) the railroad owner or operator does not affect any right of indemnification that a railroad owner or operator may have under this section or may acquire by contract with any person.

(3) Common Carriers.—Section 107(b)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(b)(3)) is amended by striking "a published tariff and acceptance" and inserting "a contract".

(c) Liability of Railroad Owners.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 503(b)(3)) is amended by adding at the end the following:

"(v) Liability on Liability of Railroad Owners.—Notwithstanding subsection (a)(1), a person that does not operate the railroad and that is not affiliated with the railroad owner or operator, if—

(1) the railroad owner or operator of a railroad provides access to a main line or branch line track that is owned or operated by the railroad;

(2) the spur track is 10 miles long or less; and

(3) the railroad owner or operator does not cause or contribute to a release or threatened release at the spur track.".

(3) Liability of Recyclers.—(a) Definition.—The term "re- cyclable material" means—

(i) scrap metal (as that term is defined by the Administrator for purposes of the Solid Waste Disposal Act (42 U.S.C. 9601 et seq.) in section 261.1(c)(16) of title 40, Code of Federal Regulations, or any successor regulation); and

(ii) any steel shipping container that—

(A) has (or, when intact, had) a capacity of not less than 30 and not more than 3,000 liters; and

(B) does not include—

(i) any steel shipping container that—

(A) is not less than 30 and not more than 3,000 liters; and

(ii) any hazardous substance contained or adherent to it (including any small pieces of metal that may remain after a hazardous substance has been removed from the container or any alloy or other material that may be chemically or metallurgically bonded in the steel itself); or

(iii) any material described in subparagraph (A) that the Administrator may by regulation exclude from the meaning of the term based on a finding that inclusion of the material within the meaning of the term would result in a threat to human health or the environment.

(b) Liability of Recyclers.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) (as amended by section 509) is amended by adding at the end the following:

"(v) Liability of Recyclers.—

(1) Applicability of Subsection.—Subject to paragraph (10), this subsection shall be applied to determine the liability of any person with respect to a transaction engaged in before, on, or after the date of enactment of this subsection.

(2) Relief from Liability.—Except as provided in paragraph (4), a person who arranges for the recycling of recyclable material shall not be liable under subsection (a)(1) (C) or (D).

(A) Scrap Glass, Paper, Plastic, Rubber, or Textile.—For the purposes of paragraph (2), a person shall be considered to arrange for the recycling of scrap glass, paper, plastic, rubber, or textile, or otherwise arrange for the recycling of the recyclable material in a transaction in which, at the time of the transaction—

(i) the recyclable material meets a commercial specification;

(ii) a market exists for the recyclable material; and

(iii) the product to be made from the recyclable material is a replacement or substitute for a product made, in whole or in part, from a virgin raw material.

(4) Definition of Recyclable Material.—The term "recyclable material" means—

(i) scrap metal (as that term is defined by the Administrator for purposes of the Solid Waste Disposal Act (42 U.S.C. 9601 et seq.) in section 261.1(c)(16) of title 40, Code of Federal Regulations, or any successor regulation); and

(ii) any steel shipping container that—

(A) has (or, when intact, had) a capacity of not less than 30 and not more than 3,000 liters; and

(B) does not include—

(i) any steel shipping container that—

(A) is not less than 30 and not more than 3,000 liters; and

(ii) any hazardous substance contained or adherent to it (including any small pieces of metal that may remain after a hazardous substance has been removed from the container or any alloy or other material that may be chemically or metallurgically bonded in the steel itself); or

(iii) any material described in subparagraph (A) that the Administrator may by regulation exclude from the meaning of the term based on a finding that inclusion of the material within the meaning of the term would result in a threat to human health or the environment.

(c) Repeal.—Sections 103, 104, and 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9603 (amended by section 501(a)) is amended by adding at the end the following:

"(47) Recyclable Material.—The term 'recyclable material' means—

(i) scrap metal (as that term is defined by the Administrator for purposes of the Solid Waste Disposal Act (42 U.S.C. 9601 et seq.) in section 261.1(c)(16) of title 40, Code of Federal Regulations, or any successor regulation); and

(ii) any steel shipping container that—

(A) has (or, when intact, had) a capacity of not less than 30 and not more than 3,000 liters; and

(B) does not include—

(i) any steel shipping container that—

(A) is not less than 30 and not more than 3,000 liters; and

(ii) any hazardous substance contained or adherent to it (including any small pieces of metal that may remain after a hazardous substance has been removed from the container or any alloy or other material that may be chemically or metallurgically bonded in the steel itself); or

(iii) any material described in subparagraph (A) that the Administrator may by regulation exclude from the meaning of the term based on a finding that inclusion of the material within the meaning of the term would result in a threat to human health or the environment.".

(d) Judicial Review.—Nothing in this section shall affect the jurisdiction of any court of the United States in identifying and preserving the evidence that all active disposal of hazardous substances at the vessel or facility occurred before the organization acquired the vessel or facility and establishing a preponderance of the evidence that the organization did not cause or contribute to a release or threatened release of hazardous substances at the vessel or facility.
"(4) Scrap metal.—For the purposes of paragraph (2), a person shall be considered to arrange for the recycling of scrap metal if the person sells or otherwise arranges for the recycling of metal in a transaction in which, at the time of the transaction—

(A) the conditions stated in subparagraphs (A) through (D) of paragraph (3) are met; and

(B) in the case of a transaction that occurs after the effective date of a standard, the Administrator by regulation under subsection (a) of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the Mercury-Containing and Rechargeable Battery Management Act, or any other applicable Federal law concerning handling, processing, or reclamation of the recyclable material by hazardous substances; or

(C) in the case of a transaction that occurs after the effective date of a standard, the Administrator by regulation, or in the case of a transaction occurring before the effective date of a standard, the judicial decree or order entered, or in the case of an order entered, or in the case of a consent decree entered, or in the case of a consent decree, may bring a civil action against a person that is not liable by operation of law after the date of enactment of this subsection and before the date of enactment of this subsection—

(i) the parties to a civil action taken prior to the date of enactment of this subsection; or

(ii) the person has been notified of a consent decree entered or a judicial decree entered under other Federal law after the date of enactment of this subsection in satisfaction of this subsectionÐ

(5) Spent batteries.—For the purposes of paragraph (2), a person shall be considered to arrange for the recycling of a spent lead-acid battery, nickel-cadmium battery, or other battery if the person sells or otherwise arranges for the recycling of the battery in a transaction in which, at the time of the transaction—

(i) if the conditions stated in subparagraphs (A) through (D) of paragraph (3) are met; and

(ii) the person does not reclaim the recyclable material by hazardous substances; or

(iii) the price paid or received in the recycling transaction is equal to all of the reasonable costs of disposing of the hazardous substance; and

(iv) the person has an objectively reasonable basis for belief described in subparagraph (A)(i) that the person is in compliance with the standard.

(1) GROUND FOR ESTABLISHING LIABILITY.—

(A) IN GENERAL.—A person that arranges for the recycling of recyclable material that would be liable under subsection (a)(1) (B) or (D) but for paragraph (2) shall be liable not withstanding paragraph (2) if—

(i) the person has an objectively reasonable basis to believe that the person is in compliance with the standard;

(ii) the person does not reclaim the recyclable material by hazardous substances; or

(iii) the person has an objectively reasonable basis for belief described in subparagraph (A)(i).

(2) REGULATIONS.—The Administrator may issue a regulation that clarifies the meaning of any term used in this subsection or by any other person as part of the regulation of the recyclable material by hazardous substances.

(3) RELATIONSHIP TO LIABILITY UNDER OTHER LAWS.—Nothing in this subsection shall affect—

(A) liability under any other Federal, State, or local law (including a regulation); or

(B) the authority of the Administrator to issue regulations under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or any other applicable law.

(4) TRANSFER OF AUTHORITY.—

(A) DETERMINATIONS.—The Administrator shall enter into a transfer agreement to transfer to a State the authorities described in paragraph (2) if the Administrator determines that—

(i) the State has the ability to exercise such authorities in accordance with this Act, the regulations, and other Federal laws, and to execute and implement the facility evaluation, remedial action plan, and remedial design; and

(ii) the State has demonstrated experience in exercising similar authorities; and

(iii) the State has agreed to be bound by all Federal requirements and standards under section 133 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authority.

(B) CONTENTS OF TRANSFER AGREEMENT.—A transfer agreement—

(i) received and failed to comply with an administrative order issued under section 104 or 106; and

(ii) received and did not accept a written offer from the United States to enter into a consent decree or administrative order.

TITLE VI—FEDERAL FACILITIES

SEC. 601. TRANSFER OF AUTHORITIES.

Section 120 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620) is amended by striking subsection (g) and inserting the following:

(1) TRANSFER OF AUTHORITIES.—

(A) DEFINITIONS.—In this section: (A) INTERAGENCY AGREEMENT.—The term ‘interagency agreement’ means an interagency agreement under this section.

(B) TRANSFER AGREEMENT.—The term ‘transfer agreement’ means a transfer agreement under paragraph (3).

(C) TRANSFEREE STATE.—The term ‘transferee State’ means a State to which authorities have been transferred under a transfer agreement.

(2) STATE APPLICATION FOR TRANSFER OF AUTHORITIES.—A State may apply to the Administrator for the transfer of authorities vesting in the Administrator under this Act in any facility located in the State that is—

(i) owned or operated by any department, agency, or instrumentality of the United States (including the executive, legislative, and judicial branches of government); and

(ii) listed on the National Priorities List.

(3) TRANSFER OF AUTHORITIES.—

(A) DETERMINATIONS.—The Administrator, after notice and opportunity for public hearing, shall enter into an interagency agreement with the appropriate authorities of the State to which the transfer of authority is to be made, or enter into a transfer agreement with the State, either of which shall be effective to the extent that the Administrator determines that—

(i) the State has the ability to exercise such authorities in accordance with this Act, the regulations, and other Federal laws, and to execute and implement the facility evaluation, remedial action plan, and remedial design; and

(ii) the State has demonstrated experience in exercising similar authorities; and

(iii) the State has agreed to be bound by all Federal requirements and standards under section 133 governing the design and implementation of the facility evaluation, remedial action plan, and remedial design; and

(iv) the State has agreed to abide by the terms of any interagency agreement or agreements covering the Federal facility or facilities with respect to which authorities are being transferred in effect at the time of the transfer of authority.
"(i) shall incorporate the determinations of the Administrator under subparagraph (A); and

(ii) in the case of a transfer agreement covering a facility with respect to which there is no interagency agreement that specifies a dispute resolution process, shall require that within 120 days after the effective date of the transfer agreement, the State shall agree with the head of the Federal department, agency, or instrumentality that owns or operates the facility on a process for the resolution of any disputes between the State and the Federal department, agency, or instrumentality regarding the selection of a remedial action that exceeds the remedial action selection requirement of paragraph (4)

(iii) shall not impose on the transferee State any term or condition other than that the State meet the requirements of subparagraph (A).

(4) EFFECT OF TRANSFER.—

(A) STATE AUTHORITIES.—A transferee State

(i) shall not be deemed to be an agent of the Administrator but shall exercise the authorities transferred under a transfer agreement in the name of the State; and

(ii) shall exercise the authority to exercise authorities that have been transferred.

(B) EFFECT ON INTERAGENCY AGREEMENTS.—Nothing in this subsection shall require, authorize, or permit the modification or revision of an interagency agreement concerning a facility with respect to which the authorities have been transferred to a State under a transfer agreement (except for the substitution of the transferee State for the Administrator in the terms of the interagency agreement, including terms stating obligations intended to preserve the confidentiality of information) without the written consent of the Governor of the State and the head of the department, agency, or instrumentality.

(5) SELECTED REMEDIAL ACTION.—The remedial action selected for a facility under section 133 that a transferee State shall constitute the only remedial action required to be conducted at the facility, and the transferee State shall be precluded from enforcing any other remedial action requirement under Federal or State law, except for—

(A) any correction action under the Solid Waste Disposal Act (42 U.S.C. 9601 et seq.) that was initiated prior to the date of enactment of this section; and

(B) any action in excess of remedial action under section 133 that the State selects in accordance with paragraph (10).

(6) DEADLINE.—

(A) GENERAL.—The Administrator shall make a determination on an application by a transferee State under paragraph (2) not later than 120 days after the date on which the Administrator receives the application.

(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of an application within the time period stated in subparagraph (A), the application shall be deemed to have been granted.

(7) RESUBMISSION OF APPLICATION.—

(A) IN GENERAL.—If the Administrator disapproves an application under paragraph (1), the State may resubmit the application any time after receiving the notice of disapproval.

(B) FAILURE TO ACT.—If the Administrator does not issue a notice of approval or notice of disapproval of a resubmitted application within the time period stated in paragraph (6)(A), the resubmitted application shall be deemed to have been granted.

(8) JUDICIAL REVIEW.—The State (but no other person or entity) entitled to judicial review under section 113(b) of a disapproval of a resubmitted application.
"(A) EVALUATION OF SCHEDULES AND PENALTIES.—In considering whether to permit the application of a particular innovative technology for remedial action at a facility designated as a priority for cleanup under this Act for any agreement or order entered into under section 113(k)(2), the Administrator shall evaluate the schedules and penalties applicable to the facility under any agreement or order entered into under section 113(k)(2) that has not been amended or revoked.

"(B) AMENDMENT OF AGREEMENT OR ORDER.—If, after an evaluation under subparagraph (A), the Administrator determines that serious need is present to amend any agreement or order entered into pursuant to section 120, the Administrator shall comply with all provisions of the agreement or order, respectively, relating to the amendment of the agreement or order.

(b) REPORT TO CONGRESS.—Section 311(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9660(e)) is amended—

(1) by striking "At the time" and inserting the following:

"(1) IN GENERAL.—At the time; and

(2) by adding at the end the following:

"(2) ADDITIONAL INFORMATION.—A report under paragraph (1) shall include information on the research and development, and application of innovative technologies for remedial activity, as authorized under subsection (h).

TITLE VII—NATURAL RESOURCE DAMAGES

SEC. 701. RESTORATION OF NATURAL RESOURCES.

Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended—

(1) by inserting "NATURAL RESOURCE DAMAGES."—after "(f)"; and

(2) by striking "(1) NATURAL RESOURCES LIABILITY.—"In the case" and inserting the following:

"(1) LIABILITY.—

(1) IN GENERAL.—In the case; and

(2) by inserting after the fourth sentence the following: "Sums recovered by an Indian tribe as a trustee under this subsection shall be available for use only for restoration, replacement, or acquisition of the equivalent of such natural resources by the Indian tribe. A restoration, replacement, or acquisition conducted by the United States, a State, or an Indian tribe shall proceed only if it is technologically feasible from an engineering perspective and is a reasonable cost and consistent with all known or anticipated response actions at or near the facility;"; and

(3) by striking "The measure of damages in any action" and all that follows through the end of the paragraph and inserting the following:

"(B) LIMITATIONS ON LIABILITY.—

The measure of damages in any action for damages for injury to, destruction of, or loss of natural resources shall be limited to—

(i) the reasonable costs of restoration, replacement, or acquisition of the equivalent of natural resources that suffer injury, destruction, or loss caused by a release; and

(ii) the reasonable costs of assessing damages.

(iii) NONUSE VALUES.—There shall be no recovery under this Act for any impairment of nonuse values.

(iv) NO DOUBLE RECOVERY.—A person that obtains a recovery of damages, response costs, assessment costs, or any other costs under this Act for the costs of restoring an injury to or destruction or loss of a natural resource (including injury assessment costs) shall not be entitled to recovery under this Act or any other Federal or State law for the same injury to or destruction or loss of the natural resource.

(iv) RESTRICTIONS ON RECOVERY.—

(i) LIMITATION ON LOSS USE DAMAGES.—There shall be no recovery from any person under this section for the costs of a restoration plan and environmental assessment for a natural resource injury, destruction, or loss that occurred before December 11, 1980.

(ii) RESTORATION, REPLACEMENT, OR ACQUISITION REQUIRED.—The measure of damages from any person under this section for the costs of restoration, replacement, or acquisition of the equivalent of the natural resource injury, destruction, or loss for which the restoration, replacement, or acquisition is sought and the release of the hazardous substance from which the injury resulted occurred wholly before December 11, 1980.

SEC. 702. ASSESSMENT OF INJURY TO AND RESTORATION OF NATURAL RESOURCES.

(a) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENTS.—Section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)) is amended by striking subparagraph (C) and inserting the following:

"(C) NATURAL RESOURCE INJURY AND RESTORATION ASSESSMENT.—

(i) REGULATION.—A natural resource injury and restoration assessment conducted for the purposes of this Act made by a Federal, State, or tribal trustee shall be performed, to the extent practicable, in accordance with—

(I) the regulation issued under section 301(c); and

(II) generally accepted scientific and technical standards and methodologies to ensure the validity and reliability of assessment results.

(ii) FACILITY-SPECIFIC CONDITIONS.—Injury assessment, restoration planning, and quantification of restoration costs shall, to the extent practicable, be based on facility-specific information.

(iii) RECOVERABLE COSTS.—A trustee's claim for assessment costs—

(I) may include only—

(aa) costs that arise from work performed for the purpose of assessing injury to a natural resource to support a claim for restoration of the natural resource; and

(bb) costs that arise from developing and evaluating a reasonable range of alternative restoration measures; but

(ii) may not include the costs of conducting any type of study relying on the use of contingent valuation methodology.

(iv) PAYMENT PERIOD.—In a case in which injury to or destruction or loss of a natural resource caused by a release that occurred over a period of years, payment of damages shall be permitted to be made over a period of years that is appropriate in view of the period during which the damages occurred, the amount of the damages, the financial ability of the responsible party to pay the damages, and the time period over which and the pace at which expenditures are expected to be made for restoration, replacement, and acquisition activities.

(v) TRUSTEE RESTORATION PLANS.—

(A) IN GENERAL.—The Administrator shall establish an administrative record on which the trustees will base the selection of a plan for restoration of a natural resource. The restoration plan shall include a determination of the natural resource injury, destruction, or loss caused by a release that occurred at the facility. Such response actions and restoration measures shall not be inconsistent with

near the facility at which the release occurred.

(B) LIMITATION.—The Administrator shall issue a regulation for the participation of interested parties, including potentially responsible parties, in the development of the administrative record on which the trustees will base selection of a restoration plan and environmental assessment of restoration plans will be based. The procedures for participation shall include, at a minimum, each of the requirements stated in paragraph (C).

(c) REGULATIONS.—Section 301 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(i)) is amended by striking subsection (c) and inserting the following:

"(C) REGULATIONS FOR INJURY AND RESTORATION ASSESSMENT.—

(I) IN GENERAL.—The President, acting through Federal officials designated by the National Contingency Plan under section 113(k)(2), shall issue a regulation for the assessment of injury to natural resources and the costs of restoration of natural resources (including the costs of assessment) for the purposes of this Act and for determination of the time periods in which payment of damages will be required.

(II) THE REGULATION.—The regulation under paragraph (1) shall—

(A) specify protocols for conducting assessments in individual cases to determine the injury, destruction, or loss of natural resources;

(B) identify the best available procedures to determine the reasonable costs of restoration and assessment;

(C) take into consideration the ability of a natural resource to recover naturally and the availability of replacement or alternative resources;

(D) provide for the designation of a single lead Federal decisionmaking trustee for each facility at which an injury to natural resources has occurred within 180 days after the date of first notice to the responsible parties that an assessment of injury and restoration alternatives will be made; and

(E) set forth procedures under which—

(i) all pending and potential trustees identify the injured natural resources within their respective trust responsibilities, and the facility under which such responsibilities are established, as soon as practicable after the date on which a release occurs;

(ii) the assessment of injury and restoration alternatives will be coordinat ed to the greatest extent practicable between the lead Federal decisionmaking trustee and any present or potential State or tribal trustees, as applicable; and

(iii) the time periods for payment of damages in accordance with section 107(f)(2)(C)(iv) shall be determined.

SEC. 703. CONSISTENCY BETWEEN RESPONSE ACTIONS AND NATURAL RESOURCE RESTORATION STANDARDS.

(a) RESTORATION STANDARDS AND ALTERNATIVE USES.—Section 107(f) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)) is amended by adding at the end the following:

"(3) COMPATIBILITY WITH REMEDIAL ACTION.—Both response actions and restoration measures may be implemented at the same time and in combination with the same facility. Such response actions and restoration measures shall not be inconsistent with
one another and shall be implemented, to the extent practicable, in a coordinated and integrated manner.

(b) **Consideration of Natural Resources in Response Actions.**—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) (as amended by section 402(l)) is amended by adding at the end the following:

"(6) **COORDINATION.**—In evaluating and selecting remedial actions, the Administrator shall consider the potential for injury to a natural resource resulting from such actions.

SEC. 704. **CONTRIBUTION.**


(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by inserting after paragraph (10) the following:

"(11) **procedures** for conducting response actions, including facility evaluations, remedial investigations, feasibility studies, remedial action plans, remedial designs, and remedial actions, which procedures shall—

"(A) **use** a results-oriented approach to minimize the time required to conduct response actions, to reduce the potential for exposure to the hazardous substances, pollutants, and contaminants in an efficient, timely, and cost-effective manner;

"(B) **require** a minimum, expedited facility evaluations and risk assessments, timely notification of response action goals, a single engineering study, streamlined oversight of response actions, and consultation with interested parties throughout the response action process;

"(C) **subject** to the requirements of sections 117, 121, 123, and 133 in the same manner and to the same degree as those sections apply to response actions; and

"(D) **be used** for each remedial action conducted under this Act unless the Administrator determines that their use would not be cost-effective or result in the selection of a response action that achieves the goals of protecting human health and the environment stated in section 121(a)(1)(B)."

(b) **AMENDMENT.**—Section 109(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by—

(1) striking paragraph (a) and in subsection (b)(9) of such section—

"(ii) by striking "$2,000,000" and inserting "$4,000,000"; and

"(iii) by striking "12 months" and inserting "2 years".

SEC. 705. **LIMITATIONS.**

(a) **LIMITATION.**—Section 121(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9621(a)) (as amended by section 402(l)) is amended by striking subsection (m) and inserting the following:

"(m) **HEALTH AUTHORITIES.**—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(14) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002. Funds appropriated under this subsection may be used for the purposes of this Act, but not obligated by the end of the fiscal year, shall be returned to the Fund.

(b) **LIMITATION.**—Section 123(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9623(a)) (as amended by section 402(l)) is amended by striking subsection (m) and inserting the following:

"(m) **HEALTH AUTHORITIES.**—There are authorized to be appropriated from the Fund to the Secretary of Health and Human Services to be used for the purposes of carrying out the activities described in subsection (c)(14) and the activities described in section 104(i), $50,000,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002. Funds appropriated under this subsection may be used for the purposes of this Act, but not obligated by the end of the fiscal year, shall be returned to the Fund.

SEC. 904. **LIMITATIONS ON RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROGRAMS.**

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended by striking subsection (u) and inserting the following:

"(u) **RECOVERIES.**—Effective beginning January 1, 1997, any cost recovery collections by the United States under this Act are hereby returned to the Fund."
shall be credited as offsetting collections to the Superfund appropriations account.”.

SEC. 907. REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.

Section 111(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611(a)) (as amended by section 107(a) of the Super-fund Amendments and Reauthorization Act of 1986, as amended) is amended by inserting after paragraph (9) the following:

“(10) REIMBURSEMENT OF POTENTIALLY RESPONSIBLE PARTIES.—If—

(A) a potentially responsible party and the Administrator enter into a settlement under this Act under which the Administrator is reimbursed for the response costs of the Administrator; and

(B) the Administrator determines, through a Federal audit of response costs, that the costs for which the Administrator is reimbursed—

(i) are unallowable due to contractor fraud;

(ii) are unallowable under the Federal Acquisition Regulation; or

(iii) should be adjusted due to routine contract and Environmental Protection Agency response cost audit procedures, a potentially responsible party may be reim-

bursed for those costs.”

Mr. ABRAHAM. Mr. President, I would like to join the others on the Senate floor here today to congratul-ate Senator CHAFEE and Senator SMITH on the introduction of their Superfund reform legislation. Our original cosponsor of this legislation, I support their efforts to speed the clean-up of polluted sites across this country.

And while this legislation has provi-sions that the sites currently on the national priority list, I support point out it also has provisions to speed the remediation of less seriously contaminated sites—so-called brownfields.

I am someone who is deeply con-cerned about brownfields and the eco-nomic and environmental damage they impose on communities.

First, Senator CHAFEE, thank you very much for agreeing to speak with me on this very important issue. As the Senator knows, last year I intro-duced legislation along with Senator LIEBERMAN which would provide tax in-centives for the remediation of brownfields. This legislation is very important to communities across the country, and I intend to reintroduce similar legislation this Congress. It is my understanding that the bill intro-duced today focuses, in part, on our brownfields problem.

Mr. CHAFEE. The Senator from Michigan is correct. The focus of the Environmental and Public Works Committee will extend beyond the National Priorities List to include solutions to our national brownfields problem. And while my committee does not have jurisdic-tion over tax measures, I recog-nize the leadership exerted by Senator ABRAHAM to address the problem of brownfields. I hope to work with him on a variety of solutions to the envi-ronmental problems faced by this Na-tion’s communities.

Mr. ABRAHAM. I thank the Senator and I yield the floor.

By Mr. NICKLES (for himself, Mr. GREGG, Mr. WARNER, Mr. LOTT, Mr. ALLARD, Mr. ASHCROFT, Mr. COVERDELL, Mr. CRAIG, Mr. DOMENICI, Mr. ENZI, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mrs. HILL, Mr. HUTCHISON, Mr. KYL, Mr. MURkowski, Mr. ROBERTS, Mr. SESSIONS, Mr. SMITH, Mr. THOMAS, Mr. THUR- MOND, Mr. COATS, and Mr. KEMPTHORNE):

S. 9. A consent is the big issue. If we are going to have campaign reform, I am going to tell my colleague, this is going to have to be part of the package.

This is America. No one should be compelled to contribute to political purposes for which they disagree. And that applies for an individual where maybe their company has a PAC (politic-al action committee), and maybe the board of directors or the officers say, “We want everybody to contribute.” They can say what they want, but they cannot compel. No one should be com-pelled to contribute to a political organi-zation, a political action committee, or to a labor organization against their will for political purposes. It is that simple.

As Thomas Jefferson said, “To com-pel a man to furnish funds for the propa-gation of ideas he disbelieves or abhors... is sinful and tyrannical.”

As I understand it, the American worker and the American employee who pays into a labor organiza-tion, if that organization is spend-ing the money for the purpose they do not agree with, they should be able to have their money back. Otherwise, they are being compelled to contribute to something they do not agree with.

That is one of the reasons the Supreme Court has decided that the employees cannot be compelled to contribute to a labor organization or a political organization if they disagree with the way in which the money is being spent. The employees can say, “I don’t agree with everything you are doing.” We have no mechanism in this country, however, where an employee can get their money back.

Mr. ABRAHAM. And my colleague from New Jersey, Mr. COCHRAN, has sponsored a bill which would force those who pay into a labor organization for a union to be able to contribute to a different union. That is a very important concept.”

Mr. GREGG. I want to thank the Senator from Pennsylvania for his excellent remarks. It’s ironic, almost, that we are here today discussing campaign finance reform. It’s ironic, as the Senator points out, because the American workers who have been forceful in their opposition to campaign finance reform, now find themselves in a situation where they are going to have to decide whether--whether a good union member is going to be compelled to contribute to an organization if they are disagrees with the way in which that money is being spent.

Mr. ABRAHAM. Mr. President, I would like to recognize a number of my colleagues who are going to speak today. First of all, Senator CHAFEE, thank you very much for your leadership on this issue, for your willingness to work with other members of the Senate on this legislation, and also for your willingness to hear the concerns of employees and labor organizations across this country.

Mr. CHAFEE. Mr. President, I thank the Senator from Pennsylvania for his generous comments this morning. And I would like to say that I am pleased to have my colleagues here today. Senator SMITH and Senator COCHRAN have sponsored a bill that would force employees to make a choice between their union and another union.

Mr. DUMAS. Mr. President, I want to thank the Senator from Pennsylvania for his remarks. As you can see, there is a large number of Senator’s supporting this legislation. It is ironic that the unions that oppose campaign finance reform are going to have to make a choice between a union that they do not agree with and a union that they agree with.

Mr. ABRAHAM. I want to thank the Senator from Pennsylvania for his remarks. It is ironic that a strong supporter of campaign finance reform and anti-tax is going to have to make a choice between contributing to a union that he disagrees with and a union that he agrees with.

Mr. WARNER. Mr. President, I want to thank the Senator from Pennsylvania for his remarks. As you can see, there are a large number of Senator’s supporting this legislation. It is ironic that a strong supporter of campaign finance reform and anti-tax is going to have to make a choice between contributing to a union that he disagrees with and a union that he agrees with.

Mr. SMITH. Mr. President, I want to thank the Senator from Pennsylvania for his remarks. As you can see, there are a large number of Senator’s supporting this legislation. It is ironic that a strong supporter of campaign finance reform and anti-tax is going to have to make a choice between contributing to a union that he disagrees with and a union that he agrees with.

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Mr. President, this act furthers the basic civil right spoken of by Thomas Jefferson in his 1801 message: "The employers of honest industry, whatever might be their political connections, have a right to be secure in their persons, in the exercise of their faculties, in their property, and in the pursuit of happiness and safety."

This legislation would provide $2.5 billion in new incentive grants for States to enact certain accountability-based reforms to their juvenile justice systems. This legislation would authorize funding for various programs, including trying violent juveniles as adults; establishing the ability of States to collect juvenile criminal records, fingerprints, and photographs, and to share that criminal history information within the State, with other States, and with the Federal Government; and establishing the Serious Habitual Offender Comprehensive Action Program (SHOCAP). In addition, religious organizations would be permitted to participate in rehabilitative programs.

Serious, violent, and repeat juvenile offenders must be held responsible for their crimes. Today we are living with a juvenile justice system that reprimands the crime victim for being at the wrong place at the wrong time, and turns around and hugs the juvenile terrorist, whispering into his ear, "Don't worry, the State will cure you."

The juvenile justice system's primary goal is to treat and rehabilitate the juvenile offender. Such a system can only be handled by truant, other status offenders; but it is ill-equipped to deal with those who commit serious, violent, and repeat juvenile crime.

The Paycheck Protection Act protects employees from having their money voluntarily taken from them and used for politics. The act protects stockholders and employees of a corporation from having, as a condition of employment, dues, initiation fees, or other payments for politics taken from them without the separate, prior, written, voluntary authorization. Similarly, the act protects employees paying any labor organization from having such dues, initiation fees, or other payments taken from them which are used for politics.

Mr. President, this act furthers the basic civil right spoken of by Thomas Jefferson in his 1801 message: "The employers of honest industry, whatever might be their political connections, have a right to be secure in their persons, in the exercise of their faculties, in their property, and in the pursuit of happiness and safety."

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The juvenile justice system's primary goal is to treat and rehabilitate the juvenile offender. Such a system can only be handled by truant, other status offenders; but it is ill-equipped to deal with those who commit serious, violent, and repeat juvenile crime.
The criminal justice system, not the juvenile justice system, can emphasize that adult criminal acts have real consequences. The purpose of the criminal justice system is to punish, that is, to hold defendants accountable.

This would provide financial assistance to States to help them reform their juvenile system. A State would be eligible to receive Federal funds if the State agrees to enact legislation that would provide for the adult prosecution—as a matter of law or by proclamation—of 14 or older who commit a violent crime, such as murder, forcible rape, armed robbery and assault with a deadly weapon; an offense involving a controlled substance; or an offense involving possession of a firearm or a destructive device.

Punishment of dangerous juvenile offenders as adults is an effective tool in fighting violent juvenile crime. For example, Jacksonville, FL State Attorney Harry Sharstein instituted a program to prosecute and incarcerate such offenders in 1992. Two years later, arrests for juveniles dropped from 7,184 to 5,475. While juvenile arrests increased for the Nation, Jacksonville’s arrest rate decreased by 30 percent.

States need to create and maintain juvenile criminal records. Typically, State statutes seal juvenile criminal records and expunge these records when the juvenile reaches age 18. The time has come to discard anachronistic ideas that crimes, no matter how heinous, by juveniles must be kept confidential.

Our laws view juveniles through the benevolent prism of kids gone astray. It should view them as young criminals who know that they can commit crimes, repeatedly as juveniles because their juvenile records are kept hidden under the veil of secrecy. These young criminals know that when they reach their 18th birthday, they can begin their second career as adult criminals with an unblemished record. In rhetoric we are protecting juveniles from the stigma of a record but in reality we are coddling criminals. We must separate rhetoric from reality by lifting the veil of secrecy.

Law enforcement officers need to know the prior juvenile criminal records of individuals to assist them in criminal investigations and apprehension.

Law enforcement is in desperate need of access to juvenile criminal records, according to Police Chief David G. Walchak, who is also president of the International Association of Chiefs of Police. The police chief says, “Current juvenile records (both arrest and adjudication) are inconsistent across the states, and are usually unavailable to the various programs’ staff who work with youthful offenders.” The police chief further states that “There are only a few States—and even law enforcement access to juvenile records.”

In the words of Chief Walchak, “If we [law enforcement] don’t know who the youthful offenders are, we can’t appropriately intervene.” It is that simple. As juvenile gangs spread from urban to suburban to rural areas, as they travel from State to State, the veil of secrecy draped over their criminal history records undermines law enforcement efforts.

This legislation would also provide money to States to create, maintain, and share juvenile criminal records, and to share those records with other Federal, State, and local law enforcement agencies. Strengthening law enforcement should be a top priority.

School officials need access to juvenile criminal records to assist them in providing for the best interests of all students. Students are vulnerable in unsafe school environments. The decline in school safety can be attributed to laws that protect dangerous students rather than innocent students. While visiting with school officials in Stiles, MO, a teacher told me that a student who was wearing an electronic monitoring ankle bracelet.

If schools know the identity of a violent juvenile, they can respond to misbehavior by imposing stricter sanctions, assigning particular teachers, or having the student’s locker near a teacher’s doorway entrance so that the teacher can monitor his conduct during the changing of class periods. In short, this bill would allow school officials to take measures that could prevent violence at schools.

For purposes of adult sentencing, adult courts need to know if a convicted felon has a history of criminal behavior. According to the 1991 Survey of the prison facilities, nearly 40 percent of prison inmates had a prior record as a juvenile. That is approximately 4 in 10 prison inmates. This legislation will not enable criminals to masquerade as neophytes before the criminal justice system.

The bill allows State and local governments to use Federal funds to implement the Serious Habitual Offenders Comprehensive Action Program (SHOCAP).

SHOCAP is a multiagency crime analysis and case management process for identifying and targeting the violent and hard-core juvenile offenders in a community.

SHOCAP targets these serious habitual offenders for most intensive social supervision interventions, the most intensive accountability in school attendance and discipline, and the most investigation and prosecution when they commit a crime.

The DOJ has approved five test pilots of SHOCAP. Oxnard, CA was one of the selected sites. SHOCAP was implemented in 1983. Oxnard found that less than 2 percent of all juveniles arrested in that community were responsible for 35 percent of felonies by juveniles. Four years later, Oxnard’s violent crime dropped 38 percent. Illinois and Florida both have recently established state-wide SHOCAP’s. This bill would allow all jurisdictions to use Federal funds to implement SHOCAP.

Reforms are necessary at the Federal level as well. This legislation would make it easier for Federal prosecutors to try juveniles as adults. Under the bill, U.S. attorneys would have discretion to decide whether to try as adults juveniles 14 years or older who are alleged to have committed an act which if committed by an adult would be a felony. This would eliminate juvenile transfer hearings that leave the transfer decision to juvenile court judges.

Federal juvenile court proceedings would be open to the general public. When imposing a sentence, the district court would be allowed to consider the juvenile’s entire prior juvenile records. In the case in which a juvenile is tried as an adult, access to the record of the offenses of the juvenile shall be made available in the same manner as is applicable to adult defendants. And in those cases in which the juvenile was adjudicated delinquent in Federal juvenile delinquency proceedings, the U.S. attorney would be allowed to release such records to law enforcement authorities of any jurisdiction and to school officials.

The act committed by the juvenile is heinous, the punishment will be weighed accordingly. If tried and sentenced as an adult, the juvenile would be subject to the death penalty as an adult. In addition, the death penalty would be lowered from age 18 to 16.

The Government should mount a counterattack on gang violence. This legislation targets violent youth gangs, like the notorious Simple City Crew in the District. There would be new Federal penalties for offenses committed by criminal street gangs. The bill would also provide $100 million to hire assistant U.S. attorneys to prosecute juvenile criminal street gangs.

We must challenge this culture of violence and restore the culture of personal responsibility. It is high time to consider hardheaded and sensible juvenile justice policies. Where possible we must give second chances. Where necessary we must punish. This is a first step to restore justice to a nation that has grown weary of injustice.

In sum, this legislation would send a clear, cogent, and convincing message: serious acts have serious consequences.

Mr. President, I seek unanimous consent that the text of the bill be printed in the RECORD.

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

S. 10

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION I. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Violent and Repeat Juvenile Offender Act of 1997." 

(b) Table of Contents.—The table of contents for this Act is as follows:

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

TITLE I—JUVENILE JUSTICE REFORM

Sec. 101. Repeal of general provision. 
Sec. 102. Increase in offense level for participation in crime as a gang member. 
Sec. 103. Amendment of title 18 with respect to juvenile justice reform. 
Sec. 104. Interstate and foreign travel or transportation in aid of criminal gang activity. 
Sec. 105. Solicitation or recruitment of persons in criminal gang activity. 
Sec. 106. Crimes involving the recruitment of persons to participate in criminal gang activity. 
Sec. 107. Prohibiting restrictions on firearms. 
Sec. 108. Amendment of sentencing guidelines. 

TITLE II—JUVENILE GANGS

Sec. 201. Short title. 
Sec. 202. Increase in offense level for participation in crime as a gang member. 
Sec. 203. Amendment of title 18 with respect to juvenile justice reform. 
Sec. 204. Interstate and foreign travel or transportation in aid of criminal gang activity. 
Sec. 205. Solicitation or recruitment of persons in criminal gang activity. 
Sec. 206. Crimes involving the recruitment of persons to participate in criminal gang activity. 
Sec. 207. Prohibiting restrictions on firearms. 
Sec. 208. Amendment of sentencing guidelines. 

TITLE III—JUVENILE CRIME CONTROL AND ACCOUNTABILITY

Sec. 301. Findings; declaration of purpose; definitions. 
Sec. 302. Youth Crime Control and Accountability Block Grants. 
Sec. 303. Runaway and homeless youth. 
Sec. 304. Authorization of appropriations. 
Sec. 305. Repeal. 
Sec. 306. Transfer of functions and savings provisions. 
Sec. 307. Repeal of unnecessary and duplicative programs. 
Sec. 308. Housing juvenile offenders. 
Sec. 309. Civil monetary penalty surcharge. 

SECOND PURPOSE.

(a) Findings.—Congress finds that—

(1) at the outset of the twenty-first century, the States adopted 2 separate juvenile justice systems for violent and nonviolent offenders; 

(2) violent crimes committed by juveniles, such as homicide, rape, and robbery, were an unknown phenomenon at that time, but the rate at which juveniles commit such crimes has escalated astronomically since that time; 

(3) in 1994—

(a) the number of persons arrested overall for murder in the United States decreased by 5.8 percent, but the number of persons who are less than 18 years of age arrested for murder increased by 4 percent; and 

(b) the number of persons arrested for all violent crimes increased by 1.3 percent, but the number of persons who are less than 18 years of age arrested for such crimes increased by 6.5 percent; 

(4) from 1985 to 1996, the number of persons arrested for all violent crimes increased by 52.3 percent, but the number of persons under age 18 arrested for violent crimes rose by 75 percent; 

(5) the number of juvenile offenders is expected to increase at a rate of 2.3 percent during the first 2 decades of the twenty-first century, culminating in an unprecedented number of violent offenders who are less than 18 years of age; 

(6) the rehabilitative model of sentencing for juveniles, which Congress rejected for adult offenders when Congress enacted the Sentencing Reform Act of 1984, is inadequate and inappropriate for dealing with violent and repeat juvenile offenders; 

(7) the Federal Government should encourage the States to experiment with progressive solutions to the escalating problem of juveniles who commit violent crimes and who are repeat offenders, including prosecuting all such offenders as adults, but should not impose specific strategies or programs on the States; 

(8) an effective strategy for reducing violent juvenile crime requires greater collection of investigative data and other information, such as fingerprints and DNA evidence, as well as greater sharing of such information among Federal, State, and local agencies, including the courts, in the law enforcement and educational systems; 

(9) data regarding violent juvenile offenders must be made available to the adult criminal justice system if recidivism by criminals is to be addressed adequately; 

(10) holding juvenile proceedings in secret denies victims of crime the opportunity to attend and be heard at such proceedings, helps juvenile offenders to avoid accountability for their actions, and shields juvenile proceedings from public scrutiny and accountability; 

(11) the injuries and losses suffered by the victims of violent crime are no less painful or devastating because the offender is a juvenile; and 

(12) the investigation, prosecution, adjudication, and punishment of criminal offenses committed by juveniles is, and should remain, primarily the responsibility of the States, to be carried out without interference from the Federal Government. 

(b) Purposes.—The purposes of this Act are—

(1) to reform juvenile law so that the paramount concern of the juvenile justice system are providing for the safety of the public and holding juvenile wrongdoers accountable for their actions, while providing the wrongdoer a genuine opportunity to self-reform; 

(2) to revise the procedures in Federal court that are applicable to the prosecution of juvenile offenders; 

(3) to address specifically the problem of violent crime and controlled substance offenses committed by youth gangs; and 

(4) to encourage and promote, consistent with the desires of the States, the adoption of policies by the States to ensure that the victims of crimes of violence committed by juveniles receive the same level of justice as do victims of violent crimes that are committed by adults. 

SEC. 3. 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 I—JUVENILE JUSTICE REFORM

Sec. 101. Repeal of general provision. 

(a) In General.—Section 5001 of title 18, United States Code, is amended—

(1) by striking section 5001; and 

(2) by redesigning section 5003 as section 5001.

(b) Technical Amendments.—The chapter analysis for chapter 401 of title 18, United States Code, is amended—

(1) by striking the item relating to section 5003; and 

(2) by redesigning the item relating to section 5003 as 5003.

SEC. 102. TREATMENT OF FEDERAL JUVENILE OFFENDERS.

(a) In General.—Section 5002 of title 18, United States Code, is amended to read as follows:

§ 5032. Delinquency proceedings in district courts; juveniles tried as adults; transfer for other criminal prosecution.

(1) As generally—

(A) a person who is not less than 14 years of age and who is alleged to have committed an act that, if committed by an adult, would be a criminal offense, shall be tried in the appropriate district court of the United States—

(1) as an adult at the discretion of the United States Attorney in the appropriate jurisdiction, upon a finding by that United States Attorney, which finding shall not be subject to review in or by any court, trial or appellate, that there is a substantial Federal interest in the case to warrant the exercise of Federal jurisdiction, if the juvenile is charged with a Federal offense that—

(1) is a crime of violence (as that term is defined in section 16); or 

(2) involves a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802) for which the penalty is a term of imprisonment of not less than 5 years; and 

(2) in all other cases, as a juvenile. 

(b) referral by United States Attorney—

(1) in general—If the United States Attorney in the appropriate jurisdiction determines prosecution of a charged offense under subsection (a)(2), the United States Attorney may refer the matter to the appropriate legal authorities of the State or Indian tribe.

(2) Definitions.—In this section—

(A) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and 

(B) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act. 

(c) applicable procedures.—Any action prosecuted in a district court of the United States under this section—

(1) shall proceed in the same manner as required by this title and by the Federal Rules of Criminal Procedure in proceedings against an adult in the case of a juvenile who is being tried as an adult in accordance with subsection (a); and 

(2) in all other cases, shall proceed in accordance with this chapter, unless the juvenile has requested in writing, upon advice of counsel, to be proceeded against as an adult. 

(d) Capital cases.—Subject to section 3591, if a juvenile is tried and sentenced as an adult, the juvenile shall be subject to being sentenced to death on the same terms and in accordance with the same procedures as an adult. 

(e) application of laws.—In any case in which a juvenile is prosecuted in a district court of the United States as an adult, the juvenile shall be subject to the same laws, rules, and proceedings regarding sentencing that would be applicable in the case of an adult. 

No juvenile sentenced to a term of imprisonment shall be released from custody simply because the juvenile reaches the age of 18 years.
"(f) Open Proceedings.—
"(1) In general.—Any offense tried in a district court of the United States pursuant to this section shall be open to the general public, in accordance with rules 10, 26, 30, and 53 of the Federal Rules of Criminal Procedure, unless good cause is established by the moving party or is otherwise found by the court to exist.
"(2) Status alone insufficient.—The status of the defendant as a juvenile, absent other factors, shall not constitute good cause for purposes of this subsection.

(g) Availability of Records.—
"(1) In general.—In making a determination concerning the prosecution of a juvenile in a district court of the United States under this subsection, subject to the requirements of section 5038, the United States Attorney of the appropriate jurisdiction shall have complete access to the prior Federal juvenile records of the subject juvenile, and to the extent permitted by State law, the prior State juvenile records of the subject juvenile.
"(2) Consideration of entire record.—In any case in which a juvenile is found guilty in an action pursuant to this section, the district court responsible for imposing sentence shall have complete access to the prior juvenile records of the subject juvenile, and, to the extent permitted under State law, the prior State juvenile records of the subject juvenile. In imposing sentence, the district court shall consider the entire available prior juvenile record of the subject juvenile.

(h) Records.—The United States Attorney may release such Federal records, and, to the extent permitted by State law, such State records, to law enforcement authorities of any jurisdiction and to officials of any school, school district, or postsecondary school at which the individual who is the subject of the juvenile record is enrolled, if such school officials are held liable under Federal and State law, the prior State juvenile records of the subject juvenile. In imposing sentence, the district court shall consider the entire available prior juvenile record of the subject juvenile.

(2) by adding at the end the following:
"(b) Detention of Certain Juveniles.—
"Notwithstanding subsection (a), a juvenile who is to be tried as an adult pursuant to section 5032 of this title (in accordance with chapter 203 in the same manner and to the same extent as an adult would be subjected at that chapter).

SEC. 107. SPEEDY TRIAL.
Section 5036 of title 18, United States Code, is amended—
"(1) by striking "thirty" and inserting "70"; and
"(2) by striking "the court," and all that follows through the end of the section and inserting "the court. The periods of exclusion under section 316(h) shall apply to this section."

SEC. 108. DISPOSITIONAL HEARINGS.
Section 5037 of title 18, United States Code, is amended—
"(1) in subsection (a), by striking "(a)" and all that follows through "After the"

SEC. 109. USE OF JUVENILE RECORDS.
Section 5038 of title 18, United States Code, is amended—
"(1) in subsection (a), by striking "(a)" and all that follows through "After the"

SEC. 110. INCARCERATION OF VIOLENT OFFENDERS.
Section 5039 of title 18, United States Code, is amended—
"(1) by designating the first 3 undesignated paragraphs as subsections (a) through (c), respectively; and
"(2) by adding at the end the following:
"(b) Access by United States Attorney.—The term "criminal street gang" has the same meaning as in section 5031(b).

SEC. 202. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.
Section 994(p) of title 28, United States Code, is amended by inserting ", or in which the defendant is a juvenile who is tried as an adult,

TITLES II—JUVENILE GANGS

SEC. 201. SHORT TITLE.
This title may be cited as the "Federal Gang Violence Act.

SEC. 202. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS A GANG MEMBER.
(a) Definition.—In this section, the term "criminal street gang" has the same meaning as in section 52(a) of title 18, United States Code, as amended by section 203 of this title.

SEC. 203. AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code, the
United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement, increasing the offense level by not less than 6 levels for any offense. If the offense was both committed in connection with, or in furtherance of, the activities of a criminal street gang, or as a result of being a member of the criminal street gang at the time of the offense.

(c) CONSTRUCTION WITH OTHER GUIDELINES. The amendment made pursuant to subsection (b) shall provide that the increase in the offense level shall be in addition to any other adjustment under chapter 3 of the Federal sentencing guidelines.

SEC. 203. AMENDMENT OF TITLE 18 WITH RESPECT TO CRIMINAL STREET GANGS.

(a) In General. Section 521 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a) DEFINITIONS.—In this section;" and inserting the following:

"(a) DEFINITIONS.—In this section; and"

(B) by striking "(" and all that follows through the end of the subsection and inserting the following:

"(1) CRIMINAL STREET GANG.—The term 'criminal street gang' means an ongoing group, club, organization, or association of 3 or more persons, whether formal or informal—

(A) a primary activity of which is the commission of 1 or more predicate gang crimes;

(B) any members of which engage, or have engaged during the 5-year period preceding the date of enactment, in a pattern of criminal gang activity; and

(C) the activities of which affect interstate or foreign commerce.

(2) PATTERN OR PREDICATE GANG ACTIVITY.—The term 'pattern or predicate gang activity' means the commission of 2 or more predicate gang crimes committed in connection with, or in furtherance of, the activities of a criminal street gang—

(A) at least 1 of which was committed after the date of enactment of the Federal Gang Violence Act; and

(B) the first of which was committed not more than 5 years before the commission of another predicate gang crime; and

(C) that were committed on separate occasions.

(3) PREDICATE GANG CRIME.—The term 'predicate gang crime' means an offense, including an attempt or threat to commit, any violation of the laws of the State in which the offense is committed or of the United States, or conspire to do so.

(b) Conforming Amendment. Section 990(d) of title 18, United States Code, is amended by inserting before "chapter 46 of this title" the following:

"chapter 204. INTERSTATE AND FOREIGN TRAVEL OR TRANSPORTATION IN AID OF CRIMINAL STREET GANGS."

(a) Travel Act Amendments.—

(1) PROHIBITED CONDUCT AND PENALTIES.—Section 1952(a) of title 18, United States Code, is amended to read as follows:

"(a) PROHIBITED CONDUCT AND PENALTIES.—

(1) IN GENERAL.—Any person who—

(A) travels in interstate or foreign commerce for any purpose to engage in a pattern of criminal gang activity,

(B) carries on, or facilitates the promotion, management, or conduct of a pattern or predicate gang activity, and

(C) the term 'unlawful activity' has the same meaning as in section 16 of title 18, United States Code;

shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be sentenced to death or be imprisoned for any term of years or for life.

(2) CONVICTION OF CRIMES.—

(A) the term 'crime of violence' has the same meaning as in section 16 of title 18, United States Code;

(B) a crime of violence includes an offense, including an attempt or threat to commit, any violation of section 844 of title 18, United States Code;

(C) that were committed on separate occasions.

(3) STATE. The term 'State' includes a State offense involving conduct that was committed in connection with, or in furtherance of, the activities of a criminal street gang, or as a result of being a member of a criminal street gang at the time of the offense.

(4) UNLAWFUL ACTIVITY. The term 'unlawful activity' has the same meaning as in section 521(a) of title 18, United States Code.

(b) Amending of Sentencing Guidelines.—

(1) In General.—Pursuant to its authority under section 999 of title 18, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal sentencing guidelines so that—

(A) the base offense level for traveling in interstate or foreign commerce in aid of a criminal street gang or other unlawful activity is increased to 12, and

(B) the base offense level for the commission of a crime of violence in aid of a criminal street gang or other unlawful activity is increased to 24.

(2) Definitions.—In this subsection—

(A) the term 'crime of violence' has the same meaning as in section 16 of title 18, United States Code.

(B) the term 'criminal street gang' has the same meaning as in section 521 of title 18, United States Code.

*C 522. Recruitment of persons to participate in criminal street gang activity

(a) Prohibited Act.—It shall be unlawful for any person to—

(1) use any facility in, or travel in, interstate or foreign commerce, or cause another to do so, to recruit, solicit, request, induce, combine, or conspire, or cause another person to be a member of a criminal street gang, or conspire to do so; or

(2) use any facility in, or travel in, interstate or foreign commerce, or cause another person to engage in a predicate gang crime for which such person may be prosecuted in a court of the United States, or conspire to do so;

(b) The term 'person who violates subsection (a) shall—

(1) if the person recruited—

(A) a minor, be imprisoned for a term of less than 4 years, fined in accordance with this title, or both; or

"(B) a State offense involving conduct that would constitute an offense under subparagraph (A) if Federal jurisdiction existed or had been exercised; or

"(C) a conspiracy, attempt, or solicitation to commit an offense described in subparagraph (A) or (B).

(2) STATE.—The term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(3) UNLAWFUL ACTIVITY.—The term 'unlawful activity' means—

(A) a violation of section 521 of title 18, United States Code, or

(B) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances, or prostitution offenses in violation of the laws of the State in which the offense is committed or of the United States;

(C) extortion, bribery, arson, robbery, burglary, assault with a deadly weapon, retaliation against or intimidation of witnesses, victims, jurors, or informants, as a result of bodily injury, possession of or trafficking in stolen property, illegally trafficking in firearms, kidnapping, alien smuggling, or shooting at an occupied dwelling or motor vehicle, in each case, in violation of the laws of the State in which the offense is committed or of the United States; or

(D) any act that is indictable under section 1956 or 1957 of this title or under chapter II of chapter 53 of title 31.
SEC. 206. CRIMES INVOLVING THE RECRUITMENT OF MINORS TO PARTICIPATE IN CRIMINAL STREET GANG ACTIVITY AND FIREARMS OFFENSES AS RICO PRECEDENTS.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and

(2) by inserting before the semicolon at the end the following: "(F) an offense under title 28, United States Code, is amended by adding at the end the following:

SEC. 207. ADDITIONAL PROSECUTORS.

The United States Sentencing Commission shall amend section 522 of this title, or both; and

SEC. 208. AMENDMENT OF SENTENCING GUIDELINES RELATING TO BODY ARMOR.

(a) Definitions.—In this section—

(1) the term 'body armor' means any product sold or offered for sale as personal protective body covering intended to protect against gunfire, regardless of whether the product is sold as a complement to another product or garment; and

(2) the term 'minor' means a person who is older than 18 years of age.

(b) Technical Amendment.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend chapter 2 of the Federal Sentencing Guidelines to provide an appropriate enhancement for any offense involving the recruitment of a minor to participate in a gang activity.

(c) Technical Amendment.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 206. Crimes involving the recruitment of minors to participate in criminal street gang activity."
“(10) to encourage and promote programs designed to keep in school juvenile delinquents expelled or suspended for disciplinary reasons;

“(11) to assist State and local governments in promoting public safety by encouraging accountability through the imposition of meaningful sanctions for acts of juvenile delinquency;

“(12) to assist State and local governments in promoting public safety by improving the extent, accuracy, availability and usefulness of juvenile and adult criminal and law enforcement records and the openness of the juvenile justice system;

“(13) to assist State and local governments in promoting public safety by encouraging the identification of violent and hardcore juveniles and transferring such juveniles out of the jurisdiction of the juvenile justice system and into the jurisdiction of adult criminal court;

“(14) to assist State and local governments in promoting public safety by providing resources to States to build or expand juvenile detention facilities;

“(15) to provide for the evaluation of federally assisted juvenile crime control programs in order to ensure the establishment and operation of such programs;

“(16) to ensure the dissemination of information regarding juvenile crime control programs by providing a national clearinghouse; and

“(17) to provide technical assistance to public and private nonprofit juvenile justice and delinquency prevention programs.

“(b) STATEMENT OF POLICY.—It is the policy of Congress to provide resources, leadership, and coordination of efforts to combat youth violence and to prosecute and punish effectively violent juvenile offenders; and

“(2) to improve the quality of juvenile justice in the United States.

SEC. 103. DEFINITIONS.

“In this Act:

“(1) ADMINISTRATOR.—The term ‘Administrator’ means the Administrator of the Office of Juvenile Crime Control and Accountability.

“(2) CONSTRUCTION.—The term ‘construction’ means the acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including any construction that is not the cost of acquisition of land for buildings).

“(3) JUVENILE POPULATION.—The term ‘juvenile population’ means the population of a State at least 13 years but not more than 17 years of age.

“(4) OFFICE.—The term ‘Office’ means the Office of Juvenile Crime Control and Accountability established under section 201.

“(5) OUTCOME OBJECTIVE.—The term ‘outcome objective’ means an objective that relates to the impact of a program or initiative, that measures the reduction of high-risk behaviors that are incidental to the commission of criminal acts or acts of delinquency, failure in school, violence, the use of alcohol or illegal drugs, involvement of youth gangs, and teenage pregnancy, among youth in the community.

“(6) PROCESS OBJECTIVE.—The term ‘process objective’ means an objective that relates to the manner in which a program or initiative is carried out, including—

“(A) an objective relating to the degree to which the program or initiative is reaching the target population; and

“(B) an objective relating to the degree to which the program or initiative addresses known risk factors for youth problem behaviors and intervention activities that inhibit the behaviors and that build on protective factors for youth.

“(7) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Canal Zone, Guam, Saipan, the Commonwealth of the Northern Mariana Islands.

“(8) STATE OFFICE.—The term ‘State office’ means the unit of the appropriate office of a State to carry out this title, as provided in section 507 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756).

“(9) TREATMENT.—The term ‘treatment’ includes medical and other rehabilitative services designed to protect the public, including services designed to benefit addicts and other users by—

“(A) eliminating their dependence on alcohol or other addictive or nonaddictive drugs; or

“(B) controlling their dependence and susceptibility to addiction or use.

“(10) YOUTH.—The term ‘youth’ means an individual who is not less than 6 years of age and not more than 17 years of age.

SEC. 302. YOUTH CRIME CONTROL AND ACCOUNTABILITY BLOCK GRANTS.

“(a) OFFICE OF JUVENILE CRIME CONTROL AND ACCOUNTABILITY.—Section 201 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611) is amended—

“(1) in subheading ‘Office of Juvenile Justice and Delinquency Prevention’ and inserting ‘Office of Juvenile Crime Control and Accountability’; and

“(2) by adding at the end the following:—

“(d) DELEGATION AND ASSIGNMENT.—

“(1) IN GENERAL.—Except as otherwise expressly prohibited by law or otherwise provided by law, the Administrator may—

“(A) delegate any of the functions of the Administrator, and any function transferred or granted to the Administrator after the date of enactment of this Act, to such officers and employees of the Office as the Administrator may designate; and

“(B) authorize successive redelegations of such functions as may be necessary or appropriate.

“(2) RESPONSIBILITY.—No delegation of functions by the Administrator under this subsection shall relieve the Administrator of responsibility for the administration of such functions.

“(e) REORGANIZATION.—The Administrator may allocate or reallocate any function transferred among the officers of the Office, and establish, alter, or discontinue such organizational entities in that Office as may be necessary or appropriate.

“(b) NATIONAL PROGRAM.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended to read as follows:

“SEC. 204. NATIONAL PROGRAM.

“(a) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY PLAN.—

“(1) IN GENERAL.—The Administrator shall develop objectives, priorities, and short- and long-term plans, and shall implement overall policy and a strategy to carry out such plan, for all Federal juvenile crime control and juvenile offender accountability programs and activities relating to improving juvenile crime control and the enhancement of accountability by offenders within the juvenile justice system in the United States.

“(2) CONTENT OF PLAN.—

“(A) IN GENERAL.—Each plan described in paragraph (1) shall—

“(i) contain specific, measurable goals and criteria relating to improving juvenile crime control and delinquency among juveniles, improving juvenile crime control, and ensuring accountability by offenders within the juvenile justice system in the United States, and shall include criteria for any discretionary grants and contracts, for conducting related activities and for carrying out other activities under this title;

“(ii) provide for coordinating the administration of programs and activities under this title with the administration of other Federal juvenile crime control and juvenile offender accountability programs and activities, including proposals for joint funding to be carried out by the States, and such juveniles are taken into custody, and the trends demonstrated by such data.

“(iii) provide a description of the activities for which amounts are expended under this title;

“(iv) provide specific information relating to the attainment of goals set forth in the plan, including specific, measurable standards for assessing progress toward national juvenile crime reduction and juvenile offender accountability goals; and

“(v) provide for the coordination of Federal, State, and local governments in the reduction of youth crime and ensuring accountability for juvenile offenders.

“(B) SUMMARY AND ANALYSIS.—Each summary and analysis paragraph (A)(iii) shall set out the information required by clauses (i), (ii), and (iii) of this subparagraph separately for juvenile nonoffender status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

“(1) the types of offenses with which the juveniles are charged;

“(2) the ages of the juveniles;

“(3) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lock-ups;

“(4) the number of juveniles who died while in custody and the circumstances under which each juvenile died;

“(3) ANNUAL REVIEW.—The Administrator shall annually—

“(A) review each plan submitted under this subsection;

“(B) revise the plans, as the Administrator considers appropriate; and

“(C) not later than March 1 of each year, present the plans to the Committees on the Judiciary of the Senate and the House of Representatives.

“(b) DUTIES OF ADMINISTRATOR.—In carrying out this title, the Administrator shall—

“(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile crime control and juvenile offender accountability programs, and Federal policies relating to juvenile crime and justice, including policies relating to juveniles prosecuted or adjudicated in the Federal courts;

“(2) implement and coordinate Federal juvenile crime control and juvenile offender accountability programs and activities among Federal departments and agencies and between such programs and activities and other Federal programs and activities that the Administrator determines may have an important bearing on the success of the entire national juvenile crime control and juvenile offender accountability effort;

“(3) provide for the auditing of grants provided pursuant to this title;
"(4) collect, prepare, and disseminate useful data regarding the prevention, correction, and control of juvenile crime and delinquency, and issue, not less frequently than once each fiscal year, a report on successful programs and juvenile crime reduction methods utilized by States, localities, and private entities;

"(5) submit the performance of comprehensive rigorous independent scientific evaluations, each of which shall—

"(A) be independent in nature, and shall employ scientifically valid standards and methodologies; and

"(B) include measures of outcome and process as reductions in juvenile crime, youth gang activity, youth substance abuse, and other high risk factors, as well as increases in protective factors that reduce the likelihood of delinquency and criminal behavior;

"(6) involve consultation with appropriate authorities in the States and with appropriate private entities in the development, review, and revision of the plans required by subsection (a) and in the development of policies relating to juvenile prosecuted or adjudicated delinquents in Federal courts; and

"(7) provide technical assistance to the States, units of local government, and private entities in implementing programs funded under this title.

"(c) NATIONAL JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY BUDGET.—

"(1) IN GENERAL.—The Administrator shall—

"(A) develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities for any Federal juvenile crime control or juvenile offender accountability program, a budget for the National Juvenile Crime Control and Juvenile Offender Accountability Budget proposal to implement the National Juvenile Crime Control and Juvenile Offender Accountability Plan; and

"(B) transmit such budget proposal to the President and to Congress.

"(2) SUBMISSION OF JUVENILE OFFENDER ACCOUNTABILITY BUDGET REQUEST.—

"(A) IN GENERAL.—Each Federal Government program manager, agency head, and department head responsible for any Federal juvenile crime control or juvenile offender accountability program shall submit the juvenile crime control and juvenile offender accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget, to the Office of Management and Budget in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

"(B) TIMELY DEVELOPMENT AND SUBMISSION.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall ensure timely development and submission to the Administrator of the National Juvenile Crime Control and Juvenile Offender Accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget.

"(3) REVIEW AND CERTIFICATION.—The Administrator shall—

"(A) review each juvenile crime control and juvenile offender accountability budget request transmitted to the Administrator under paragraph (2);

"(B) certify in writing as to the adequacy of such budget request in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

"(C) notify the agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

"(4) RESPONSE TO CERTIFICATION.—The Administrator shall maintain records regarding certifications made pursuant to paragraph (3)(B).

"(5) FUNDING REQUESTS.—The Administrator shall request the head of a department or agency to include in the budget submission of the department or agency to the Office of Management and Budget, funding requests for specific initiatives that are consistent with the priorities of the President for the National Juvenile Crime Control and Juvenile Offender Accountability Plan and certifications made pursuant to paragraph (3), and the head of the department or agency shall comply with such a request.

"(6) REPROGRAMMING AND TRANSFER REQUESTS.—

"(A) IN GENERAL.—No department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall submit to Congress a reprogramming or transfer request with respect to any amount of appropriated funds greater than $5,000,000 that is included in the National Juvenile Crime Control and Juvenile Offender Accountability Budget Plan budget unless such request has been approved by the head, or department head, as applicable, of the Federal agency that administers a Federal agency that administers a Federal juvenile crime control or juvenile offender accountability program.

"(B) The head of any department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall submit to the Administrator any disapproval by the Administrator of a reprogramming or transfer request.

"(7) QUARTERLY REPORTS.—The Administrator shall report to Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated amounts for National Juvenile Crime Control and Juvenile Offender Accountability Plan activities.

"(d) INFORMATION, REPORTS, STUDIES, AND SURVEYS FROM OTHER AGENCIES.—The Administrator may require, through appropriate authority, Federal departments and agencies engaged in activities relating to juvenile crime and juvenile offenders to provide the Administrator with such information, reports, studies, and surveys, and to conduct such studies and surveys, as the Administrator determines to be necessary to carry out the purposes of this title.

"(e) UTILIZATION OF SERVICES AND FACILITIES OF OTHER AGENCIES; REIMBURSEMENT.—The Administrator may utilize the services and facilities of any agency of the Federal Government and of any other public agency, or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as the Administrator determines.

"(f) COORDINATION OF FUNCTIONS OF ADMINISTRATOR AND SECRETARY OF HEALTH AND HUMAN SERVICES.—All functions of the Administrator under title II shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III.

"(g) ANNUAL JUVENILE DELINQUENCY DEVELOPMENT STATEMENTS.—

"(1) IN GENERAL.—The Administrator shall require that the Federal agencies that have authority under the Federal juvenile crime control and juvenile offender accountability program to submit annually to the Office a juvenile crime control and juvenile offender accountability development statement. Such statement shall be in addition to or in lieu of any other information submitted by the Federal agency to the Administrator as required under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile crime control and juvenile offender accountability prevention and treatment goals and policies.

"(3) REVIEW AND COMMENT.—

"(A) IN GENERAL.—The Administrator shall review and comment upon each juvenile crime control and juvenile offender accountability development statement submitted to the Administrator under paragraph (1).

"(B) INCLUSION IN OTHER DOCUMENTATION.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in each Federal agency involved in each Federal agency involved in each Federal agency involved in each Federal agency involved in each Federal agency involvement of juvenile crime and juvenile offender accountability.

"(3) JUVENILE CRIME CONTROL AND JUVENILE OFFENDER ACCOUNTABILITY INCENTIVE BLOCK GRANTS.—

"(1) IN GENERAL.—The Administrator shall make, subject to the availability of appropriations, grants to States to assist them in planning, establishing, operating, coordinating, and evaluating projects, directly or through grants and contracts with public and private agencies, for the development of more effective investigation, prosecution, and punishment (including the imposition of sanctions or acts of delinquency committed by juveniles, programs to improve the administration of justice for and ensure accountability by juvenile offenders, and programs to reduce the risk factors (such as truancy, drug or alcohol use, and gang involvement) associated with juvenile crime or delinquency.

"(2) OF GRANTS.—Grants under this title may be used—

"(A) for programs to enhance the identification, investigation, prosecution, and punishment of juvenile offenders; and

"(B) to implement graduated sanctions;

"(ii) the utilization of short-term confinement of juveniles who are charged with or convicted of an offense;

"(iii) the use of graduated sanctions; and

"(iv) the incarceration of violent juvenile offenders for extended periods of time (including violent and nonviolent offenders).

"(B) IN GENERAL.—Each Federal Government program manager, agency head, and department head responsible for any Federal juvenile crime control or juvenile offender accountability program shall submit the juvenile crime control and juvenile offender accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget, to the Office of Management and Budget in the preparation of the budget of the President submitted to Congress under section 1105(a) of title 31, United States Code.

"(B) TIMELY DEVELOPMENT AND SUBMISSION.—The head of each department or agency with responsibility for a Federal juvenile crime control or juvenile offender accountability program shall ensure timely development and submission to the Administrator of the National Juvenile Crime Control and Juvenile Offender Accountability budget requests transmitted pursuant to this subsection, in such format as may be designated by the Administrator with the concurrence of the Administrator of the Office of Management and Budget.

"(B) REVIEW AND CERTIFICATION.—The Administrator shall—

"(A) review each juvenile crime control and juvenile offender accountability budget request transmitted to the Administrator under paragraph (2);

"(B) certify in writing as to the adequacy of such budget request in part to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan for the year for which the request is submitted and, with respect to a request that is not certified as adequate to implement the objectives of the National Juvenile Crime Control and Juvenile Offender Accountability Plan, include in the certification an initiative or funding level that would make the request adequate; and

"(C) notify the agency head, or department head, as applicable, regarding the certification of the Administrator under subparagraph (B).

"(B) INCLUSION IN OTHER DOCUMENTATION.—Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in each Federal agency involved in each Federal agency involved in each Federal agency involved in each Federal agency involved in each Federal agency involvement of juvenile crime and juvenile offender accountability.

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"(B) to implement graduated sanctions;

"(ii) the utilization of short-term confinement of juveniles who are charged with or convicted of an offense;

"(iii) the use of graduated sanctions; and

"(iv) the incarceration of violent juvenile offenders for extended periods of time (including violent and nonviolent offenders).
of the youth gangs.

multiagency programs for the identification, supervision, prevention, investigation, and disruption of youth gangs.

'`SHOCAP Program' (Serious Homicide Offender Comprehensive Action Program); or

program that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

(i) for the development and implementation of coordinated multijurisdictional or multiagency programs for the identification, control, supervision, prevention, investigation, and treatment of the most serious juvenile offenses and offenders, sometimes known as a "SHOCAP Program" (Serious Habitual Offenders Comprehensive Action Program); or

(i) equivalent to the record that would be kept of an adult conviction for such an offense;

(ii) for juvenile crime control and prevention programs (such as curfews, youth organizations, antidrug programs, antigang programs, and after school activities) that include evidence-based comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions for such an offense;

(iii) made available to law enforcement agencies, probation and parole, and courts; and

(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the record is a student or is instructed to enroll, and that such officials are held liable to the same standards and penalties for the possession and maintenance of juvenile justice system employees are held liable to, under Federal and State law, for handling and disclosing such information;

(iii) make reasonable efforts, as certified by the State office, to enroll, and that such efforts are successful in deterred delinquency and employ mentally valid standards and methodologies;

(iv) for juvenile crime control and prevention programs (such as curfews, youth organizations, antidrug programs, antigang programs, and after school activities) that include evidence-based comprehensive evaluation component that measures the decrease in risk factors associated with the juvenile crime and delinquency and employs scientifically valid standards and methodologies;

(i) equivalent to the record that would be kept of an adult conviction for such an offense;

(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions for such an offense;

(iii) made available to law enforcement agencies, probation and parole, and courts; and

(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the record is a student or is instructed to enroll, and that such officials are held liable to the same standards and penalties for the possession and maintenance of juvenile justice system employees are held liable to, under Federal and State law, for handling and disclosing such information;

(iii) make reasonable efforts, as certified by the State office, to enroll, and that such efforts are successful in deterred delinquency and employ mentally valid standards and methodologies.

(i) equivalent to the record that would be kept of an adult conviction for such an offense;

(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions for such an offense;

(iii) made available to law enforcement agencies, probation and parole, and courts; and

(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the record is a student or is instructed to enroll, and that such officials are held liable to the same standards and penalties for the possession and maintenance of juvenile justice system employees are held liable to, under Federal and State law, for handling and disclosing such information;

(iii) make reasonable efforts, as certified by the State office, to enroll, and that such efforts are successful in deterred delinquency and employ mentally valid standards and methodologies; and

(i) equivalent to the record that would be kept of an adult conviction for such an offense;

(ii) retained for a period of time that is equal to the period of time that records are kept for adult convictions for such an offense;

(iii) made available to law enforcement agencies, probation and parole, and courts; and

(iv) made available to officials of a school, school district, or postsecondary school where the individual who is the subject of the record is a student or is instructed to enroll, and that such officials are held liable to the same standards and penalties for the possession and maintenance of juvenile justice system employees are held liable to, under Federal and State law, for handling and disclosing such information;
to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or other legislation, or any referendum, initiative, or amendment to any other procedure of Congress, any State legislature, any local council, or any similar governing body.

(ii) Exception.—This subparagraph does not preclude the use of amounts made available under this title in connection with communications to Federal, State, or local elected officials, upon the request of such officials, through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

(E) Legal action.—No amounts made available under this title to any public or private agency, organization, institution, or to any individual, shall be used in any way directly or indirectly to file an action or otherwise take any legal action against any Federal, State, or local agency, institution, or employee.

(F) Religious organizations.—

(i) In general.—The purpose of this subparagraph is to allow State and local governments, including such organizations' contractors, to provide assistance, or to accept certificates, vouchers, or other forms of disbursement under any program described in this title, on the same basis as any other nongovernmental provider without impairing the religious character of such organizations, and without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

(ii) Nondiscrimination against religious organizations.—If a State or local government exercises its authority under religious organizations are eligible, on the same basis as or employee.

(iii) Religious character and freedom.—

(A) Religious organizations.—A religious organization that participates in a program authorized by this title shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(B) Additional safeguards.—Neither the Federal nor a State shall require a religious organization to alter its form of internal governance, or remove religious art, icons, scripture, or other symbols, in order to be eligible to contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursements, funded under a program described in this title.

(iv) Rights of beneficiaries of assistance.—If a juvenile offender has an objection to the religious character of the organization or individual working for the Government agency, institution, or individual working for the Government, shall be individually liable for all legal expenses and any other expenses of the government agency, institution, or individual working for the Government, including damages awarded by jury against the Government agency, institution, or individual working for the Government, and any punitive damages.

(B) Authorization of appropriations.—

(1) In general.—There are authorized to be appropriated to carry out this title—

(A) $650,000,000 for fiscal year 2002.

(2) Allocation of appropriations.—Of amounts authorized to be appropriated under this Act, shall be for programs under section 204(b); and shall be for programs under part B.

(3) Availability of funds.—Amounts made available pursuant to this subsection, and allocated pursuant to paragraph (1) in any fiscal year shall remain available until expended.

SEC. 207. ADMINISTRATIVE PROVISIONS.

(A) Authority of Administrator.—The Office shall be administered by the Administrator under the general authority of the Attorney General.

(B) Application of certain crime control provisions.—Sections 809(c), 811(a), 811(b), 811(c), (d), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789(c), 3789(a), 3789(b), 3789(c), 3789(g), 3789(b), 3789(d)) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

(1) any reference to the Office of Justice Programs in such sections shall be considered a reference to the Attorney General who heads the Office of Justice Programs; and

(2) any reference to the term `this title' as it appears in such sections shall be considered to be a reference to this Act.

(C) Application of certain other crime control provisions.—Sections 803(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3711(b)) shall apply with respect to the administration of and compliance with this Act, except that, for purposes of this Act—

(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be considered to be a reference to the Administrator;

(2) any reference to the Office of Justice Programs in sections 809(c), 811(a), 811(b), 811(c), (d), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711(a), 3711(c), and 3711(b)) shall be considered a reference to the Office of Justice Programs; and

(3) the term `this title' as it appears in such sections shall be considered to be a reference to this Act.

(D) Rules, regulations, and procedures.—The Administrator may, after appropriate consultation with representatives of States and units of local government, establishes such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

(E) Submission of a report to the Senate.—The Administrator shall initiate such proceedings as the Administrator determines to be appropriate if the Administrator, after giving reasonable notice, finds that—

(1) the program or activity for which the grant is awarded is not conducted in accordance with the laws of the State or the laws of the United States, or is no longer conducted in accordance with the laws of the United States, or is no longer conducted in accordance with the laws of the State, or is no longer conducted in accordance with the laws of the United States.

(2) any reference to the term `this title' as it appears in such sections shall be considered to be a reference to this Act.
(II) by striking "section 223(c)" and inserting "section 222(c)"; and
(III) in paragraph (2), by striking "section 299(c)(1)" and inserting "section 222(a)(1)"; and
(B) by striking sections 222 and 223 and inserting the following:

"SEC. 222. STATE PLANS.

(a) In General.—In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. The State shall submit annual performance reports to the Administrator which describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with other regulations which the Administrator shall prescribe, such plan shall—

"(1) designate a State agency as the sole agency for supervising the preparation and administration of the plan;

"(2) contain satisfactory evidence that the State agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

"(3) provide for the active consultation with and participation of units of general local government and of combinations thereof in the development of a State plan which adequately takes into account the needs and requests of the local government and makes provisions for nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impose upon the State or local governments or other entities making grants to the State or local governments, including religious organizations;

"(4) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (in this case referred to as the 'local agency') which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

"(5)(A) provide for—

"(i) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of how the programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the jurisdiction;

"(ii) an indication of the manner in which the programs relate to other similar State or Federal programs and other State or Federal programs relating to the same or similar problems; and

"(iii) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs and which shall be intended to address the same or similar problems; and

"(B) contain—

"(i) a description of the services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

"(ii) a plan for providing needed services for the prevention of juvenile delinquency in rural areas; and

"(C) contain—

"(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular placements of juveniles in order to receive such services) and of barriers to access to such services; and

"(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;

"(D) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, recreation, health, and welfare within the State;

"(E) provide for the development of an adequate research, training, and evaluation capability within the State plan; and

"(F) provide that not less than 75 percent of the funds made available to the State pursuant to grants under section 221, whether extended by the United States or a State or unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for home;

"(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

"(i) for youth who can remain at home with assistance, home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(ii) for youth who need temporary placement, crisis intervention, shelter, and aftercare; and

"(iii) for youth who need residential placement, a youth care or group home alternatives that provide access to a comprehensive array of services;

"(B) community-based programs and services to maintain the safe return of such juveniles to their homes and to strengthen the families; and

"(C) programs designed to develop and implement projects relating to juvenile delinquency and delinquency prevention, including—

"(i) programs designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(ii) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency; and

"(L) programs for positive youth development that assist delinquent and at-risk youth in obtaining the skills, self-reliance, and social and educational supports necessary for the prevention of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, including—

"(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, incarceration and institutionalization, home alternatives that provide access to a comprehensive array of services, the types of such services available in rural areas, and geographically unique barriers to providing such services); and

"(ii) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

"(A) education in settings that promote exceptional, individual, and small group educational and exploration of academic and career options;

"(B) assistance in making the transition to the world of work and self-sufficiency; and

"(C) alternatives to suspension and expulsion; and

"(iv) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education and training provide; and

"(v) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

"(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

"(II) information relating to any learning problems identified in such alternative learning situations are communicated to the schools;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth with limited proficiency in English who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and education, including—

"(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

"(A) education in settings that promote exceptional, individual, and small group educational and exploration of academic and career options;

"(B) assistance in making the transition to the world of work and self-sufficiency; and

"(C) alternatives to suspension and expulsion; and

"(iv) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education and training provide; and

"(v) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

"(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

"(II) information relating to any learning problems identified in such alternative learning situations are communicated to the schools;
to other support services such as health, mental health, education (remedial and special), job training, and recreation; and

(ii) assist in the provision by the Administration and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice in designing appropriate sanctions for delinquent behavior;

(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and technical assistance programs designed specifically for juveniles who commit hate crimes and that provides

(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

(9) provide for the development of an adequate research, training, and evaluation capacity within the State;

(10) provide that the State shall not detain or confine juveniles who are alleged to be or determined to be delinquent in any institution in which the juvenile has regular sustained physical contact with adult persons who are detained or confined;

(11) provide for an adequate system of monitoring jails, detention facilities, correctional and other secure facilities to ensure that the requirements of paragraph (10) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of paragraph (10), which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

(12) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapped status;

(13) provide assurance that consideration will be given to and that assistance will be available to approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of and necessary contact with adult family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

(14) provide for procedures to be established for protecting the rights of recipients of such funding concerning appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(15) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(16) provide reasonable assurances that Federal funds made available under this part for any period shall be so used as to supplement, not merely to replace, the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the program in question, and shall not in any event replace such State, local, and other non-Federal funds; and

(17) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator a report on the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of data and local needs, which it considers necessary.

(b) APPROVAL BY STATE AGENCY.—The State agency designated under subsection (a) shall approve any plan and any modification thereof prior to submission to the Administrator.

(c) APPROVAL BY ADMINISTRATOR; COMPLIANCE WITH STATUTORY REQUIREMENTS.—

(I) IN GENERAL.—The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

(2) REDUCED ALLOCATIONS.—If a State fails to comply with any requirement of subsection (a) in any fiscal year beginning after January 1, 1998, the State shall be ineligible to receive any allocation under that section for such fiscal year unless—

(A) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with subsection (a)(4)(C)) for that fiscal year to achieve compliance with such paragraph; or

(B) the Administrator determines, in the discretion of the Administrator, that the State has—

(i) achieved substantial compliance with such paragraph; and

(ii) has made, through appropriate executive or legislative action, a formal commitment to achieving full compliance within a reasonable time.

(3) in subsection (c)(5), in the last sentence, striking (A)

(4) in subsection (c)(6), in the last sentence, striking (A)

(5) in subsection (d)(1), in the last sentence, striking (A)

(6) in subsection (d)(2), in the last sentence, striking (A)

SEC. 303. RUNAWAY AND HOMELESS YOUTH.

Section 358 of the JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 (42 U.S.C. 5751) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996” and inserting “1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002”; and

(B) by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in subsection (b), by striking “1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996” and inserting “1998 and such sums as may be necessary for fiscal years 1999, 2000, 2001, and 2002”; and


SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 (42 U.S.C. 5771 et seq.) is amended—

(1) in section 403, by striking paragraph (2) and inserting the following:

(2) the term ‘Administrator’ means the Administrator of the Office of Juvenile Crime Control and Accountability.”;

(2) by striking section 404; and


SEC. 305. REPEAL.

Title V of the JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 (42 U.S.C. 5791 et seq.) is repealed.

SEC. 306. TRANSFER OF FUNCTIONS AND SAVINGS PROVISIONS.

(a) DEFINITIONS.—In this section, unless otherwise provided or indicated by the context—

(1) the term ‘Administrator of the Office’ means the Administrator of the Office of Juvenile Justice and Delinquency Prevention;

(2) the term ‘Bureau of Justice Assistance’ means the bureau designated under section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968;

(3) the term ‘Administrator’ means the Administrator of the Office of Juvenile Crime Control and Accountability established by operation of subsection (b);

(4) the term ‘Federal agency’ has the meaning given the term ‘agency’ by section 551(5) of title 5, United States Code;

(5) the term ‘function’ means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(6) the term ‘Office of Juvenile Crime Control and Accountability’ means the office established by operation of subsection (b);

(7) the term ‘Office of Juvenile Justice and Delinquency Prevention’ means the Office of Juvenile Justice and Delinquency Prevention within the Department of Justice, estab-

lished pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as in effect on the day before the date of enactment of this Act;

(8) the term ‘office’ includes any office, administration, agency, institute, unit, organizational entity, or component thereof; and

(9) TRANSFER OF FUNCTIONS AND SAVINGS—If any functions are transferred to the Office of Juvenile Crime Control and Accountability all functions that the Administrator of the Office exercised before the date of enactment of this Act (including all related functions of any officer or employee of the Office of Juvenile Justice and Delinquency Prevention), and an equalized portion of the assets of the Civil Service Commission concerning such functions transferred by this section, subject to section 1551 of title 31, United States Code, shall be transferred to the Office of Juvenile Crime Control and Accountability.

(2) UNEXPENDED AMOUNTS.—Any unexpended amounts transferred pursuant to this subsection shall be used only for the purposes for which the amounts were originally authorized and appropriated.

INCIDENTAL TRANSFERS.—

(1) IN GENERAL.—The Director of the Office of Management and Budget, at such time or times as the Director of that Office shall provide, may make such determinations as may be necessary to effectuate such transfers by this section, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other amounts held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section.

(2) TERMINATION OF AFFAIRS.—The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions necessary to effectuate the purposes of this section.

EFFECT ON PERSONNEL.—
(1) IN GENERAL.—Except as otherwise provided by this section, the transfer pursuant to this section of full-time personnel (except special Government employees) and part-time personnel to the Bureau of Justice Assistance shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer of such employee.

(2) EXECUTIVE SCHEDULE POSITIONS.—Except as otherwise provided in this section, any person who, on the day before the date of enactment of this Act, performed for or on behalf of the Bureau of Justice Assistance in an executive schedule position (as defined in section 5315 of title 5, United States Code), and who, on such day, was employed by, or was employed as an employee under, the Bureau of Justice Assistance and was separated as a result of the enactment of this Act, shall be entitled to return to his or her former position in the Bureau of Justice Assistance.

(3) TRANSITION PROVISION.—(A) IN GENERAL.—After the date of enactment of this Act, the services of such officers, employees, and personnel of the Bureau of Justice Assistance shall be continued or modified as provided by this Act.

(B) TRANSITION TO OTHER OFFICIAL.—An appointment made under this Act shall be subject to the same terms and conditions and to the same extent as if this section had not been enacted.

(C) TRANSITION TO OTHER FUNCTION.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions, (a) that have been issued, made, granted, or allowed to become effective by the President, the Administrator, or other authorized official, by a court of competent jurisdiction, or by operation of law, are deemed to be issued, made, granted, or allowed to become effective by or under this section and are to be continued or modified if this paragraph had not been enacted.

(4) SAVINGS PROVISION.—This section shall not affect rights, remedies, legal relations, or liabilities existing or accruing under any provision of law, or under any provision of law as administered, before the enactment of this section.

(5) ADMINISTRATIVE ACTS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Bureau of Justice Assistance relating to a function transferred under this section, and any action taken by or on behalf of the Bureau of Justice Assistance with respect to the preparation or promulgation of a regulation relating to such function, shall be considered to be an administrative action relating to the preparation or promulgation of a regulation pursuant to this section.

(6) LIMITATION.—This section does not apply to any monetary penalty assessed under the Internal Revenue Code of 1986.

(7) SEC. 308. HOUSING JUVENILE OFFENDERS.

Section 20105(a)(1) of title II of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(a)(1)) is amended by striking “15” and inserting “30”.

(8) SEC. 309. CIVIL MONETARY PENALTY SURCHARGE.

(a) IMPOSITION.—Subject to subsection (b) and notwithstanding any other provision of law, a surcharge of 40 percent of the principal amount of a civil monetary penalty assessed under this Act shall be added to each civil monetary penalty assessed by the United States or any agency thereof at the time the penalty is assessed.

(b) LIMITATION.—This section does not apply to any monetary penalty assessed under the Internal Revenue Code of 1986.
DASCHLE has incorporated in his bill meaningful reform proposal. Senator on balance it is an achievable and comprehensive response to the problem and ads.

which masquerade as so-called issue national parties, and campaign ads money, independent expenditures by system including the raising and spent to air them. For years, we have public does not know the basic money.

restricted, undisclosed, so-called “soft” which they were run, hundreds of com- impact on the outcome of elections inect to the contribution restrictions of $100,000. For a system that was sup-
ed to both parties that equal or exceed dollars of contributions from individuals political parties and individual cam-
cap contributions from individuals at
corporations and unions, we have seen end of the nuclear arms race, we surely was going to end. If we can achieve the possible. “It will not happen,” you hear form is that any reform is virtually im-
progresses and our job now is to show the
gument for delay has been used in one
government officials, the amount of support these
to this article, are trying to pressure a

to GOP candidates.

The lawmakers are also urging the CEOs of
to be involved in Republican decision-making
vestigious organization of corporate bigwigs to
leaders are urging the prestigious or-

in the next few days a more limited ef-
orts if the BRT would agree to fund issue-

ganization of corporate bigwigs to
leaders is urging the prestigious or-

one Republican source said, according

to Roll Call, “explaining that the GOP leadership is urging the prestigious or-

The article goes on.

for years, we have pretended that we actually have had somewhat meaningful restrictions on campaign ads. But with the past election cycle, the facade has fall-

en and we are faced with the naked truth that this system is wide open.

That is why I am joining with Sen-

ator DASCHLE today in sponsoring his pro-
gressive proposal reform legislation which would eliminate or rein in many of the worst loopholes in the current system including the raising and spending of unregulated or “soft” money, independent expenditures by national parties, and campaign ads which masquerade as so-called issue ads.

Senator DASCHLE’s bill is a com-
prehensive response to the problem and on balance it is an achievable and meaningful reform proposal. Senator DASCHLE has incorporated in his bill several provisions that I authored dealing with issue ads and independent expenditures by parties. The approach that my provision in this bill takes with respect to so-called issue ads is to redefine “express advocacy” to include any advertising broadcast on radio or television 90 days before a primary or general election which specifically mentions a candidate.

The Supreme Court has tried to draw a bright line in defining “express advoca-
cy” by applying it only to those ads which include certain magic phrases like “Vote for Mrs. X” or “Defeat Mr. Y.” Such a test though leaves out ads which target a specific candidate and do not use the campaign form that delivers the same message—for example, an ad that says, “Write to candidate Z and let him know how you feel” about an issue, which the ad has just strongly advocated or attacked. My approach would treat any broadcast ad, any broadcast ad that ap-
pears within 90 days of an election in which a candidate is explicitly men-
tioned as “express advocacy” and payable therefore out of regulated funds. The approach which my provision takes with respect to independent expenditures by a party is to require a party to choose between making co-
election or defeat of congressional and

1997, reported:

$11 million to Democrats. It is not enough that the BRT members already give to GOP candidates. They “should give a bigger percentage to the Republicans” than they are now giving, according to Haley Barbour, the Republican Party Chairman.

This is punishment, Mr. President, to be imposed on an organization by party and Congressional leaders. That is the message behind this action—no money, no access—and it looks awful. That is how far we have come in this scramble for campaign money, and that is why we have to make the effort now to get going on campaign finance reform elections.

Mr. President, I ask unanimous con-

sent the two articles I referred to be printed in the Record.
Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the materials were ordered to be printed in the Record, as follows:

SEC. 1. Short title.

TITLES

Subtitle A—Senate Election Campaign Spending Limits and Benefits

Sec. 101. Senate spending limits and benefits.

Sec. 102. Ban on activities of political action committees in Senate elections.

Sec. 103. Reporting requirements.

Sec. 104. Disclosure by candidates other than eligible Senate candidates.

Sec. 105. Excess campaign funds of Senate candidates.

Sec. 106. Contribution limit for eligible Senate candidates.

Subtitle B—General Provisions

Sec. 111. Broadcast rates and preemption.

Sec. 112. Reporting requirements for certain independent expenditures.

Sec. 113. Campaign advertising amendments.

Sec. 114. Definitions.

Sec. 115. Provisions relating to franked mass mailings.

Subtitle C—Soft Money of Political Parties

Sec. 301. Contributions and loans from personal funds; credit to committees; credit to candidates.

Sec. 302. Contributions by officers, agents, and committee employees.

Sec. 303. Contributions by officers, agents, and committee employees.

Sec. 304. Contributions and expenditures using money secured by physical or other instruments.

Sec. 305. Prohibition of acceptance of a candidate's cash contributions from any one person aggregating more than $100.

TITLES

TITLE V—AUTHORITIES AND DUTIES OF THE FEDERAL ELECTION COMMISSION

Sec. 501. Definitions.

Sec. 502. Eligible Senate candidates.

Sec. 503. Certification of compliance with law.

Sec. 504. Authority to seek injunction.

Sec. 505. Penalties.

Sec. 506. Independent litigating authority.

Sec. 507. Reference of suspected violation to the attorney general.

Sec. 508. Powers of the commission.

TITLES

TITLE VI—MISCELLANEOUS

Sec. 601. Prohibition of leadership committees.

Sec. 602. Telephone voting by persons with disabilities.

Sec. 603. Certain tax-exempt organizations not subject to corporate limits.


Sec. 605. Campaign advertising that refers to an opponent.

Sec. 606. Limit on personal use of the franking privilege.

Sec. 607. Participation by foreign nationals in political activities.

Sec. 608. Certification of compliance with foreign contribution and solicitation limitations.

TITLES

TITLE VII—EFFECTIVE DATES; AUTHORIZATIONS

Sec. 701. Effective date.

Sec. 702. Budget neutrality.

Sec. 703. Severability.

Sec. 704. Expedited review of constitutional issues.

Sec. 705. Regulations.
the general election to the extent that the contribution would cause the aggregate amount of contributions to exceed the sum of the amount of the general election expenditure limit and the amounts described in subsections (c), (d), and (e) of section 503, reduced by any amounts transferred to the current election cycle from a previous election in accordance with subparagraph (A) of paragraph (1).
"(d) PAYMENT OF TAXES ON EARNINGS.—The limitation under subsection (b) shall not apply to any expenditure for Federal, State, or local income taxes on the earnings of a candidate's committees.

(e) CERTAIN EXPENSES.—In the case of an eligible Senate candidate who holds a Federal office in the District of Columbia, and the candidate's spouse and children between January 21, 1997

SEC. 504. BENEFITS FOR ELIGIBLE SENATE CANDIDATES.

(a) IN GENERAL.—An eligible Senate candidate who is an incumbent after an eligible Senate candidate files a request with the Secretary of the Senate to request in writing with the Secretary of the Senate to receive benefits under section 504, the Commission shall issue a certification stating whether the candidate is eligible for payments under this title and the amount of payments to which such candidate is entitled.

"(2) CONTENTS OF REQUEST.—A request under paragraph (1) shall include such information and be made in accordance with such procedures as the Commission may provide by regulation.

"(b) contain a verification signed by the candidate and the treasurer of the principal campaign committee of the candidate stating that the information furnished in support of the request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(c) DETERMINATIONS BY THE COMMISSION.—All determinations made by the Commission under this title (including certifications under subsections (a) and (b)) shall be final and conclusive, except to the extent that a determination is subject to examination and audit by the Commission under section 506 and judicial review under section 507.

"(2) EXCESS EXPENDITURE AMOUNT.—

"(1) DETERMINATION.—The excess expenditure amount under section (b) shall be determined by subtracting all contributions with respect to the general election period for the candidate.

"(2) AMOUNT PAYMENTS AND INDEPENDENT EXPENDITURE.—The excess expenditure amount under subsection (b) shall not apply to ordinary and necessary expenses of travel of the candidate and the candidate's spouse and children between

"(A) NONMAJOR PARTY CANDIDATES.—In the case of an eligible Senate candidate who is not an eligible Senate candidate who is not a major party candidate, an amount equal to one-third of the general election expenditure limit, an amount equal to the sum of—

"(i) the opponent's excess.

"(ii) if the opponent's excess exceeds or equals 33 1/3 percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit limit; plus

"(iii) the amount determined under subsection (b); and

"(B) EXCESS EXPENDITURE AMOUNT.—

"(1) DETERMINATION.—The excess expenditure amount under section (a)(1) shall be determined by subtracting all contributions with respect to the general election period for the candidate.

"(2) EXCESS EXPENDITURE AMOUNT.—

"(1) DETERMINATION.—The excess expenditure amount under section (b) shall be determined by subtracting all contributions with respect to the general election period for the candidate.

"(2) PERMITTED USE.—Payments received by an eligible Senate candidate under subsection (a)(2) shall be used to make expenditures with respect to the general election period for the candidate.

"(2) PROHIBITED USE.—Payments received by an eligible Senate candidate under subsection (a)(2) shall not be used—

"(A) for any purpose other than the payment of allowable contributions accepted by the eligible Senate candidate during the applicable period in excess of the contribution limitation for section 302(e);

"(B) in the case of an eligible Senate candidate who is not a major party candidate, an amount equal to the lesser of—

"(i) the amount of allowable contributions accepted by the eligible Senate candidate during the applicable period in excess of the contribution limitation for section 302(e);

"(ii) 50 percent of the general election expenditure limit, or

"(iii) 10 percent of the general election expenditure limit, or

"(iv) the amount determined under subsection (a)(2) shall not exceed—

"(A) except as provided in paragraph (4), to make any reimbursement of contributions accepted by the eligible Senate candidate in the general election period for the candidate other than an expenditure which is a payment for the general election period for the candidate, or

"(B) subject to section 315(b) of the Communications Act of 1934 and subsection (b) of section 315 of the Communications Act of 1934 and section (a)(2) shall be used to make expenditures with respect to the general election period for the candidate.

"(2) USE OF PAYMENTS.—

"(3) USE OF PAYMENTS.—

"(1) AFTER A GENERAL ELECTION.—After each general election, the Commission shall conduct an examination of the campaign accounts of all candidates in 5 percent of the elections to the Senate in which there was an eligible Senate candidate on the ballot and, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(2) AFTER A SPECIAL ELECTION.—After each special election in which an eligible Senate candidate was on the ballot, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(3) WITH REASON TO BELIEVE THERE MAY HAVE BEEN A VIOLATION.—The Commission may conduct an examination and audit of the campaign accounts of any eligible Senate candidate in a general election if the Commission determines that there exists a reason to believe that the eligible Senate candidate failed to comply with this title.

"(4) EXCESS EXPENDITURE AMOUNT.—The Commission may provide by regulation; and

"(c) INDEPENDENT EXPENDITURE AMOUNT.—

"(1) DETERMINATION.—The independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by an eligible Senate candidate in the general election period for the candidate and the treasurer of the principal campaign committee of the candidate, and the treasurer of the principal campaign committee of the eligible Senate candidate.

"(2) USE OF PAYMENTS.—

"(A) USE OF INDEPENDENT EXPENDITURE.—The independent expenditure amount under section (c)(1) shall be used to make expenditures for the general election period for the candidate.

"(B) NONMAJOR PARTY CANDIDATES.—In the case of an eligible Senate candidate who is not a major party candidate, the general election expenditure limit shall be increased by the amount (if any) by which the opponent's excess expenditure amount exceeds the amount determined under subsection (b)(2)(B) with respect to the candidate.

"(C) USE OF PAYMENTS.—

"(1) GENERAL.—An eligible Senate candidate who receives benefits under this section may conduct an examination and audit of the campaign accounts of all candidates in 5 percent of the elections to the Senate in which there was an eligible Senate candidate on the ballot and, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(2) WITH REASON TO BELIEVE THERE MAY HAVE BEEN A VIOLATION.—The Commission may conduct an examination and audit of the campaign accounts of any eligible Senate candidate in a general election if the Commission determines that there exists a reason to believe that the eligible Senate candidate failed to comply with this title.

"(d) W AIVER OF EXPENDITURE AND CONTRIBUTIONS LIMITS.—

"(1) DEFINITION OF OPPONENT'S EXCESS.—In this subsection, the term 'opponent's excess' means the amount by which an opponent of an eligible Senate candidate in the general election period for the candidate accepts contributions or makes (or obligates to make) expenditures for the election in excess of the general election expenditure limit.

"(2) DEFINITION OF OPPONENT'S EXPENSES.—In this subsection, the term 'opponent's expenses' means the amount by which an opponent of an eligible Senate candidate in the general election expenditure limit, an amount equal to one-third of the general election expenditure limit, and an amount equal to the lesser of—

"(i) the amount determined under subsection (b); and

"(ii) 10 percent of the general election expenditure limit, or

"(iii) if the opponent's excess equals or exceeds 66 2/3 percent of the general election expenditure limit, an amount equal to one-third of the general election expenditure limit; and

"(iii) the amount determined under subsection (b); and

"(iv) the amount determined under subsection (b); and

"(2) EXCESS EXPENDITURE AMOUNT.—

"(1) DETERMINATION.—The excess expenditure amount under section (a)(1) shall be determined by subtracting all contributions with respect to the general election period for the candidate.

"(2) PERMITTED USE.—Payments received by an eligible Senate candidate under subsection (a)(2) shall be used to make expenditures with respect to the general election period for the candidate.

"(2) PROHIBITED USE.—Payments received by an eligible Senate candidate under subsection (a)(2) shall not be used—

"(A) except as provided in paragraph (4), to make any reimbursement of contributions accepted by the eligible Senate candidate in the general election period for the candidate other than an expenditure which is a payment for the general election period for the candidate, or

"(B) subject to section 315(b) of the Communications Act of 1934 and subsection (b) of section 315 of the Communications Act of 1934 and section (a)(2) shall be used to make expenditures with respect to the general election period for the candidate.

"(2) USE OF PAYMENTS.—

"(3) USE OF PAYMENTS.—

"(1) AFTER A GENERAL ELECTION.—After each general election, the Commission shall conduct an examination of the campaign accounts of all candidates in 5 percent of the elections to the Senate in which there was an eligible Senate candidate on the ballot and, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(2) AFTER A SPECIAL ELECTION.—After each special election in which an eligible Senate candidate was on the ballot, the Commission shall conduct an examination and audit of the campaign accounts of all candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(3) WITH REASON TO BELIEVE THERE MAY HAVE BEEN A VIOLATION.—The Commission may conduct an examination and audit of the campaign accounts of any eligible Senate candidate in a general election if the Commission determines that there exists a reason to believe that the eligible Senate candidate failed to comply with this title.

"(d) MISUSE OF BENEFIT.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the excess.

"(1) MISUSE OF BENEFIT.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the excess.

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"(1) MISUSE OF BENEFIT.—If the Commission determines that any amount of any benefit made available to an eligible Senate candidate under this title was not used as provided for in this title, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the excess.
or the general election expenditure limit, the Commission shall notify the eligible Senate candidate, and the eligible Senate candidate shall pay an amount equal to the amount of the excess expenditures.

"(f) Civil Penalties.—

"(1) Misuse of Benefit.—If the Commission determines that an eligible Senate candidate, in a violation described in subsection (d), the Commission may assess a civil penalty against the eligible Senate candidate in an amount not greater than 200 percent of the amount of the benefit that was misused.

"(2) Excess Expenditures.—

"(A) Low Amount of Excess Expenditures.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by 2.5 percent or less the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to 3 times the amount of the excess expenditures.

"(B) Medium Amount of Excess Expenditures.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by more than 2.5 percent and less than 5 percent the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to 3 times the amount of the excess expenditures.

"(C) Large Amount of Excess Expenditures.—If the Commission determines that an eligible Senate candidate made expenditures that exceeded by more than 5 percent the primary election expenditure limit, the runoff election expenditure limit, or the general election expenditure limit, the Commission shall assess a civil penalty against the eligible Senate candidate in an amount equal to 3 times the amount of the excess expenditures.

"(g) Appeals.—The Commission, by attorneys and counsel, may appeal from any order or final decision of the United States Court of Appeals for the District of Columbia Circuit upon petition filed in that court within 30 days after the date of the agency action. The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review any final decision of the United States Commission in the same manner as is provided in chapter 51 and subchapter III of title 5, United States Code. Chapter 51 of that title shall be printed as a Senate document for the fiscal year in which it is enacted.

"SEC. 508. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) Appeals.—The Commission may appear in any action in which the Commission is a party or a necessary participant, against or in aid of any action instituted under this section and under section 507 by attorneys employed in the office of the Commission or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to chapter 51 and subchapter III of chapter 53 of that title.

"(b) Actions for Recovery of Amount of Benefits.—The Commission, by attorneys and counsel described in subsection (a), may bring an action in United States district court to recover the amounts determined under this title to be payable to any entity that affords benefits to an eligible Senate candidate under this title.

"(c) Action for Injunctive Relief.—The Commission, by attorneys and counsel described in subsection (a), may petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) Appointments.—The Commission, on behalf of the United States, may appeal from, and may petition the Supreme Court for certiorari to review, any judgment or decree entered with respect to any proceeding by which the United States is aggrieved under this section.

"SEC. 509. REPORTS TO CONGRESS; REGULATIONS.

"(a) Reports.—

"(1) In General.—As soon as practical after each general election, the Commission shall submit a full report to the Senate setting forth—

"(A) the expenditures (shown in such detail as the Commission determines to be appropriate) made by each eligible Senate candidate and the authorized committees of the candidate;

"(B) the amounts certified by the Commission under section 505 as benefits available to each eligible Senate candidate;

"(C) the amount of repayments, if any, required under section 506 and the reason why each repayment was required.

"(b) Printings.—Each report under paragraph (1) shall be printed as a Senate document.

"(c) Regulations.—

"(1) In General.—The Commission may issue such regulations, conduct such examinations and investigations, and require the keeping and submission of such books, records, and information, as the Commission considers necessary to carry out the functions and duties of the Commission under this title.

"(2) Statement to Senate.—Not less than 30 days before issuing a regulation under paragraph (1), the Commission shall submit to the Senate a statement setting forth the proposed regulation containing a detailed explanation and justification for the regulation.

"SEC. 510. CLOSED CAPTIONING IN TELEVISION BROADCASTS.

"(a) Television Broadcasts.—Any television broadcast prepared or distributed by an eligible Senate candidate shall be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the broadcast to be broadcast by way of line of text graphics. The Commission may adopt by way of a comparable successor technology.

"SEC. 511. LIMITATIONS ON PAYMENTS.

"(a) Payments on Certification.—On receipt of a certification from the Commission under section 505, except as provided in subsection (b), the Secretary shall, subject to the availability of appropriations, promptly pay the amount certified by the Commission to the candidate.

"(b) Insufficient Funds.—

"(1) Withholding.—If, at the time of a certification by the Commission under section 505 for payment to an eligible Senate candidate, the Secretary determines that there are not, or may not be, sufficient funds to satisfy the full entitlement of all eligible Senate candidates, the Secretary shall withhold from the amount of the payment such amount as the Secretary determines to be necessary to ensure that each eligible Senate candidate will receive a pro rata share of the candidate's full entitlement.

"(2) Subsequent Payment.—Amounts withheld under paragraph (1) shall be paid when the Secretary determines that there are sufficient funds to pay all or a portion of the funds withheld from all eligible Senate candidates, but, if only a portion is to be paid, the portion shall be distributed among candidates that each eligible Senate candidate receives an equal pro rata share.

"(3) Notification of Estimated Withholding.

"(A) Advance Estimate of Available Funds and Projected Costs.—Not later than December 31 of any calendar year preceding the calendar year in which a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of funds that will be available to make payments under this title in the general election year; and

"(ii) the costs of implementing this title in the general election year.

"(B) Notification.—If the Secretary determines under subparagraph (A) that there will be insufficient funds for any calendar year, the Secretary shall mail each candidate for the Senate on January 1 of that year (or, if later, the date on which an individual becomes such a candidate) of that year a notification that the Secretary believes will be the pro rata withholding from each eligible Senate candidate's payments under this subsection.

"(c) Increase in Contribution Limit.—The amount of an eligible candidate's contribution limit under section 502(c)(1)(D)(ii) shall be increased by the amount of the estimated pro rata withholding under subparagraph (B).

"(d) Notification of Actual Withholding.—

"(1) In General.—The Secretary shall notify the Commission and each eligible Senate candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection.

"(2) Greater Amount of Withholding.—If the amount of a withholding exceeds the amount estimated under paragraph (3), an eligible Senate candidate's contribution limit under section 502(c)(1)(D)(ii) shall be increased by the amount of the excess."
(2) APPLICABILITY TO CONTRIBUTIONS AND EXPENDITURES.—For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a),

(A) an expenditure made before January 1, 1997, shall be taken into account, except that there shall be taken into account any such expenditure for services or benefits to be provided in the campaign;

(B) all cash, cash items, and Government securities on hand as of January 1, 1997, shall be taken into account in determining whether there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1997, to pay for expenditures that were incurred (but unpaid) before that date.

(c) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF TITLE.—If section 502, 503, or 504 of the Federal Election Campaign Act of 1971 (as added by subsection (a)) or any part of those sections is held to be invalid, this Act and all expenditures made by this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL AGENCY COMMITTEES IN SENATE ELECTIONS.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC. 324. BAN ON SENATE ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES.

"(a) In General.—(1) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election, or nomination for election, to the office of United States Senator.

"(2)(A) EXECUTIVE OFFICERS AND ADMINISTRATIVE EMPLOYEES.—In the case of an individual who is an executive officer or an administrative employee, the following shall apply:

"(i) the individual shall not make a contribution—

(A) to any political committee established and maintained by any political party for use in an election, or nomination for election, to the office of United States Senator; or

(B) to any candidate for nomination for election, or election, to the office of United States Senator or the candidate's authorized committees;

if the contribution is made at the direction of, or on the behalf or controlled or influenced by, the employer; and

"(ii) the individual shall not make any such contribution if the making of the contribution would cause the aggregate amount of contributions made by all executive officers and administrative employees of the employer in any calendar year to exceed—

(A) $20,000 in the case of such political committees; and

(B) $5,000 in the case of any such candidate and the candidate's authorized committees.

"(b) CANDIDATE'S COMMITTEES.—Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

"(9) For the purposes of the limitations under paragraphs (1) and (2), any political committee that is established and financed or maintained or controlled by any candidate or Federal officeholder shall be considered to be an authorized committee of the candidate or officeholder. Nothing in this paragraph shall be construed to permit the establishment, financing, maintenance, or control of any committee that is prohibited by paragraph (1) or (2) hereof.

"(c) RULES APPLICABLE WHEN BILL NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), during any period after beginning the effective date in which the limitation under section 324 of that Act (as added by subsection (a)) is not in effect, the amendments made by subsections (a) and (b) shall not be in effect.

(d) RULE ENSURING PROHIBITION OF DIRECT CORPORATE AND LABOR ORGANIZATION SPENDING.—If section 316(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is held to be invalid by reason of the amendment made by subsections (a) and (b) shall not apply to contributions by any political committee that is directly or indirectly established and maintained or controlled by a connected organization that is a bank, corporation, or other organization described in section 316(a) of that Act.

"(e) RESTRICTIONS ON CONTRIBUTIONS TO POLITICAL COMMITTEES.—Paragraphs (1)(D) and (2)(D) of section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)), as redesignated by section 312, are amended by striking "$5,000" and inserting "$1,000".

"f) EFFECTIVE DATES.—(1) In General.—Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1996.

(2) APPLICABILITY.—In applying the amendments made by this section, there shall not be taken into account—

(A) a contribution made or received before January 1, 1997; or

(B) a contribution made to, or received by, a candidate on or after January 1, 1997, to the extent that the aggregate amount of such contributions made to or received by the candidate is not greater than the excess, if any,

(i) of the aggregate amount of such contributions made to or received by any opponent of the candidate before January 1, 1997; or

(ii) of the aggregate amount of such contributions made to or received by the candidate before January 1, 1997.

SEC. 103. REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 314 the following:

"SEC. 304A. REPORTING REQUIREMENTS FOR SENATE CANDIDATES.

"(a) MEANING.—Any term used in this section that is defined in title V shall have the same meaning as when used in title V.

"(b) CANDIDATE OTHER THAN ELIGIBLE SENATE CANDIDATE.—

"(1) DECLARATION OF INTENT.—A candidate for the office of Senator who does not file a certification with the Secretary of the Senate under section 502(c) shall, at the time provided in section 501(c)(2), file with the Secretary of the Senate a declaration as to whether the candidate or independent expenditures for the general election in excess of the general election expenditure limit.

"(2) REPORTS.—

"(A) INITIAL REPORT.—A candidate for the Senate who qualifies for the ballot for a general election—

(i) who is not an eligible Senate candidate under section 502; and

(ii) who receives contributions in an aggregate amount or makes or obligates to make expenditures in an aggregate amount in the general election that exceeds 75 percent of the general election expenditure limit; shall file a report with the Secretary of the Senate within 2 business days after aggregate contributions or aggregate expenditures have been made or obligated to be made in that amount (or, if later, within 2 business days after the date of qualification for the general election ballot), setting forth the candidate's aggregate amount of contributions received and aggregate expenditures made for the election as of the date of the report.

"(B) ADDITIONAL REPORTS.—After an initial report is filed under paragraph (A), the candidate shall file additional reports (until the amount of such contributions or expenditures exceeds 200 percent of the general election expenditure limit) with the Secretary of the Senate within 2 business days after each time additional contributions are received, or expenditures are made or obligated to be made, that in the aggregate exceed an amount equal to 10 percent of the general election expenditure limit and after the aggregate amount of contributions or expenditures exceeds 100, 133 1⁄3, 166 2⁄3, and 200 percent of the general election expenditure limit.

"(c) NOTIFICATION OF OTHER CANDIDATES.—The Commission—

"(A) shall, within 2 business days after receipt of a declaration or report under paragraph (1) or (2), notify each eligible Senate candidate of the filing of the declaration or report;

"(B) if an opposing candidate has received aggregate contributions, or made or obligated aggregate expenditures, in excess of the general election expenditure limit, shall certify, under subsection (e), the amount for payment to which an eligible Senate candidate in the general election is entitled under section 504(a).

"(d) ACTION BY THE COMMISSION ABSENT REPORT.—

"(A) IN GENERAL.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible Senate candidate has raised aggregate contributions, or made or obligated to make aggregate expenditures, in the amounts that would require a report under paragraph (2).

"(B) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—The Commission shall—

"(i) within 2 business days after making a determination under subparagraph (A), notify each eligible Senate candidate in the general election of the making of the determination; and

"(ii) when the aggregate amount of contributions or expenditures in the general election expenditure limit, certify under subsection (e) an eligible Senate candidate's eligibility for payment of any amount under section 504(a).

"(c) REPORTS ON PERSONAL FUNDS.—

"(1) FILING.—A candidate for the Senate who, during an election cycle, expends more than the personal funds expenditure limit during the election cycle shall file a report with the Secretary of the Senate within 2 business days after expenditures have been made or loans have been made or accepted of the personal funds expenditure limit.

"(2) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—Within 2 business days after a report has been filed under paragraph (1), the Commission shall notify each eligible Senate candidate in the general election of the filing of the report.

"(e) ACTION BY THE COMMISSION ABSENT REPORT.—

"(A) IN GENERAL.—Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate for the Senate has made expenditures in excess of the amount under paragraph (1).

"(B) NOTIFICATION OF ELIGIBLE SENATE CANDIDATES.—Within 2 business days after making a determination under subparagraph (A),
the Commission shall notify each eligible Senate candidate in the general election of the making of the determination.

"(d) CANDIDATES FOR OTHER OFFICES.—

"(1) by inserting `United States Senator' after `Secretary of State'; and

"(2) by inserting `United States Senator' after `Secretary of State'; and

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for that office, held any other Federal, State, or local office or was a candidate for any such office; and

"(C) who expended any amount during the election cycle before the date that program may also be preempted.

"(f) DISCLOSURE BY CANDIDATES OTHER THAN ELIGIBLE SENATE CANDIDATES.—

Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432a) is amended by

1. by inserting `United States Senator' after `Secretary of State'; and

2. by inserting `United States Senator' after `Secretary of State'; and

"(1) In general.—Section 315 of the Communications Act of 1947 (47 U.S.C. 315) is amended—

"(A) by redesigning subsections (d) and (e) of section 315 of the Communications Act of 1947 (47 U.S.C. 315) as follows:

"(1) INITIAL REPORT.—

"(2) ELIGIBLE SENATE CANDIDATES.

"(B) by redesignating subsections (a), (b), and (c) of section 315 of the Communications Act of 1947 (47 U.S.C. 315) as follows:

"(1) In general.—

"(2) ELIGIBLE SENATE CANDIDATES.

"(2) ELIGIBLE SENATE CANDIDATES.

"(B) by redesignating subsections (a), (b), and (c) of section 315 of the Communications Act of 1947 (47 U.S.C. 315) as follows:

"(1) In general.—

"(2) ELIGIBLE SENATE CANDIDATES.

"(A) by redesigning subsections (d) and (e) of section 315 of the Communications Act of 1947 (47 U.S.C. 315) as follows:

"(1) INITIAL Report.—

"(2) ELIGIBLE SENATE CANDIDATES.

"(B) by redesignating subsections (a), (b), and (c) of section 315 of the Communications Act of 1947 (47 U.S.C. 315) as follows:

"(1) In general.—

"(2) ELIGIBLE SENATE CANDIDATES.

"(A) by redesigning subsections (d) and (e) of section 315 of the Communications Act of 1947 (47 U.S.C. 315) as follows:

"(1) Initial Report.—

"(2) ELIGIBLE SENATE CANDIDATES.

"(A) by redesigning subsections (d) and (e) of section 315 of the Communications Act of 1947 (47 U.S.C. 315) as follows:

"(1) Initial Report.—

"(2) ELIGIBLE SENATE CANDIDATES.
INDEPENDENT EXPENDITURES. Ð section 504(a).

certify eligibility to receive benefits under general election period, the Commission shall 

(5) with respect to expenditures during a
generate when a candidate is notified under paragraph (3), (5), or 

(6) intention under this paragraph, the Commis-

sion shall be notified in the same manner as under section 313(a).

(7) The term `voting age population' includes a candidate's spouse; 

(8) a child, stepchild, parent, grand-

parent, brother, half-brother, sister, or half-
sister of the candidate or the candidate's spouse; and 

(9) the spouse of any person described in subparagraph (B).

The term `major party' has the meaning given in the term in section 9002(e) of the Internal Revenue Code of 1986, except that if a candidate qualified for the ballot in a gen-

eral election in an open primary in which all the candidates for the office participated and 

which resulted in the candidate and at least 1 other candidate qualifying for the ballot 
in the general election, the candidate shall be treated as a candidate of a major party for purposes of title V.

The term `primary election' means an election that may result in the election of a candidate for the ballot in a general election for a Federal office.

The term `primary election period' means, with respect to a candidate, the pe-

riod beginning on the day following the date of the last election for the specific office 

that the candidate is seeking and ending on the date

(2) The term `runoff election' means an election held after a primary election that is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for a Federal office.

The term `runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office that the candidate is seeking and ending on the date of the runoff election for that office.

The term `voting age population' means the number of residents of a State who are 18 years of age or older, as certified under section 313(a).

The term `election cycle' means—

(A) in the case of a candidate or the au-

thorized committees of a candidate, the pe-

riod beginning on the day after the date of 

the most recent general election for the spe-

cific office or seat that the candidate is seek-

ing and ending on the date of the next gen-

eral election for that office; and

(B) in the case of all other persons, the 

period beginning on the first day following the date of the last general election and end-

ing on the date of the next general elec-

tion.

IDENTIFICATION. Ð Section 301(13) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking `mailing address' and inserting `permanent resi-

dence address.'
TITLE II—INDEPENDENT EXPENDITURES
SEC. 201. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—

(A) IN GENERAL.—The term 'independent expenditure' means an expenditure by a person other than a candidate or candidate's authorized committee—

(i) that is not made for a communication that contains express advocacy; and

(ii) is made without the participation or cooperation of and without coordination with a candidate.

(B) EXPRESS ADVOCACY.—The term 'express advocacy' means a communication advocating the election or defeat of a clearly identified candidate and includes any communication that—

(1) contains a phrase such as 'vote for', 're-elect', 'support', 'cast your ballot for', (name of candidate) for Congress', (name of candidate) in 1997', 'vote against', 'defeat', 'reject';

(2) recommends a position on an issue and clearly identifies 1 or more candidates as supporting or opposing the issue, or

(3) contains campaign slogans or individual words that in context can have no reasonable meaning other than to recommend the election or defeat of 1 or more clearly identified candidates;

(3) clearly identifies 1 or more candidates and is broadcast by a radio broadcast station or a television broadcast station (including a cable system) within 60 calendar days preceding the date of an election (or with respect to a candidate for the office of Vice President or President in a general election, within 90 calendar days preceding the date of the general election); or

(ii) is broadcast as a whole and with limited reference to external events, such as proximity to an election, expresses unmistakable support for or opposition to 1 or more clearly identified candidates.

(C) WITHOUT THE PARTICIPATION OR COOPERATION OF AND WITHOUT COORDINATION WITH A CANDIDATE.—The term 'without the participation or cooperation of and without coordination with a candidate', with respect to an expenditure, means an expenditure that is made—

(1) if any request or suggestion from or any involvement of a candidate or candidate's representative;

(2) without the involvement of any person with a connection in which the expenditure is made, has raised funds on behalf of the candidate, counseled or advised the candidate or the candidate's representative regarding the election (other than to provide legal and accounting services to ensure compliance with this Act), engaged in campaign-related research or polling analysis with respect to the election, or communicated with or received information from the candidate or the candidate's representative about the candidate's plans, resources, expenditures, or needs regarding the election; and

(iii) without the involvement of any person who received compensation, during the election cycle in which the expenditure is made, from the candidate or candidate's representative and from the person making the independent expenditure.

SEC. 202. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY POLITICAL PARTY COMMITTEES.

(a) DEFINITION OF COORDINATED EXPENDITURE.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

"(19) COORDINATED EXPENDITURE.—The term 'coordinated expenditure' means an expenditure that is made by a person other than the candidate and that is not an independent expenditure.

(b) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY POLITICAL PARTY COMMITTEES.—Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in paragraph (1) by striking "and (3)" and inserting "(3) and (4)"; and

(2) by adding at the end the following:

"(4) PROHIBITION AGAINST MAKING BOTH COORDINATED EXPENDITURES AND INDEPENDENT EXPENDITURES.—

(A) IN GENERAL.—A committee of a political party shall not make both a coordinated expenditure and an independent expenditure with respect to the same candidate during a single election cycle.

(B) CERTIFICATION.—Before making a coordinated expenditure or an independent expenditure with respect to a candidate, a committee of a political party that is subject to this subsection shall file with the Commission a certification, signed by the treasurer, stating whether the committee will make coordinated expenditures or independent expenditures with respect to the candidate.

(C) TRANSFERS.—A party committee that certifies under this paragraph that the committee will make coordinated expenditures with respect to a candidate shall not, in the same election cycle, make a transfer of funds to, or receive a transfer of funds from, any other party committee that has certified under this paragraph that it will make independent expenditures with respect to the candidate.

SEC. 203. TREATMENT OF QUALIFIED NONPROFIT CORPORATIONS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

"(c) TREATMENT OF QUALIFIED NONPROFIT CORPORATIONS.—

SEC. 204. EQUAL BROADCAST TIME.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by striking subsection (a) and inserting the following:

"(a) EQUAL OPPORTUNITY TO USE BROADCASTING STATION.—

(1) IN GENERAL.—A licensee that permits any person who is a legally qualified candidate for public office to use a broadcasting station (other than any use required to be provided under paragraph (2)) shall afford the opportunity for equal time to the opposing candidates for that office in the use of the broadcasting station.

(b) RESPONSE BY LICENSEE.—A licensee that is informed of the names of all candidates for the office for which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and

(iii) any other person who is a legally qualified candidate for the office for which the proposed broadcast relates and state whether the message to be broadcast is intended to be made in support of or in opposition to each such candidate; and

(by) no power of censorship over the material broadcast under this section.

"(4) OBLIGATION.—Except as provided in paragraph (2), no obligation is imposed under this subsection on any licensee to allow the use of its station by any candidate.
SEC. 301. CONTRIBUTIONS AND LOANS FROM PERSONAL FUNDS; CREDIT AND RETURN OF CONTRIBUTIONS FROM POLITICAL COMMITTEES.

(a) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

(b) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall not be considered to be use of a broadcasting station within the meaning of this subsection.

SEC. 302. EXTENSIONS OF CREDIT.

(a) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

SEC. 303. CONTRIBUTIONS AND LOANS FROM PERSONAL FUNDS; CREDIT AND RETURN OF CONTRIBUTIONS FROM POLITICAL COMMITTEES.

(a) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

(b) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall not be considered to be use of a broadcasting station within the meaning of this subsection.

(c) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

SEC. 304. CONTRIBUTIONS AND LOANS FROM PERSONAL FUNDS; CREDIT AND RETURN OF CONTRIBUTIONS FROM POLITICAL COMMITTEES.

(a) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

(b) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall not be considered to be use of a broadcasting station within the meaning of this subsection.

(c) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

SEC. 305. CONTRIBUTIONS AND LOANS FROM PERSONAL FUNDS; CREDIT AND RETURN OF CONTRIBUTIONS FROM POLITICAL COMMITTEES.

(a) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

(b) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall not be considered to be use of a broadcasting station within the meaning of this subsection.

SEC. 306. CONTRIBUTIONS AND LOANS FROM PERSONAL FUNDS; CREDIT AND RETURN OF CONTRIBUTIONS FROM POLITICAL COMMITTEES.

(a) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

(b) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall not be considered to be use of a broadcasting station within the meaning of this subsection.

(c) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.

(d) IN GENERAL.—A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for Federal office in an editorial the loan.
(B) by inserting “or” at the end of clause (iii); and
(C) by adding at the end the following:

"(iv) any transfers to the national committee of a candidate’s political party for distribution to State Party Grassroots Funds (as defined in section 301(30) of the Federal Election Campaign Act of 1971) to the extent that such transfers do not exceed the amount determined under section 315(b)(1)(B)(iii) of that Act;"

SEC. 313. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 102(a)) is amended by adding at the end the following:

"SEC. 325. POLITICAL PARTY COMMITTEES.

(a) LIMITATIONS ON NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party and the congressional campaign committees of a political party shall not solicit or accept any amount, or solicit or accept a transfer from another political committee, that is not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCLUSIONS.—Paragraph (1) shall not apply to any amount received—

(A) that is (i) to be transferred to a State committee of a political party and is used solely for an activity described in clause (xi), (xii), (xiii), (xiv), (xv), (xvi), or (xvii) of section 301(9)(B); or

(B) with respect to which a contributor has been notified that the amount will be used solely for the purposes described in subparagraph (A).

"(b) TRANSFERS TO TAX-EXEMPT ORGANIZATIONS.—A national committee or a State committee of a political party shall not transfer any funds to an organization that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 and is described in section 501(c)(3) of the Code.

"(c) ACTIVITIES SUBJECT TO THIS ACT.—

"(1) IN GENERAL.—Any amount solicited, received, expended, or disbursed directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to any of the following activities shall be treated as a contribution subject to the limitations, prohibitions, and reporting requirements of this Act:

(A) any activity that identifies or promotes a Federal candidate, regardless of whether—

(i) a State or local candidate is also identified or promoted; or

(ii) any portion of the funds disbursed constitutes a contribution or expenditure under this Act.

(B) any get-out-the-vote activity conducted during a calendar year in which an election for the office of President is held;

(C) overhead, including party meetings;

(D) any get-out-the-vote activity with respect to which a contributor has been notified that the amount will be used solely for the purposes described in subparagraph (A).

"(2) TRANSFERS.—

(A) IN GENERAL.—Notwithstanding section 315(a)(4) and except as provided in subparagraph (B), no funds may be transferred by a State committee of a political party from its State Party Grassroots Fund to any other State Party Grassroots Fund or to any other political committee.

(B) TRANSFER TO SEPARATE SEGREGATED FUND OF DISTRICT OR LOCAL COMMITTEE.—A transfer may be made from a State Party Grassroots Fund to a district or local committee of the same political party in the same State if the district or local committee—

(i) has established a separate fund for the purposes described in paragraph (1); and

(ii) uses the transferred funds solely for those purposes.

"(f) AMOUNTS RECEIVED BY STATE PARTY GRASSROOTS FUND FROM NON-FEDERAL CANDIDATE COMMITTEES.—

"(1) IN GENERAL.—Any amount received by a State Party Grassroots Fund from a non-Federal candidate committee for expenditure by a State committee that arises from the benefit of that candidate shall be treated as meeting the requirements of subsection (b) and section 304(l)(1).

(A) the amount is derived from funds that meet the requirements of this Act with respect to any limitation or prohibition as to source or dollar amount specified in paragraph (a); and

(B) the non-Federal candidate committee—

(i) maintains, in the account from which payment is made, records of the sources and amounts of funds for purposes of determining whether those requirements are met; and

(ii) certifies that the requirements were met.

"(2) DETERMINATION OF COMPLIANCE.—For purposes of paragraph (1)(A), in determining whether those requirements are met, the amounts are treated as meetings the most recently received by the committee; and

(B) the committee must be able to demonstrate that its funds are sufficient funds meeting those requirements as are necessary to cover the transferred funds.

"(3) REPORTING.—Notwithstanding paragraph (1), a State Party Grassroots Fund that receives a transfer described in paragraph (1) from a non-Federal candidate committee—

(A) shall meet the reporting requirements of this Act; and

(B) shall submit to the Commission all certifications received with respect to receipt of the transfer from the candidate committee.

(b) DEFINITIONS.—

"(1) CONTRIBUTION.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended—

(A) by striking ‘‘and’’ at the end of clause (xiii);

(B) by striking the period at the end of clause (xiv) and inserting a semicolon; and

(C) by adding at the end the following:

"(xv) any amount contributed to a candidate for other than Federal office;

(xvi) any amount received or expended to pay the costs of a State or local political convention;

(xvii) any amount contributed to or expended for campaign activities that are exclusively on behalf of (and specifically identify) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 325(c) (without regard to paragraphs (b) or section 325(d)(1); and

(xviii) any amount contributed to a State Party Grassroots Fund for purposes of determining a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election; and

(xix) any amount contributed to a State Party Grassroots Fund for purposes of determining a significant amount of their time to elections for Federal office and individuals engaged in conducting get-out-the-vote activities for a Federal election; and

(xii) any amount contributed to a candidate for other than Federal office;

(xiii) any amount contributed to a candidate for other than Federal office;

(xiv) any amount contributed to a candidate for other than Federal office;

(xv) any amount contributed to a candidate for other than Federal office;

(xvi) any amount contributed to a candidate for other than Federal office;

(xvii) any amount contributed to a candidate for other than Federal office;

(xviii) any amount contributed to a candidate for other than Federal office;

(xix) any amount contributed to a candidate for other than Federal office;
"(xii) any amount received or expended to pay the costs of a State or local political convention;

"(xiii) any payment for campaign activities to be conducted on behalf of (and specifically identify only) State or local candidates and do not identify any Federal candidate, and that are not activities described in section 325(c) (without regard to paragraph (6)(B) or section 325(d)(1));

"(xiv) any payment for administrative expenses of a State or local committee of a political party rather than a particular candidate or campaign activity that promotes a political party, including expenses for conducting get-out-the-vote activities for a Federal election; and

"(xlii) conducting party elections or caucuses;

"(xv) any payment for research pertaining solely to State and local candidates and issues;

"(xvi) any payment for research and maintenance of voter files other than during the 1-year period ending on the date during an election year for a Federal office on which regularly scheduled general elections for Federal office occur; and

"(xvii) any payment for any other activity that is not an activity described in subsection (a) or (b) and that soley affects, an election for non-Federal office and that is not an activity described in section 325(c) (without regard to paragraph (6)(B) or section 325(d)(1))."

(3) OTHER TERMS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 433) (as amended by section 314(a)) is amended by adding at the end the following:

"(22) GENERIC CAMPAIGN ACTIVITY.—The term ‘generic campaign activity’ means a campaign activity that promotes a political party rather than a particular candidate or non-Federal candidate.

"(32) STATE PARTY GRASSROOTS FUND.—The term ‘State Party Grassroots Fund’ means a separate fund established and maintained by a State committee of a political party solely for purposes of making expenditures and other disbursements described in section 325(d).

"(33) NON-FEDERAL CANDIDATE.—The term ‘non-Federal candidate’ means a candidate for State or local office.

"(34) NON-FEDERAL CANDIDATE COMMITTEE.—For purposes of this subsection, the term ‘non-Federal candidate committee’ means a committee, (i) formed, financed, maintained, or controlled by a non-Federal candidate; (ii) that is solicited for or receives, or makes disbursements to which this section applies from any person aggregating in excess of $200 for any calendar year, and (iii) that is subject to the limitations, prohibitions, and requirements of this Act; or (iv) that is subject to the limitations, prohibitions, and requirements of this Act and the Commission may allow a State committee to file with the Commission a report required under this section for Federal office.

"(35) APPEARANCE OR PARTICIPATION IN A FUNDRAISING EVENT.—The appearance or participation by a candidate or individual holding Federal office of any political committee described in subsection (a)(1)(C) (including subordinate committees) for any calendar year shall not exceed the dollar amount in effect under subsection (a)(2) for the calendar year.

"(36) APPLICABILITY.—A person described in this subparagraph is a person arising from the activity of a political committee described in subsection (a)(1)(C) (including subordinate committees) for any calendar year which section 325 applies shall report any receipts or disbursements that are used in connection with a Federal election.

"(4) LIMITATION ON SOLICITATIONS.—A political committee that is subject to subsection (a)(1) or (2) does not apply shall report any receipts or disbursements that are used in connection with a Federal election.

"(5) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for the person in the same manner as under paragraphs (3)(A), (5), and (6) of subsection (b).

"(6) REPORT PERIOD.—Reports required to be filed by this subsection shall be filed for the same time periods as reports are required for political committees under subsection (a).

"(7) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

"(C) REPORTING REQUIREMENT.—The exclusion provided in subparagraph (B)(vi) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.

"(D) REPORT OF EXEMPT STATE COMMISSIONS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c) is amended by adding at the end the following:

"(E) FILING OF STATE REPORTS.—In lieu of any report required to be filed under this Act, the Commission may allow a State committee to file with the Commission a report required to be filed under State law if the Commission determines that such a report contains substantially the same information as a report required under this Act.

"(10) OTHER REPORTING REQUIREMENTS.—Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4) is amended—
(A) by striking “and” at the end of sub-paragraph (H); (B) by inserting “and” at the end of sub-paragraph (I); and (C) by adding at the end the following: “(I) in the case of an authorized commit-tee, disbursements for the primary election, the general election, and any other election in which the candidate participates.”

2. NAMES AND ADDRESSES.—Section 304(b)(5)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(5)(A)) is amended—

(A) by striking “within the calendar year”; and

(B) by striking “such operating expendi-tures” and inserting “operating expense, and the election to which the operating expense relates”.

Subtitle C—Soft Money of Persons Other Than Political Parties

SEC. 321. SOFT MONEY OF PERSONS OTHER THAN POLITICAL PARTIES.

Section 304 of the Federal Election Cam-paign Act of 1971 (2 U.S.C. 434) (as amended by section 315(c)) is amended by adding at the end the following:

“(h) ELECTION ACTIVITY OF PERSONS OTHER THAN POLITICAL PARTIES.—

“(1) INITIAL STATEMENT.—A person to which section 325 does not apply that makes (or obligates to make) aggregate disburse-ments or obligations in excess of $2,000 for activi-ties described in section 325(c) shall file a statement with the Commission—

“(A) within 48 hours after the disburse-ments or obligations in excess of $2,000 are made; or

“(B) in the case of disbursements or obliga-tions that are made within 14 days of an election on or before the 14th day before the election.

“(2) ADDITIONAL STATEMENTS.—An addi-tional statement shall be filed each time ad-ditional disbursements aggregating more than $2,000 are described in paragraph (2) not later than 24 hours after its determination.”

TITe IV—CONTRIBUTIONS

SECTION 401. PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.

Section 315 of the Federal Election Cam-paign Act of 1971 (2 U.S.C. 441a) (as amended by section 314(b)) is amended by adding at the end the following:

“(m) PROHIBITION OF CERTAIN CONTRIBUTIONS BY LOBBYISTS.—

“(1) IN GENERAL.—A lobbyist, or a political committee controlled by a lobbyist, shall not make a contribution to—

“(A) a Federal officeholder or candidate for Federal office if, during the preceding 12 months, the lobbyist had contact with the officeholder or candidate; or

“(B) any authorized committee of the President or Vice President of the United States if, during the preceding 12 months, the lobbyist has made a lobbying contact with a covered executive branch official.

“(2) CONTRIBUTIONS TO MEMBER OF CONGRESS OR CANDIDATE FOR CONGRESS.—A lobbyist who, or a lobbyist whose political com-mittee, has made a contribution to a mem-ber of Congress of the United States (or any authorized committee of the President) shall not, during the 12 months following such contribution, make a lobbying contact with the member or a candidate who becomes a member of Congress or with a covered execu-tive branch official.

“(3) DEFINITIONS.—In this subsection the terms ‘covered executive branch official’, ‘lobbying contact’, and ‘lobbyist’ have the meanings given those terms in section 3 of the Federal Lobbying Disclosure Act of 1995 (2 U.S.C. 1602).”

SECTION 402. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315(a) of the Federal Election Cam-paign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following:

“(n) DEPENDENTS NOT OF VOTING AGE.—

“(1) IN GENERAL.—For purposes of this section—

“(i) any person whose employment by a commit-tee, joint committee, or political party who, to the knowledge of the lobbyist, was employed at the request of or is employed at the pleasure of, the lobbyist, represents, or acts as the agent of the member of Congress.”

SECTION 403. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Cam-paign Act of 1971 (2 U.S.C. 441a(a)) (as amended by section 102(b)) is amended by adding at the end the following:

“(10) AGGREGATION OF CONTRIBUTIONS FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES.—Notwithstanding paragraph (5)(B), a candidate may not accept, with respect to an election, any contribution from a State or local committee of a political party (including a subordinate committee of such a committee), if the contribution, when added to the total of contributions previously ac-cepted from all such committees of that po-itical party, would cause the amount of contributions to exceed a limitation on contributions to a candidate under this section.”

SECTION 404. CONTRIBUTIONS AND EXPENDITURES USING MONEY SECURED BY PHYSICAL FORCE OR OTHER INTIMIDA-TION.

Section 315 of the Federal Election Cam-paign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following:

“(1) USE OF PHYSICAL FORCE OR INTIMI-DATION TO OBTAIN A CONTRIBUTION OR PERMISSIVE EXPENDITURE OR DETER THE FILING OF A COMPLAINT.—

“(A) it shall be unlawful for any person to—

“(i) cause another person to make a con-tribution or expenditure by using physical force, job discrimination, a financial re-prisal, a threat of physical force, job dis-crimination, or financial reprisal, or taking or threatening to take other adverse action;

“(B) make a contribution or expenditure utilizing money or anything of value secured by using physical force, job discrimi-nation, or financial reprisal, or taking or threatening to take other adverse action, against an employee, union member, or other person—

“(I) to deter or prevent any person from filing a complaint, providing testimony, or otherwise cooperating with enforcement ef-forts under this Act; or

“(II) to retaliate against any person who has filed a complaint, provided testimony, or otherwise cooperated with enforcement ef-forts under this Act.”

SECTION 405. PROHIBITION OF ACCEPTANCE BY A CANDIDATE OF CONTRIBUTIONS FROM ANY ONE PERSON AGGREGATING MORE THAN $100.

Section 321 of the Federal Election Cam-paign Act of 1971 (2 U.S.C. 441g) is amended by inserting “, and no candidate or author-i-zed committee of a candidate shall accept from any 1 person,” after “make”.

TITe V—AUTHORITIES AND DUTIES OF THE FEDERAL ELECTION COMMISSION

SECTION 501. FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.

Section 302(g) of the Federal Election Cam-paign Act of 1971 (2 U.S.C. 432(g)) is amended by adding at the end the following:

“(g) FILING OF REPORTS USING COMPUTERS AND FACSIMILE MACHINES.—

“(A) COMPUTERS.—The Commission, in consultation with the Secretaries of the Treasury and State shall promulgate regulations to require electronic filing of reports using computers and facsimile machines, when and in such circumstances as the Commission determines to be appropriate.

“(B) FACSIMILE MACHINES.—The Commission, in consultation with the Secretaries of the Treasury and State shall promulgate regulations to require electronic filing of reports using facsimile machines, when and in such circumstances as the Commission determines to be appropriate.”

TITe VI—GENERAL PROVISIONS
“(ii) may maintain and file the designation, statement, or report in that manner if not required to do so under a regulation under clause (i).”

“(B) USE OF FACSIMILE MACHINES.—The Commission, in consultation with the Secretaries of the Senate and the Clerk of the House of Representatives, shall prescribe a regulation that allows a person to file a designation, statement, or report required by this Act through the use of a facsimile machine.

“(C) VERIFICATION.—In a regulation under this paragraph, the Commission shall provide methods (other than requiring a signature on the document being filed) for verifying a designation, statement, or report. Any document required under any of the paragraphs of this subsection shall be treated for all purposes (including penalties for perjury) in the same manner as a document verified by signature.

“(D) COMPATIBILITY OF SYSTEMS.—The Secretary of the Senate and the Clerk of the House of Representatives shall ensure that any computer or other system that the Secretary or the Clerk may develop and maintain to receive designations, statements, and reports in the forms required or permitted under this paragraph is compatible with any system the Commission may develop and maintain.”

“SEC. 502. INCREASE IN THRESHOLD FOR REPORTING REQUIREMENTS.

(a) IDENTIFICATION OF CONTRIBUTORS.—Section 302(c)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(c)(3)) is amended by striking “$200” and inserting “$500”.

(b) IDENTIFICATION OF DISBURSEMENTS.—Section 302(c)(5)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(c)(5)(B)) is amended by striking “$200” and inserting “$500”.

SEC. 503. AUDITS.

(a) RANDOM AUDITS.—Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437a(p)) is amended—

(1) by inserting “(1)” before “The Commission”;

(2) by adding at the end the following:

“(2) RANDOM AUDITS.—Notwithstanding paragraph (1), the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with any system the Commission may develop and maintain.”

“SEC. 504. AUTHORITY TO SEEK INJUNCTION.

(a) IDENTIFICATION OF CONTRIBUTORS.—Section 303(a)(1)(A)(i) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(1)(A)(i)) is amended—

(1) by striking “(1)” before “The Commission”;

(2) by adding at the end the following:

“(4) INDEPENDENT LITIGATING AUTHORITY.—(A) IN GENERAL.—The Commission shall have 30 days after the imposition of penalty or filing requirement under this paragraph to file an action related to the exercise of its statutory duties or powers in any court as a party or amicus curiae, either—

(i) by attorneys employed in the office of the Commission, or

(ii) by counsel whom the Commission may appoint, on a temporary basis, as may be necessary for such purpose, without regard to the provisions of title 5, United States Code, and whose compensation the Commission may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title.

“(B) APPEALS.—The authority granted under paragraph (A) is also granted to the United States Court of Appeals for the District of Columbia Circuit to hear appeals from, and review the Commission’s decisions or orders, to the extent provided in title 28, United States Code, upon petition filed in the court by the Attorney General, including serving a summons, process to serve process on behalf of the United States, without regard to any limitations set forth in this section.”

“(C) REFERRAL TO THE ATTORNEY GENERAL.—The Commission may at any time, by petition, request the Attorney General to referred a possible violation of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1986 to the Attorney General of the United States, without regard to any limitations set forth in this section.”

“SEC. 505. PENALTIES.

(a) INCREASED PENALTIES.—Section 303(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(2)) is amended—

(1) by striking “$10,000” and inserting “$20,000”;

(2) by striking “or 300 percent” and inserting “or 300 percent”;

(3) in paragraph (6)(A), by striking “the greater of $10,000 or an amount equal to 200 percent” and inserting “the greater of $20,000 or an amount equal to 300 percent”; and

(4) in paragraph (6)(B), by striking “the greater of $10,000 or an amount equal to 200 percent” and inserting “the greater of $20,000 or an amount equal to 300 percent”.

(b) EQUITABLE REMEDIES.—Section 303(a)(3)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(3)(A)) is amended by striking “$10,000” and inserting “$20,000”.

(c) AUTOMATIC PENALTY FOR LATE FILING.—Section 303(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(4)) is amended by striking “(A)” and inserting “(B)”.

(1) by striking “(1)” before “The Commission”;

(2) by adding at the end the following:

“(A) IN GENERAL.—The Commission shall have 30 days after the imposition of penalty or filing requirement under this paragraph to meet the time requirements for filing under section 304.

“(B) REQUIRED FILING OF LATE REPORT.—The Commission may require a report that has not been filed within the time requirements of section 304 to be filed by a specific date.

“(C) PROCEDURE FOR ASSESSING PENALTIES AND FILING DEADLINES.—Penalties and filing deadlines imposed under this paragraph shall not be subject to paragraph (1), (2), (3), (4), (5), or (12).

“(D) APPEALS.—(i) IN GENERAL.—A political committee shall have 30 days after the imposition of penalty or filing requirement under this paragraph to file an exception with the Commission.

“(ii) COMMISSION DETERMINATION.—Within 30 days after receiving the exception, the Commission shall make a determination that is final without court review under the Federal Election Campaign Act of 1971 (2 U.S.C. 437d(a)(6)) is amended by striking “or appeal any civil action” and inserting “or appeal any civil action or petition the Supreme Court for certiorari to review judgments, or appeal any civil action or petition the Supreme Court for certiorari to review judgments or decree entered with respect to actions in which the Commission appears pursuant to the authority provided by this Act.”

“(B) POWER OF COMMISSION TO PETITION THE SUPREME COURT.—Section 307(a)(6) of Federal Election Campaign Act of 1971 (2 U.S.C. 437d(a)(6)) is amended by striking “or appeal any civil action” and inserting “or appeal any civil action or petition the Supreme Court for certiorari to review judgments, or decree entered with respect to actions in which the Commission appears”.

SEC. 506. REFERENCE OF SUSPECTED VIOLATION TO THE ATTORNEY GENERAL.

(a) INITIATION OF ENFORCEMENT PROCEEDINGS.—Section 309(a)(1)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 437a(g)(1)(A)) is amended by striking “reason to believe that” and inserting “reason to investigate whether or not”.

(b) SERVICE OF PROCESS.—Section 309(f)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437f(1)) is amended by striking “without court order and with or without reimbursement, require the United States Marshal Service to serve process on behalf of the Commission, including serving a summons, subpoena, or complaint, upon any person.”

(c) VENUE FOR VIOLATIONS ADJUDICATED IN COURT.—Section 309(a)(6)(A) of Federal Election Campaign Act of 1971 (2 U.S.C. 437a(6)(A)) is amended by striking “for the district in which the person against whom
such action is brought is found, resides, or transacts business and inserting “in which the defendant resides, transacts business, or is found or in which the violation occurred.”

(d) FILING OF REPORTS WITH COMMISSION IN STEAD OF THE SECRETARY OF THE SENATE.—

(1) SECTION 302.—Section 302(g) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(g)) is amended by—

(A) striking “(g)(1)” and all that follows through “(A)” and inserting “(g)” FILING.—;

(B) striking paragraph (4); and

(C) striking “, except designations, statements, and reports filed in accordance with paragraph (1),”.

(2) SECTION 304.—Section 304 of Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended——

(A) in the first sentence of subsection (a)(6), by striking “the Secretary, or the Commission,” and inserting “the Commission;” and

(B) in the third sentence of subsection (c)(2), by striking “the Secretary, or the.”

(3) SECTION 311.—Section 311(a)(4) of Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)(4)) is amended by striking “Secretary, or the.”

(e) AUTHORIZATION TO ACCEPT GIFTS.—Section 309(f) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437(f)) is amended by adding at the end the following:

“(6) DEPOSIT OF GIFTS.—Gifts and bequests of money and proceeds from sales of other property, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Commission.

“(C) USE OF GIFTS.—Property accepted pursuant to this section, and the proceeds from the property, shall be used as closely as practicable in accordance with the terms of the gifts, devises, or bequests.

TITLE VI—MISCELLANEOUS

SEC. 602. TELEPHONE VOTING BY PERSONS WITH DISABILITIES.

(a) STUDY OF SYSTEMS TO PERMIT PERSONS WITH DISABILITIES TO VOTE BY TELEPHONE.—

(1) IN GENERAL.—The Federal Election Commission shall conduct a study to determine the feasibility of developing a system or systems by which persons with disabilities may be permitted to vote by telephone.

(2) CONSULTATION.—The Federal Election Commission shall conduct the study described in paragraph (1) in consultation with State and local election officials, representatives of the telecommunications industry, representatives of persons with disabilities, and other concerned members of the public.

(b) CRITERIA FOR SYSTEMS DEVELOPED PURSUANT TO PARAGRAPH (1) SHALL INCLUDE THAT—

(i) the system is likely to be used by persons who are not otherwise eligible to vote;

(ii) the system minimizes the possibility of vote fraud; and

(iii) the system minimizes the financial costs that State and local governments would incur in establishing and operating the system.

(c) REQUESTS FOR PROPOSALS.—In developing a system described in paragraph (1), the Federal Election Commission may request proposals from private contractors for the design of procedures and equipment to be used in the system.

(2) PHYSICAL ACCESS.—Nothing in this section is intended to supersede or supplant efforts by State and local governments to make polling places physically accessible to persons with disabilities.

(3) DEADLINE.—The Federal Election Commission shall submit to Congress the study required by this section not later than one year after the effective date of this Act.

SEC. 603. CERTAIN TAX-EXEMPT ORGANIZATIONS NOT SUBJECT TO CORPORATE LIMITS.

Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441(b) is amended by adding at the end the following:

“(2) DEFINITION OF QUALIFIED NONPROFIT CORPORATION.—In this subsection, the term ‘qualified nonprofit corporation’ means a corporation described in section 501(c)(4) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code and that meets the following requirements:

(A) PURPOSE.—The only express purpose of the corporation is the promotion of political ideas.

(B) NO TRADE OR BUSINESS.—The corporation shall not engage in any activities that constitute a trade or business.

(C) USE OF GIFTS.—The gross receipts of the corporation for the calendar year have not (and will not) exceed $500,000, and the net value of the total assets at any time during the calendar year do not exceed $5,000.

(D) ESTABLISHMENT.—The corporation—

(i) was not established—

(I) a person described in section 501(c)(6) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Code;

(ii) a corporation engaged in carrying out a trade or business; or

(iii) a labor organization; and

(ii) cannot and does not directly or indirectly accept donations of any value from any such person, corporation, or labor organization.

(E) ASSETS AND EARNINGS.—The corporation—

(i) has no shareholder or other person affiliated with it that could make a claim on its assets or earnings; and

(ii) offers no incentives or disincentives for associating or not associating with it other than on the basis of its political affiliation.

(3) QUALIFIED NONPROFIT CORPORATION TREATED AS POLITICAL COMMITTEE.—If a major purpose of a qualified nonprofit corporation is the making of independent expenditures, and the requirements of section 316 are met with respect to the corporation, the corporation shall be treated as a political committee.

(4) NOTICE REQUIREMENT.—All solicitations made by a qualified nonprofit corporation shall include a notice informing contributors that donations may be used by the corporation to make independent expenditures.

(5) REPORTS.—A qualified nonprofit corporation shall file reports as required by subsections (d) and (e) of section 304.


Title III of the Federal Election Campaign Act of 1971 (as amended by section 404) is amended by adding after the section the following:

“SEC. 327. AIDING AND ABETTING VIOLATIONS.

With reference to any provision of this Act that places a requirement or prohibition on any person acting in a particular capacity, any person who knowingly aids or abets any person, or who being in that capacity in violation that provision may be proceeded against as a principal in the violation.”
Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) (as amended by section 328) is amended by adding at the end the following:

SEC. 328. CAMPAIGN ADVERTISING THAT REFERS TO AN OPPONENT.

(a) A candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication to the general public that directly or indirectly refers to an opponent or the opponents of the candidate in an election, with or without identifying any opponent in particular, shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by not later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

(b) Person Other Than Candidates.—

(1) In General.—A person other than a candidate or candidate's authorized committee that places in the mail a campaign advertisement or any other communication described in paragraph (2) shall file an exact copy of the communication with the Commission and with the Secretary of State of the candidate's State by not later than 12:00 p.m. on the day on which the communication is first placed in the mail to the general public.

(2) Advocacy or Reference to Opponent.—A communication is described in this paragraph if it is a communication to the general public that—

(A) advocates the election of a particular candidate in an election, and

(B) directly or indirectly refers to an opponent or the opponents of the candidate in the election, with or without identifying any opponent in particular.

SEC. 606. LIMIT ON CONGRESSIONAL USE OF THE FRANKING PRIVILEGE.

Section 3210(a)(6) of title 39, United States Code, is amended by striking subparagraph (A) and inserting the following:

(A) A Member of Congress may not mail any mass mailing as franked mail during a year in which there will be an election for the seat held by the Member during the period beginning on January 1 of that year and the date of the general election for that office, unless the Member has made a public announcement that the Member will not be a candidate or candidate's authorized committee for that seat or for election to any other Federal office.

SEC. 607. PARTICIPATION BY FOREIGN NATIONALS IN POLITICAL ACTIVITIES.

(a) Prohibition. Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting

PARTICIPATION BY FOREIGN NATIONALS IN POLITICAL ACTIVITIES; 

(2) by striking subsection (a) and inserting the following:

(a) PROHIBITED CONTRIBUTIONS AND EXPENDITURES.—

(1) It shall be unlawful for a foreign national directly or through any other person to make any contribution or expenditure of money or other thing of value, or to promise expressly or impliedly to make any contribution or expenditure, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

(2) directly or indirectly to solicit, receive, or accept a contribution from a foreign national; 

(3) by redesignating subsection (b) as subsection (c),

(4) by inserting after subsection (a) the following:

(b) PROHIBITED ACTIVITIES.—It shall be unlawful for a foreign national or an individual lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)), to direct, dictate, control, or directly or indirectly participate in the decision-making process of any other person, (as defined in section 316(c)(1)), or the foreign national's Federal or non-Federal election-related activities, such as a decision concerning the making of a contribution or expenditure in connection with an election for any Federal office or a decision concerning the administration of a political committee.

(c) AFFIRMATION OF ELIGIBILITY TO MAKE CONTRIBUTION.—A candidate or authorized committee of a candidate shall not accept a contribution in excess of $500 unless the contribution is accompanied by a statement, signed by the person making the contribution, affirming that the person is not a person prohibited by this section from making the contribution.

SEC. 608. CERTIFICATION OF COMPLIANCE WITH FOREIGN CONTRIBUTION AND SOLICITATION LIMITATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

(c) CERTIFICATION OF COMPLIANCE WITH FOREIGN CONTRIBUTION AND SOLICITATION LIMITATIONS.—Each report required under this section shall include a certification under penalty of perjury that the political committee has not knowingly solicited or accepted contributions prohibited by section 316.

SEC. 701. EFFECTIVE DATES; AUTHORIZATIONS.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

SEC. 702. BUDGET NEUTRALITY.

(a) DELAYED EFFECTIVENESS.—This Act (other than this section) and the amendments made by this Act shall not be effective until the Director of the Office of Management and Budget determines that the estimated costs under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) have been offset by the enactment of legislation effectuating this Act.

(b) FUNDING.—Legislation effectuating this Act shall not provide for general revenue increases, reduce expenditures for any existing Federal program, or increase the Federal budget deficit.

SEC. 703. SEVERABILITY.

Except as provided in section 101(c), if any provision of this Act (including any amendment made by this Act), or the application of any such provision to any person or circumstance is held invalid, the validity of any other provision of this Act, or the application of the provision to other persons and circumstances shall not be affected thereby.

SEC. 704. EXPEDITED REVIEW OF CONSEQUENTIAL ISSUES.

(a) DIRECTOR OF THE SUPREME COURT.—An appeal may be taken directly to the Supreme Court of the United States from any interlocutory order or final judgment, decree, or order issued in any proceeding on the constitutionality of any provision of this Act or amendment made by this Act.

(b) ACCEPTANCE AND EXPEDIENCE.—The Supreme Court shall, if the Court has not previously ruled on the question addressed in the ruling below, accept jurisdiction over, and expedite the disposition of, the case to the greatest extent possible.

SEC. 705. REGULATIONS.

The Federal Election Commission shall promulgate any regulations required to carry out this Act and the amendments made by this Act not later than 270 days after the effective date of this Act.

Annoyed that big business has been hedging its bets by giving lots of money to the Democrats as well as to the Republicans, the GOP says the Business Roundtable, a group of 200 chief executives from the nation's biggest companies, is about to receive an ultimate payoff: the Democrats and become more involved in partisan politics, or be denied access to Republicans in Congress.

GOP House leaders are expected to deliver the message tonight at a dinner meeting with some 20 chief executives of Business Roundtable companies. Scheduled to attend are Speaker Newt Gingrich, Majority Leader Dick Armey, Rep. Tom DeLay of Texas and Rep. John Boehner of Ohio, among others. Corporate bigwigs expected at the meeting include John Fitis, chairman of Caterpillar Inc. who is chairman of the Business Roundtable, and John Snow, chief executive of CSX Corp.

Republican Party Chairman Haley Barbour, who is spearheading the drive, accuses the business group of "sitting on its hands throughout the election campaign; he calls America's big CEOs ineffectual in the battle against Democrats and organized labor. "If their view is going to be neutral when the left tries to advance their agenda, " Mr. Barbour says in an interview, "they need to paint up a big billboard that says, 'We don't fight.' Companies that want to have it both ways, vows one top GOP strategist, no longer will be involved in Republican decision-making "or invited to our cocktail parties."

The GOP strategy is a high-risk one. While Business Roundtable companies gave more than $11.04 million to the Democrats during the 1996 election cycle, as of figures from December they gave only $4.3 million to the Republicans, according to the Center for Responsive Politics, a Washington-based public-interest group that monitors corporate giving.

Republican leaders insist they aren't selling access. But their strategy comes at a time when the left is trying to undo their agenda," Mr. Barbour, who is spearheading the drive, says. Republicans and become more involved in partisan politics, or be denied access to Republicans in Congress.

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incompetent in numerous interviews. And Business Roundtable members say he has suddenly become unavailable when they call to talk about the problem.

"We BRT does not connect with Haley," Caterpillar's Mr. Fites said in a letter to Roundtable members two weeks ago. "When I do return his calls, I'm asked to explain that the Business Roundtable, as a group, does not give money to political candidates, Mr. Fites said.

But Business Roundtable companies do, and therein lies the problem for Republicans, who have long thought of Corporate America as their own private money machine. Lately though, Republicans have been spending their budgets more than before, and giving substantial money to the Democrats as well. With a Democratic administration, that is expected to continue.

Telecommunication giants AT&T Corp., MCI Communications Corp. and Sprint Corp., along with their political-action groups, for example, rewarded the Democrats in Congress and the Clinton administration for being sympathetic to their cause during the telephone rate court fight. They spread out their huge contributions almost equally, giving $1.74 million to the Democrats and $1.98 million to Republicans. Eastman Kodak, the company counting on the Clinton administration to push its trade complaint against Fuji Photo film Co. of Japan, gave the Democrats $40,711 in the 1996 cycle, and $30,000 to the Republicans.

Adding to the GOP's corporate-money complaints was the huge, albeit losing, $35 million it organized labor to elect a Democratic Congress. When GOP strategists tried to counter the attack, forming a group called the Coalition, the business-led group raised just $1 million. In addition, the Business Roundtable declined to join. "We do not solicit or spend money on behalf of candidates for public office," the group's spokespeople continue to say.

"We've got the labor unions giving 99% to Democrats, and then the Business Roundtable says they're neutra-l?" says one top GOP strategist. "If they're neutral, then they should pack up their belongings and move out of town. Washington is a partisan town."

Republicans say they are drawing up a list of corporations that will be warned to shape up or ship out of the GOP decisionmaking circle. But, even with its PAC's $265,007 to Democrats and $164,145 to Republicans, the BRT was founded in 1972 by CEOs who were "committed to improving public policy," and that's the role of the BRT, not funding campaigns, she told Roll Call.

"I think we've been successful in adding to the public dialogue," said Schneider. But she also insists that the BRT doesn't have anything to do with funding campaigns.

"Who are they being targeted?" says one top GOP strategist. "If one GOP supporter pointed out: "It's much easier to go out and collect school elephants."

"If the Republicans can get the BRT to change its ways the payoff could be big," just as Willie Sutton robbed banks because "that's where the money is," the GOP. Congressional leaders realize that BRT members could hardly boost Republican election efforts if BRT leaders would agree to fund issue-advocacy campaigns in future elections.

And while no one expects to see 100 percent, or even 90 percent, of corporate PAC money go exclusively to Republicans, 60 or 70 percent would be nice, they say.

While some in the business community say they are angered by the GOP's tactics, others are downplaying the threat. Said one corporate source: "They wanted businesses to stop and review what they did in '95, which was more subtle." Said Roll Call that he believes it is "wrong, wrong, wrong for either Democrats or Republicans to expect the business community to cầmously support Republicans, though he admitted businesses should do more.

"It will never be monolithic to the degree that it was," said Stockmeyer. "Business is too pragmatic," he observed.

As for the push to hire Republican lobbyists, said Joe Andrews, president of the American League of Lobbyists, told Roll Call that he believes it is "wrong, wrong, wrong for either Democrats or Republicans to say, "We only want to work with our former staffers.""

"I'm not their job to decide," he said. As Republicans seek to become a permanent majority on Capitol Hill, they say they expect an influx of GOP lobbyists to be a natural progression. They simply hope that the increased pressure will "speed up the process" of that turnover, or at least slow it.

Still, another source with solid GOP connections expressed reservations about just how far Republican lawmakers can push their argument.

"You don't start a game of this nature if you don't have a game plan that takes you to the end of the game," and even the most well-intentioned Republicans "are aware that GOP leaders must remember that in the end, they need corporate America as much as it needs them."
he urged us to enact campaign finance reform within the first 100 days of this Congress. The public is looking at us with greater scrutiny in this area than they have ever looked before. We have been down this road before, and I have walked it, and I have walked it with the colleagues, often on a bipartisan basis.

The likelihood is we cannot get anything done in this area unless we act on a bipartisan basis. But act we must. That is what the public is telling us, and I believe the mood they are in will hold us accountable if we fail that charge.

I thank the Chair and yield the floor.

By Mr. DASCHLE (for himself, Mr. KENNEDY, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mr. DODD, Mr. REID, Mr. DORGAN, Mrs. MURRAY, Mr. FORD, Mr. ROCKEFELLER, Mr. INOUYE, Mr. KERRY, Mr. LEVIN, Mr. CLELAND, Mr. JOHNSON, BREAX, Mr. TORRICElli, Mr. DURBIN, Mr. GLENN, Mrs. BOXER, Mr. WELLSTONE, and Mr. BRYAN):

S. 12. A bill to improve education for the 21st century; to the Committee on Finance.

EDUCATION FOR THE 21ST CENTURY ACT

Mr. KENNEDY. Mr. President, I give my strong support to the “Education for the 21st Century Act” introduced today by Senator DASCHLE on one of our priority democratic leadership initiatives.

Education must continue to be a top priority in this Congress. We need to do more to make college accessible and affordable for all students, to modernize school classrooms, to help communities build new school facilities and repair old ones, and to help all children learn to read so that they can read to learn.

It is not enough to maintain current spending levels for education. Modest increases are essential to meet rising enrollments and inflation. Too often, college is priced out of reach for many families. From 1980 to 1990, the cost of college rose by 126 percent, while family income increased by only 73 percent. To meet that rising cost, students are going deeper and deeper into debt. In the 1990s, students have borrowed more in student loans than in the preceding decades combined.

In 1996 alone, students borrowed $30 billion—a 65-percent increase since 1993. Since 1988, borrowing in the Federal student loan program has increased by more than 100 percent, while starting salaries for college graduates failed to increase at all. Eighty percent of young adults with student loans make under $20,000 in their first year of repayment, barely enough to support the average repayment.

Communities are struggling to repair decrepit facilities, let alone build modern classrooms. Fourteen million children in a third of the Nation’s schools are learning in sub-standard classrooms. Half the schools have unsatisfactory facilities. Forty-six percent of schools report insufficient electrical wiring for computers and communications equipment. The repair bill alone is estimated at $12 billion. And when school facilities are opening, enrollments are at an all-time high of 52 million students, and thus are continuing to rise.

Forty percent of all children are now reading below the basic grade level. Many parents do not read to their children and with their children, even though we know that when parent involvement is high, student reading scores are also high.

Technology is a powerful tool for improving schools and encouraging economic growth. Computers enable teachers to spend more time with students and teach more effective lessons. By the year 2000, 60 percent of all jobs will require a two-year or higher degree in the area of information technology. The Act includes four separate titles: The Higher Education Affordability Act, which includes President Clinton’s $1,500 Hope Tuition Tax Credit, the $1,500 in-State tuition tax credit, and the restoration of the tax deduction for student loan interest; The Educational Facilities Improvement Act; The America Reads Challenge Act, which includes The Parents as First Teachers Act, and The Investing in Technology in the Classroom Act.

The Hope Tax Credit will make at least 2 years of community college affordable for every student. The bill provides a $1,500 non-refundable tax credit for net tuition payments during the first 2 years of college after high school for full-time students. Part-time students may receive $750 per year. The tax benefit is phased out for single persons between $50,000 and $70,000 in adjusted gross income, and phased out for couples between $80,000 and $100,000. Only students who have a cumulative “B” average from high school or its equivalent, qualify for the credit. Parent grants and the tax credit are additive, up to the value of the net tuition paid.

The $10,000 tax deduction will be available to all families with incomes below $100,000. The bill provides an above-the-line deduction of up to $10,000 per taxpayer per year for net tuition expenses. The deduction is available for all college and graduate schools, and the income limits are the same as those provided under the Hope Tax Credit.

The bill also restores the deduction for interest on student loans that was available before the Tax Reform Act of 1986. Unlike the previous deduction, this bill provides an above-the-line deduction. The income limits are the same as those provided under the Hope Tax Credit.

The Educational Facilities Improvement Act instructs the Federal Government to pay up to 50 percent of the interest costs on State and local bonds to finance school repair, renovation, modernization and construction. Twenty percent of the funds will be awarded directly from the Secretary of Education to the 100 poorest school districts under a formula based on the number of poor children. The remainder of the funds will be awarded to States to provide assistance to State or local bond authorities.

The America Reads Challenge Act includes two components: The Parents as First Teachers Act and the Challenge America’s Young Readers Act. The Parents as First Teachers Act—recognizing that parents are the best first teachers—will support national and regional parent networks that disseminate information on helping parents help their children to read. It will also fund programs to expand successful programs and activities that help parents increase the reading skills of their children.

The Challenging America’s Young Readers Act will help State and local organizations help children learn to read by the third grade. Programs funded by this bill will provide 30,000 reading specialists and volunteer coordinators to run tutoring assistance programs outside regular school hours to more than 3 million children.

My hope is that these proposals will receive the bipartisan support they deserve, so they can be in place for the beginning of the next academic year this fall. Improving education or opportunities for education is clearly one of our highest national priorities. Few things in which this Congress will matter more to the country’s future. Investing in education is investing in a stronger America here at home and around the world, and I look forward to working with my colleagues on both sides of the aisle to enact these important measures.

Mr. BREAX. Mr. President, I would like to make a few remarks about S. 12, the Education for the 21st Century Act, and our efforts to improve elementary and secondary educational opportunities for our Nation’s children, as well as make higher education more accessible for adults.

Quality education is necessary not only for the future of our children and our families, but for the future of our Nation. A better educated workforce is essential to compete in the global economy and to maintain a strong democracy. Every Member of this body knows that a high school diploma is worth far less in today’s marketplace than a generation ago. According to the U.S. Bureau of Labor Statistics, 60 percent of all jobs created between 1992 and 2005 will require education beyond...
high school. Modern society has little room for those who cannot read, write, and compute effectively; solve problems; and continually learn new technologies and skills.

The Education for the 21st Century Act identifies a number of important initiatives that, if enacted, will make educational opportunities more accessible for Americans: The HOPE Scholarship, the tax deduction for higher education expenses, the student loan interest deduction, and the technology literacy and America Reads initiatives.

Another area of concern that S. 12 addresses is the declining physical condition of our Nation's schools.

According to a June 1996 report by the U.S. General Accounting Office, nationwide, about a third of public elementary and secondary schools have at least one building needing extensive repair, and about 60 percent need extensive repair, overhaul, or replacement of at least one major building feature. Nationwide, 21 percent of public elementary and secondary schools have at least one unsatisfactory environmental condition (i.e., lighting, heating, ventilation, indoor air quality, acoustics for noise control, and physical security). Nationwide, 21 percent of public elementary and secondary schools have at least one unsatisfactory environmental condition. Twenty-three percent of Louisiana schools have at least one building needing extensive repair. Fifty-six percent of Louisiana schools have at least one unsatisfactory environmental condition. Twenty-three percent of Louisiana schools have at least one building needing extensive repair. Fifty-six percent of Louisiana schools have at least one unsatisfactory environmental condition. Twenty-three percent of Louisiana schools have at least one building needing extensive repair.

Although a national problem, it is mirrored in every State. In my own State of Louisiana, about 36 percent of public elementary and secondary schools have at least one building needing extensive repair. Fifty-six percent of Louisiana schools have at least one unsatisfactory environmental condition. Twenty-three percent of Louisiana schools have at least one building needing extensive repair. Fifty-six percent of Louisiana schools have at least one unsatisfactory environmental condition.

Mr. President, I hope my colleagues will favorably consider this legislation. As we move through the 105th Congress and consider all of the various proposals to produce balanced federal budgets, we must be mindful that our intent is to provide, not deny, American families the means and the opportunity to take part in our global economy.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 12

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

SECTION 1. SHORT TITLE. This Act may be cited as the "Education for the 21st Century Act."

SEC. 2. FINDINGS.

Congress finds as follows:

(1) Quality public education is necessary not only for the future of our children and our families but for the future of America. A better educated citizenry and workforce are essential to compete in the global economy and to maintain a strong democracy.

(2) The investment America makes today in the education of its people will determine the future of the Nation. In order to promote growth and prosperity in our economy, and to ensure a strong future for all Americans, America must maintain education as a national priority.

(3) Strong leadership in education is needed more than ever. Schools are facing the challenge of educating more highly skilled workers to meet the demands of a modern economy.

(4) Mounting evidence suggests that far more rigorous levels of academic achievement will be required of American students for the 21st century workplace. Employers will demand increasingly sophisticated levels of literacy, communication, mathematical, and other necessary skills.

(5) Literacy is a crucial element of academic success. However, in 1994, 40 percent of 4th grade students failed to attain the basic level of reading on the National Assessment of Educational Progress. The proficiency percent did not attain the proficient level. Students who are not reading at grade level are very unlikely to graduate from high school.

(6) Students are learning in decrepit school buildings. According to 2 recent Government Accountability Office reports, 14,000,000 children in a third of the Nation's schools are learning in substandard classrooms. Half of the Nation's schools have at least unsatisfactory environmental condition, such as poor air quality.

(7) College costs are rising. College tuition hikes may not be taken into account by students and in State institutions as State appropriations have eroded. From 1985 to 1994, the average cost of attending college rose by 30 percent after adjusting for inflation. During the same period, the median income increased by only 1 percent.

(8) Meeting the challenge of the next century will require the involvement of all Americans, including public officials, educators, parents, business and community leaders, and students. Encouraging active participation by all segments of communities is essential for the success of students in the 21st century.

TITLE I—TAX INCENTIVES FOR HIGHER EDUCATION

SEC. 101. REFUNDABLE CREDIT FOR HIGHER EDUCATION EXPENSES.

(a) In General.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and by inserting after section 35 the following new section:

"SEC. 35. HIGHER EDUCATION TUITION AND FEES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year the amount of qualified higher education expenses paid by the taxpayer during such taxable year.

"(b) CREDIT LIMITED TO $1,500 PER ACADEMIC YEAR.—

"(1) In general.—The amount allowed as a credit under subsection (a) for any taxable year with respect to any eligible student shall not exceed the sum of the payments for qualified academic periods beginning during such taxable year or the 1st 3 months of the next taxable year. A qualified academic period includes not less than 60 days, or equivalent thereof, for which the student is eligible to receive financial assistance for the period.

"(2) CREDIT ALLOWED ONLY FOR FIRST 2 ACADEMIC YEARS OF POST-SECONDARY EDUCATION.—For purposes of paragraph (1), the term 'qualified academic period' means, with respect to any student, any academic period for which such student is an eligible student if such period is included in the 2 academic years during which the student is an eligible student during the period of 2 academic years that begin with the academic period in which the student is first enrolled, or, if the student is not first enrolled in an academic year during the period of 2 academic years, the academic year in which the student is first enrolled, or, if the student is not first enrolled in an academic year during the period of 2 academic years, the academic year in which the student is first enrolled.

"(3) CREDIT AMOUNT.—For purposes of paragraph (1), except as otherwise provided in regulations prescribed by the Secretary, the amount for any qualified academic period is the amount equal to—

"(A) $1,500, divided by

"(B) the number of such academic periods during which the student is an eligible student.

In the case of an eligible student who is not a full-time student for an academic period, the credit amount for such period shall be 1/2 the amount determined under the preceding sentence.

"(4) INFLATION ADJUSTMENT OF CREDIT LIMITATION FOR ACADEMIC YEAR.—
"(A) IN GENERAL.—In the case of a taxable year beginning after 1998, the $1,500 amount in paragraph (3)(A) shall be increased by an amount equal to—

(i) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined in accordance with section 151 of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this section), and

(ii) any dependent of the taxpayer with respect to whom a deduction under section 222(b)(2) is allowed for any academic period if such student has been convicted of a Federal or State offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with which such period ends.

(3) AMOUNT OF REDUCTION.—The amount determined under paragraph (2) is the amount which would be so taken into account in the case of an individual, there shall be allowed an amount equal to—

(A) the excess of—

(i) the taxpayer's modified adjusted gross income for such taxable year, over

(ii) $5,000 ($80,000 in the case of a joint return), bears to

(B) the amount which would be so taken into account in the case of a married individual filing a separate return, bears to

(4) INFLATION ADJUSTMENT.—

"(A) In the case of a taxable year beginning after 2000, the $50,000 and $80,000 amounts in paragraph (2), section 222(b)(2)(B)(i)(III), and section 222(b)(2)(A)(i) shall each be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins.

(5) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year.

(6) Full-time student means a student who is carrying at least the normal full-time workload for the course of study the student is pursuing, as reasonably determined by the institution of higher education.

(e) SPECIAL RULES.—

(1) Denial of credit if student convicted of drug offense.—No credit shall be allowed under subsection (a) for qualified higher education expenses for the enrollment or attendance of a student for any academic period if such student has been convicted of a Federal or State offense consisting of the possession or distribution of a controlled substance before the end of the taxable year with which such period ends.

(2) No double benefit.—

(A) IN GENERAL.—The amount which would be so taken into account in determining the amount of higher education expenses paid by the taxpayer for the taxable year shall be reduced (before the application of this section) by—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year 1999 for 'calendar year 1992' in subparagraph (B) thereof.

(B) Rounding.—If any amount as adjusted under subparagraph (A) is not a multiple of 50, such amount shall be rounded to the next lowest multiple of 50.

(f) Ordinary and necessary or appropriate to carry out this section, the Secretary of Education, in consultation with the Secretary of the Treasury, shall prescribe such regulations as may be necessary or appropriate to carry out this section, including—

(A) regulations requiring recordkeeping and information reporting by the taxpayer and any other person the Secretary determines appropriate, and

(B) regulations providing for a recapture of credit allowed under this section in cases where there is a refund in a subsequent taxable year of any amount which was taken into account in determining the amount of such credit.


"(a) In general.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of a student for any academic period, a student who—

(i) the taxpayer,

(ii) the taxpayer's spouse, or

(iii) any dependent of the taxpayer with respect to whom the deduction is allowed for such period, is a married individual filing a separate return, bears to

(B) periods before 1998 taken into account—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

(2) PERIODS BEFORE 1998 TAKEN INTO ACCOUNT.—

For purposes of applying section 35(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by this section), periods before January 1, 1998, that the student was an eligible student shall be taken into account.


"(a) Deduction Allowed.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by inserting after the last item of section 222 and by inserting after section 220 the following new section:

"(b) Limitations.—

(A) Allowance of deduction.—In the case of a joint return, there shall be allowed as a deduction the amount of qualified higher education expenses paid by the taxpayer during the taxable year.

"(B) Limitations.—

(A) In general.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of a student for any academic period, a student who—

(i) the taxpayer,

(ii) the taxpayer's spouse, or

(iii) any dependent of the taxpayer with respect to whom the deduction is allowed for such period, is a married individual filing a separate return, bears to

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(A) In general.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of a student for any academic period, a student who—

(i) the taxpayer,

(ii) the taxpayer's spouse, or

(iii) any dependent of the taxpayer with respect to whom the deduction is allowed for such period, is a married individual filing a separate return, bears to

(B) periods before 1998 taken into account—

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(i) the taxpayer,

(ii) the taxpayer's spouse, or

(iii) any dependent of the taxpayer with respect to whom the deduction is allowed for such period, is a married individual filing a separate return, bears to

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(i) the taxpayer,

(ii) the taxpayer's spouse, or

(iii) any dependent of the taxpayer with respect to whom the deduction is allowed for such period, is a married individual filing a separate return, bears to

(B) periods before 1998 taken into account—

For purposes of applying section 35(b)(2)(A) of the Internal Revenue Code of 1986 (as amended by this section), periods before January 1, 1998, that the student was an eligible student shall be taken into account.
"(A) Definitions.—For purposes of this section—

"(1) Qualified education loan.—The term ‘qualified education loan’ means any indebtedness incurred to pay qualified higher education expenses—

(A) which are incurred on behalf of the taxpayer or the taxpayer’s spouse, (B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, (C) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term ‘qualified education loan’ shall not include any indebtedness owed to a person who is related (within the meaning of section 25(b) or 707(b)(1)) to the taxpayer.

"(2) Qualified higher education expenses.—The term ‘qualified higher education expenses’ has the meaning given such term by section 35(d)(1) (without regard to paragraph (1)(D)(ii)), reduced by the sum of—

(A) the amount excluded from gross income under section 135 by reason of such expenses, and (B) the amount of the reduction described in section 135(d)(4).

For purposes of applying section 35(d) under the preceding sentence, the term ‘eligible educational institution’ shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

"(3) Certain rules to apply.—For purposes of paragraphs (1) and (2),—

(A) in general.—Part VII of chapter B of chapter 1 of the Internal Revenue Code of 1986 relating to additional itemized deductions for individuals, as amended by section 102, is amended by redesignating section 222 as section 223 and by inserting after section 222 the following new section:

"SEC. 222. INTEREST ON EDUCATION LOANS.—

"(a) Allowance of deduction.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) Limitation based on modified adjusted gross income.—

"(1) In general.—The amount allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (3) of this section.

"(2) Amount reduced.—The amount determined under paragraph (3) of this section equals the amount which bears the same ratio to the deduction (determined without regard to this paragraph) as—

(i) the excess of—

(A) the taxpayer’s modified adjusted gross income for the taxable year, over (B) $20,000,

(B) the amount which bears the same ratio to the adjusted gross income of the taxpayer for the taxable year determined without regard to the deduction allowed under this section.

"(C) Modified adjusted gross income.—

For purposes of subparagraph (B), the term ‘modified adjusted gross income’ means the adjusted gross income of the taxpayer for the taxable year determined—

(A) without regard to this section and sections 931, 932, and 933, and (B) after the application of sections 86, 135, 137, 219, and 469.

For purposes of sections 86, 135, 137, 219, and 469, adjusted gross income shall be determined without regard to the deduction allowed under this section.

"(D) Cross reference.—

For inflation adjustment of $50,000 and $80,000 amounts, see section 35(c)(4).

"(D) Certain rules to apply.—Rules similar to the following rules of section 35(e) shall apply to this section:

(A) Paragraph (2)(B)(i), relating to denial of double benefit for dependents, (B) Paragraph (3) relating to identification requirement, (C) Paragraph (4) relating to adjustment for certain scholarships, (D) Paragraph (5) relating to no benefit for married individuals filing separate returns, (E) Paragraph (6) relating to nonresident aliens, (F) Regulations. The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring recordkeeping and information reporting.

"(b) Deduction allowed in computing adjusted gross income.—

Subsection (a) of such section is amended by inserting after paragraph 16 the following new paragraph:

"(17) Higher education tuition and fees.—The deduction allowed by section 222.

"(c) Conforming amendment.—The table of sections for part VII of chapter B of chapter 1 of such Code is amended by striking the item relating to section 35(c)(5) and inserting:

"(d) Effective date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.

"SEC. 103. DEDUCTION FOR INTEREST ON EDUCATION LOANS.—

"(a) Allowance of deduction.—In the case of an individual, there shall be allowed as a deduction for the taxable year an amount equal to the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) Limitation based on modified adjusted gross income.—

"(1) In general.—The amount allowed as a deduction under subsection (a) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) Amount reduced.—The amount determined under paragraph (1) equals the amount which bears the same ratio to the deduction (determined without regard to this subsection) as—

(i) the excess of—

(A) the taxpayer’s modified adjusted gross income for the taxable year, over (B) $50,000 ($80,000 in the case of a joint return), bears to (C) the amount which bears the same ratio to the adjusted gross income of the taxpayer for the taxable year determined without regard to the deduction allowed under this section.

"(3) Special rules.—

"(1) Denial of double benefit.—No deduction shall be allowed under this section for any amount for which a deduction is allowed under any other provision of this chapter.

"(2) Certain prepayments allowed.—Subparagraph (A) shall not apply to qualified higher education expenses paid during a taxable year if such expenses are in connection with an academic term beginning during such taxable year or during the 1st 3 months of the next taxable year.

"(3) Certain rules to apply.—Rules similar to the following rules of section 35(e) shall apply to this section:

(A) Paragraph (2)(B)(i), relating to denial of double benefit for dependents,
"(2) who, in the course of such trade or business, receives from any individual interest aggregating $600 or more for any calendar year on 2 or more qualified education loans, shall be treated as the person described in subsection (b) with respect to each individual from whom such interest was received at such time as the Secretary may by regulations prescribe.

(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

(1) is in such form as the Secretary may prescribe,

(2) contains—

(A) the name, address, and TIN of the individual from whom the interest described in subsection (a)(2) was received,

(B) the amount of such interest received for the calendar year; and

(C) such other information as the Secretary may prescribe.

(c) APPLICATION TO GOVERNMENTAL UNITS.—For purposes of subsection (a)—

(1) TREATED AS PERSONS.—The term ‘person’ includes any governmental unit (and any agency or instrumentality thereof).

(2) IN THE CASE OF A GOVERNMENTAL UNIT OR ANY AGENCY OR INSTRUMENTALITY THEREOF.—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of making such return.

(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS DESIRED.—In the case of a governmental unit or any agency or instrumentality thereof—

(A) subsection (a) shall be applied without regard to the trade or business requirement contained therein, and

(B) any return required under subsection (a) shall be made by the officer or employee appropriately designated for the purpose of furnishing such return.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return was made and required by subsection (a) was required to be made.

(e) QUALIFIED EDUCATION LOAN DEFINED.—For purposes of this section, except as provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of an individual to whom the statement is required to be furnished, the term ‘qualified education loan’ has the meaning given such term by section 122(d).

(f) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of interest received by any person on behalf of another person, only the person first receiving such interest shall be required to make the return prescribed by subsection (e)(1).

(g) ASSESSABLE PENALTIES.—Section 6722(d) (relating to definitions) is amended—

(A) by redesignating clauses (x) through (xxv) as clauses (xi) through (xxvi), respectively, in paragraph (1)(B) and by inserting after clause (ix) of such paragraph the following new clause:

‘‘(xxvi) section 6056 (relating to returns relating to education loan interest received in trade or business from individuals),’’; and

(B) by striking ‘‘or’’ at the end of the next to last sentence of such paragraph and inserting ‘‘, or’’; and by adding at the end the following new subparagraph:

‘‘(z) section 6055 (relating to returns relating to education loan interest received in trade or business from individuals).’’

(d) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 is amended by striking the last item and inserting the following new items:

‘‘Sec. 222. Interest on education loans. ‘‘Sec. 223. Cross reference.’’

d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any qualified education loan (as defined in section 222(d)(1) of the Internal Revenue Code of 1986, as added by this section) incurred on or after the date of the enactment of this Act, but only with respect to any loan interest payment due after December 31, 1997.

TITLE II—EDUCATIONAL FACILITIES IMPROVEMENT

SEC. 201. SHORT TITLE.

This title may be cited as the ‘‘Educational Facilities Improvement Act.’’

SEC. 202. PROVISION OF ASSISTANCE FOR CONSTRUCTION AND RENOVATION OF EDUCATIONAL FACILITIES.

Title XII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8501 et seq.) is amended—

(1) by repealing sections 12002 and 12003;

(2) by redesigning sections 12001 and 12004 through 12013, as sections 12101 and 12102 through 12111, respectively; and

(3) by inserting after the title heading the following:

‘‘SEC. 12101. FINDINGS.''

‘‘The Congress finds the following:‘‘

(1) The General Accounting Office performed a comprehensive survey of the Nation’s public elementary and secondary school facilities, and found severe levels of disrepair in all areas of the United States.

(2) The General Accounting Office included more than 14,000,000 children attend schools in need of extensive repair or replacement. Seven million children attend schools with life safety code violations. Twelve million children attend schools with leaky roofs.

(3) The General Accounting Office found the problem of crumbling schools transcends demographic and geographic boundaries. At 38 percent of urban schools, 30 percent of rural schools, and 29 percent of suburban schools, at least one major repair or extensive repair or should be completely replaced.

(4) The condition of school facilities has a direct impact on the ability of students and teachers, and on the ability of students to learn.

(5) Academic research has proven a direct correlation between condition of schools, facilities and student achievement. At Georgetown University, researchers found students assigned to schools in poor condition can be expected to score 25 to 30 percentage points below those in buildings in excellent condition. Similar studies have demonstrated up to a 20 percent improvement in test scores for students whose schools have moved from a poor facility to a new facility.

(6) The General Accounting Office found most schools are not prepared to incorporate modern technology into the classroom. Forty-six percent of schools lack adequate electrical wiring to support the full-scale use of technology. More than a third of schools are not prepared to incorporate modern technology into the classroom.

(7) The Department of Education reported that elementary and secondary school enrollment, already at a record high level, will continue to grow during the period between 1996 and 2000, and that in order to accommodate this growth, the United States will need to build an additional 6,000 schools over this time period.

(8) The General Accounting Office found it will cost $312,000,000,000 just to bring schools up to good, overall condition, not including the cost of modernizing schools so they can use the latest technology, not including the cost of expansion to meet record enrollment levels.

(9) State and local financing mechanisms have proven inadequate to meet the challenges facing today’s aging school facilities. Large numbers of local educational agencies have difficulties securing financing for school facility improvements.

(10) The Federal Government can support elementary and secondary school facilities, and can leverage additional funds for the improvement of elementary and secondary school facilities.

SEC. 12002. PURPOSE.

The purpose of this title is to help State and local authorities improve the quality of education at their public schools through the provision of Federal funds to enable the State and local authorities to meet the cost associated with the improvement of school facilities within their jurisdictions.

A. GENERAL INFRASTRUCTURE IMPROVEMENT GRANT PROGRAM

and

(4) by adding at the end the following:

‘‘PART B—CONSTRUCTION AND RENOVATION BOND SUBSIDY PROGRAM.

SEC. 12201. DEFINITIONS.

‘‘As used in this part—‘‘

(1) EDUCATIONAL FACILITY.—The term ‘educational facility’ has the meaning given the term ‘school’ in section 12110.

(2) LOCAL AREA.—The term ‘local area’ means the geographic area served by a local educational agency.

(3) LOCAL BOND AUTHORITY.—The term ‘local bond authority’ means—

(A) a local educational agency with authority to issue a bond for construction or renovation of educational facilities in a local area; and

(B) a political subdivision of a State with authority to issue such a bond for an area including a local area.

(4) POVERTY LINE.—The term ‘poverty line’ means the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with sections 1532(2) and 1533 of the Social Security Act (42 U.S.C. 9902(2))) applicable to a family of the size involved.

(5) STATE.—The term ‘State’ means each of the General States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 12202. AUTHORIZATION OF PROGRAM.

‘‘(a) PROGRAM AUTHORITY.—Of the amount appropriated under section 12210 for a fiscal year and not reserved under subsection (b), the Secretary shall use—

(1) 20 percent of such amount to award grants to local bond authorities for not more than 125 eligible local areas as provided for under section 12210, and

(2) 80 percent of such amount to award grants to States as provided for under section 12204.

‘‘(b) SPECIAL RULE.—The Secretary may reserve—

(1) not more than 1 percent of the amount appropriated under section 12210 to provide assistance to Indian schools in accordance with the purpose of this title;

(2) not more than 0.5 percent of the amount appropriated under section 12210 to provide assistance to Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the United States Trusts of Micronesia, and the Republic of Palau to carry out the purpose of this title; and
"SEC. 12203. DIRECT GRANTS TO LOCAL BOND AUTHORITY.

(a) IN GENERAL.—The Secretary shall award a grant under section 12202(a)(1) to eligible local bond authorities to provide assistance for construction or renovation of educational facilities in a local area.

(b) USE OF FUNDS.—The local bond authority shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information, as the Secretary may require, including—

(1) an assurance that the application was prepared by the authority to otherwise finance such construction or renovation, shall administer the amounts received through the grant to the local authority for which the Secretary has made a determination under paragraph (2).

"(2) Determination.—

(A) MANDATORY.—The Secretary shall make a determination of the 100 local areas that have the highest numbers of children who are—

(i) aged 5 to 17, inclusive; and

(ii) members of families with incomes that do not exceed 100 percent of the poverty line.

(B) DISCRETIONARY.—The Secretary may make a determination of 25 local areas, for which the Secretary has not made a determination under subparagraph (A), that have extraordinary needs for construction or renovation of educational facilities that the local bond authority serving the local area is unable to meet.

(c) ELIGIBILITY AND DETERMINATION.—

(1) To be eligible to receive a grant under section 12202(a)(1) for a local area, a local bond authority shall demonstrate the capacity to issue a bond for an area that includes 1 of the 125 local areas for which the Secretary has made a determination under paragraph (2).

(2) Determination.—

(A) IN GENERAL.—In determining the amount of assistance for which local bond authorities are eligible under section 12202(a)(1), the Secretary shall—

(i) give preference to a local bond authority based on the criteria specified in paragraph (4); and

(ii) consider—

(I) the extent to which the cost estimate contained in the application of the local bond authority under subsection (d)(4) of section 12205 with respect to the local area involved; or

(II) the educational facility for which the authority seeks the grant (as appropriate) meets the criteria described in section 12203(d).

(B) M A XIMUM AMOUNT OF ASSISTANCE.—A local bond authority eligible for assistance from a State under section 12205 with respect to the local area involved, may receive a grant under section 12202(a)(1) in an amount that does not exceed the appropriate percentage under section 12204(f)(3) of the interest costs applicable to any local bond issued to finance an activity described in section 12205 with respect to the local area involved.

"SEC. 12204. GRANTS TO STATES.

(a) IN GENERAL.—The Secretary shall make a grant under section 12202(a)(2) to each eligible State to provide assistance to the State, or to local bond authorities in the State, for construction and renovation of educational facilities in local areas.

(b) USE OF FUNDS.—The State shall use amounts received through a grant made under section 12202(a)(2) to—

(1) pay a portion of the interest costs applicable to any State bond issued to finance an activity described in section 12205 with respect to the local areas; or

(2) provide assistance to local bond authorities in the State for construction or renovation of educational facilities in the State under title VI for such year.

(c) AMOUNT OF GRANT TO STATE.—

(1) IN GENERAL.—From the amount available for grants under section 12202(a)(2), the Secretary shall award a grant to each eligible State that is equal to the total of—

(A) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year; and

(B) a sum that bears the same relationship to 50 percent of such amount as the total amount of funds made available for all eligible local educational agencies in the State under title VI for such year bears to the total amount of funds made available for all eligible local educational agencies in all States under such title for such year.

(2) E LIGIBLE LOCAL EDUCATIONAL AGENCIES.—For the purpose of paragraph (1) the term 'eligible local educational agencies' means a local educational agency that does not serve a local area for which an eligible local bond authority received a grant under section 12203.

(3) STATE APPLICATIONS REQUIRED.—To be eligible to receive a grant under section 12202(a)(2), a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require. Such application shall contain—

(1) a description of the process the State will use to determine which local bond authorities will receive assistance under subsection (b)(1); and

(2) an assurance that grant funds under this section will be used to increase the amount of school construction or renovation in the State for a fiscal year compared to such amount in the State for the preceding fiscal years.

"(g) Assistance to Local Bond Authority.—

(1) IN GENERAL.—If a State issues a bond to finance an activity described in section 12205 with respect to local areas, the State shall use the grant in an amount that does not exceed the percentage calculated under the formula described in paragraph (2) of the interest costs applicable to the State bond with respect to the local areas.

(2) FORMULA.—The Secretary shall develop a formula for determining the percentage referred to in paragraph (1). The formula
shall specify that the percentage shall consist of a weighted average of the percentages referred to in subparagraphs (A) through (E) of subsection (f)(3) for the local areas involved.

SEC. 12205. AUTHORIZED ACTIVITIES.

"An activity described in this section is a project of significant size and scope that consists of one or more of the following:

(1) the repair or upgrading of classrooms or structures related to academic learning, including the repair of leaking roofs, crumbling walls, inadequate plumbing, poor ventilation equipment, and inadequate heating or light equipment;

(2) an activity to increase physical safety at the educational facility involved;

(3) an activity to enhance the educational facility involved to provide access for students, teachers, and other individuals with disabilities;

(4) an activity to improve the energy efficiency of the educational facility involved;

(5) an activity to address environmental hazards at the educational facility involved, such as poor ventilation, indoor air quality, or lighting;

(6) the provision of basic infrastructure that facilitates educational technology, such as communications outlets, electrical systems, power outlets, or a communication closet;

(7) the construction of new schools to meet the needs imposed by enrollment growth;

(8) any other activity the Secretary determines achieves the purpose of this title.

SEC. 12206. STATE GRANT WAIVERS.

(a) Waiver for State Issuance of Bond. 

(1) IN GENERAL.—A State that issues a bond described in section 12204(b)(1) with respect to a local area may request that the Secretary waive the limits described in section 12204(f)(3) for the local area, in calculating the amount of assistance the State may receive under section 12204(g). The State may request the waiver only if no local entity is able, for one of the reasons described in subparagraphs (A) through (F) of paragraph (2), to issue bonds on behalf of the local area. Under such a waiver, the Secretary may permit the State to use amounts received through a grant made under section 12204(b)(1) with respect to a local area to issue bonds on behalf of the local area. New facilities constructed or renovated with amounts made available through a grant provided for under section 12204(b)(1) with respect to a local area, shall be eligible to receive assistance under section 12204(b) for a local bond authority through the bond described in section 12204(b)(1) with respect to the local area.

(2) DEMONSTRATION BY STATE.—To be eligible to receive a waiver under this subsection, a State shall demonstrate to the satisfaction of the Secretary that the amount of assistance provided under the waiver—

(A) will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation;

(B) will be used to fund activities that are effective in carrying out the activities described in section 12205, such as—

(i) the capitalization of a revolving loan fund for such construction or renovation;

(ii) the use of funds for reinsurance or guarantees with respect to the financing of such construction or renovation;

(iii) the creation of a mechanism to leverage private sector resources for such construction or renovation;

(iv) the capitalization of authorities similar to State Infrastructure Banks to leverage additional funds for such construction or renovation;

(v) any other activity the Secretary determines achieves the purpose of this title.

(d) Local Bond Authority Waiver. 

(1) IN GENERAL.—A local bond authority may request the Secretary waive the use requirements described in subsection (b)(8) of section 12202 for a local bond authority for which assistance is provided for under section 12202. The Secretary shall not be liable for the performance of any contract and subcontract for the repair, renovation, alteration, or construction of a facility involved to provide assistance to defray the interest costs applicable to a bond for such construction or renovation.

(2) DEMONSTRATION.—To be eligible to receive a waiver under this subsection, a local bond authority shall demonstrate to the satisfaction of the Secretary that the amount of assistance provided under the waiver will result in an equal or greater amount of construction or renovation of educational facilities than the provision of assistance to defray the interest costs applicable to a bond for such construction or renovation.

(e) REQUEST FOR WAIVER.—A State or local bond authority that desires a waiver under this section shall submit a request to the Secretary that—

(1) identifies the type of waiver requested;

(2) describes in subsections (a), (c), and (d), the demonstration described in subsections (a)(2), (c)(2), or (d)(2), respectively;

(3) describes in which the waiver will further the purpose of this title; and

(4) describes the use of assistance provided under such waiver.

(f) ACTION BY SECRETARY.—The Secretary shall make a determination with respect to a request for a waiver submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

(g) GENERAL REQUIREMENTS. 

(1) STATES.—In the case of a waiver request submitted by a State under this section, the State shall—

(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

(B) submit the comments to the Secretary; and

(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

(2) LOCAL BOND AUTHORITIES. —In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

(B) submit the comments to the Secretary; and

(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

SEC. 12207. GENERAL PROVISIONS. 

(a) Failure to Issue Bonds. 

(1) STATES.—If a State that receives assistance under this part fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12205, during the next fiscal year following the date of repayment.

(2) LOCAL BOND AUTHORITIES AND LOCAL AREAS.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

(A) in the case of assistance received under section 12202(a)(1), shall be repaid to the Secretary and made available as provided for under section 12205, during the next fiscal year following the date of repayment;

(B) in the case of assistance received under section 12202(a)(2), shall be repaid to the State and made available as provided for under section 12204.

(b) LIABILITY OF THE FEDERAL GOVERNMENT.—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed if the local educational agency defaults.

SEC. 12208. FAIR WAGES. 

"The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction of a facility involved to provide assistance to defray the interest costs applicable to a bond for such construction or renovation.

(e) REQUEST FOR WAIVER.—A State or local bond authority that desires a waiver under this section shall submit a waiver request to the Secretary that—

(1) identifies the type of waiver requested;

(2) describes in subsections (a), (c), and (d), the demonstration described in subsections (a)(2), (c)(2), or (d)(2), respectively; and

(3) describes in which the waiver will further the purpose of this title; and

(4) describes the use of assistance provided under such waiver.

(f) ACTION BY SECRETARY.—The Secretary shall make a determination with respect to a request for a waiver submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

(g) GENERAL REQUIREMENTS. 

(1) STATES.—In the case of a waiver request submitted by a State under this section, the State shall—

(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

(B) submit the comments to the Secretary; and

(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

(2) LOCAL BOND AUTHORITIES. —In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

(B) submit the comments to the Secretary; and

(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

SEC. 12207. GENERAL PROVISIONS. 

(a) FAILURE TO ISSUE BONDS. 

(1) STATES.—If a State that receives assistance under this part fails to issue a bond for which the assistance is provided, the amount of such assistance shall be made available to the State as provided for under section 12205, during the next fiscal year following the date of repayment.

(2) LOCAL BOND AUTHORITIES AND LOCAL AREAS.—If a local bond authority that receives assistance under this part fails to issue a bond, or a local area that receives such assistance fails to become the beneficiary of a bond, for which the assistance is provided, the amount of such assistance—

(A) in the case of assistance received under section 12202(a)(1), shall be repaid to the Secretary and made available as provided for under section 12205, during the next fiscal year following the date of repayment;

(B) in the case of assistance received under section 12202(a)(2), shall be repaid to the State and made available as provided for under section 12204.

(b) LIABILITY OF THE FEDERAL GOVERNMENT.—The Secretary shall not be liable for any debt incurred by a State or local bond authority for which assistance is provided under this part. If such assistance is used by a local educational agency to subsidize a debt other than the issuance of a bond, the Secretary shall have no obligation to repay the lending institution to whom the debt is owed if the local educational agency defaults.

SEC. 12208. FAIR WAGES. 

"The provisions of section 12107 shall apply with respect to all laborers and mechanics employed by contractors in the performance of any contract and subcontract for the repair, renovation, alteration, or construction of a facility involved to provide assistance to defray the interest costs applicable to a bond for such construction or renovation.

(e) REQUEST FOR WAIVER.—A State or local bond authority that desires a waiver under this section shall submit a waiver request to the Secretary that—

(1) identifies the type of waiver requested;

(2) describes in subsections (a), (c), and (d), the demonstration described in subsections (a)(2), (c)(2), or (d)(2), respectively; and

(3) describes in which the waiver will further the purpose of this title; and

(4) describes the use of assistance provided under such waiver.

(f) ACTION BY SECRETARY.—The Secretary shall make a determination with respect to a request for a waiver submitted under subsection (d) not later than 90 days after the date on which such request was submitted.

(g) GENERAL REQUIREMENTS. 

(1) STATES.—In the case of a waiver request submitted by a State under this section, the State shall—

(A) provide all interested local educational agencies in the State with notice and a reasonable opportunity to comment on the request;

(B) submit the comments to the Secretary; and

(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.

(2) LOCAL BOND AUTHORITIES. —In the case of a waiver request submitted by a local bond authority under this section, the local bond authority shall—

(A) provide the affected local educational agency with notice and a reasonable opportunity to comment on the request;

(B) submit the comments to the Secretary; and

(C) provide notice and information to the public regarding the waiver request in the manner that the applying State customarily provides similar notices and information to the public.
"(2) conduct studies and evaluations, including national studies and evaluations, in order to—
(A) monitor the progress of activities supported with funds provided under this part; and
(B) evaluate the state of United States educational facilities; and
(3) report to the appropriate committees of Congress regarding the findings of the studies and evaluations described in paragraph (2).

SEC. 202. FUNDING.
Section 12111 of the Educated Infrastructure Act of 1994 (as redesignated by section 202(3)) (20 U.S.C. 8513) is amended to read as follows:

"SEC. 12111. FUNDING.
(a) AUTHORIZATION.—There are appropriated to be appropriated to carry out this part $200,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years.
(b) APPROPRIATION.—There are appropriated to carry out this part $150,000,000 for each of the fiscal years 1998 through 2002.
(c) ENTITLEMENT.—Subject to subsection (b), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

SEC. 203. FUNDING.
(a) IN GENERAL.—There are appropriated $5,000,000,000 for fiscal year 1996 to carry out this part.
(b) ENTITLEMENT.—Subject to subsection (a), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

SEC. 204. CONFORMING AMENDMENTS.
(a) CROSS REFERENCES.—Part A of title XII of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202(3)) is amended to read as follows:

"SEC. 12110. FUNDING.
(a) AUTHORIZATION.—There are appropriated to be appropriated to carry out this part $12006'' and inserting 
12105'';
(b) APPROPRIATION.—There are appropriated to carry out this part $12013'' and inserting 
12104(b)(6), 12104(b)(7), 12105(a), 12105(b), 
12104(a), 12104(b)(2), 12104(b)(3), 12104(b)(4), 
12104(b)(5), 12104(b)(6), 12104(b)(7), 12105(a), 12105(b), 
12105(a), 12105(b), 12105(c), 12105(d), 12105(e), 12105(f), 
12105(g), 12105(h), 12105(i), 12105(j), 12105(k), 12105(l), 
12105(m), 12105(n), 12105(o), 12105(p), 12105(q), 
12105(r), 12105(s), 12105(t), 12105(u), 12105(v), 12105(w), 
12105(x), 12105(y), 12105(z), 12106'';
(c) ENTITLEMENT.—Subject to subsection (a), each State or local bond authority awarded a grant under this part shall be entitled to payments under the grant.

SEC. 205. FUNDING.
(a) IN GENERAL.—There are appropriated to be appropriated to carry out this part $12013'' and inserting 
12105'';
(b) APPROPRIATION.—There are appropriated $5,000,000,000 for fiscal year 1996 and such sums as may be necessary for each of the four succeeding fiscal years.

SEC. 206. CONFORMING AMENDMENTS.
(a) CROSS REFERENCES.—In this subtitle:
(i) the term "Secretary" means the Secretary of Education.
(ii) the term "Secretary" means the Secretary of Education.
(iii) the term "Secretary" means the Secretary of Education.

SEC. 311. SHORT TITLE.
This subtitle may be cited as the "Parents As First Teachers Challenge Grant Act of 1997."

SEC. 312. FINDING AND PURPOSE.
(a) FINDING.—Congress finds that parents are the best first teachers.
(b) PURPOSE.—The purpose of this subtitle is to provide support, effective, proven efforts that provide assistance to parents who want to help their children become successful readers by the end of the 3rd grade.

SEC. 313. DEFINITIONS.
In this subtitle:
(1) ELIGIBLE CHILD.—The term "eligible child" means an individual eligible to attend preschool, kindergarten, or 1st, 2nd, or 3rd grade.
(2) SECRETARY.—The term "Secretary" means the Secretary of Education.

SEC. 314. GRANTS AUTHORIZED.
(a) GRANTS FOR NATIONAL OR REGIONAL NETWORKS.—The Secretary is authorized to award at least 2 grants to public or private agencies or institutions to enable such agencies or institutions to support national or regional networks that share information on helping eligible children.
(b) GRANTS FOR SUCCESSFUL PROGRAMS OR ACTIVITIES.—Each applicant for a grant under section 314(b) shall—
(1) describe a program or activity that is capable of successful expansion or replication;
(2) contain evidence of community support for the proposed program or activity from the private sector, a school, and another entity;
(3) contain information demonstrating the cost-effectiveness of the proposed program or activity; and
(4) provide an assurance that the applicant will coordinate the proposed program or activity with State and local programs and activities that provide support for parents of eligible children.

SEC. 315. AUTHORIZATION OF APPROPRIATIONS.
(a) APPROPRIATIONS.—There are appropriated $54,000,000 for fiscal year 1998, $50,000,000 for fiscal year 1999, $50,000,000 for fiscal year 2000, $70,000,000 for fiscal year 2001, and $75,000,000 for fiscal year 2002.
(b) ENTITLEMENT.—Subject to subsection (a), each entity receiving a grant under this title for a fiscal year shall be entitled to payments for such year under the grant.

SEC. 321. SHORT TITLE.
This subtitle may be cited as the "Challenging America's Young Readers Act of 1997.

SEC. 322. PURPOSE.
The purpose of this subtitle is to raise reading levels by providing tutoring assistance outside regular school hours to children eligible to attend preschool, kindergarten, or 1st, 2nd, or 3rd grade.

SEC. 323. DEFINITIONS.
In this subtitle:
(1) ADMINISTRATORS.—The term "Administrators" means the Secretary of Education and the Chief Executive Officer of the Corporation for National and Community Service acting pursuant to the agreement entered into under section 324(c).
(2) ELIGIBLE CHILD.—The term "eligible child" means an individual eligible to attend preschool, kindergarten, or 1st, 2nd, or 3rd grade.
(3) STATE.—The term "State" means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.
(4) STATE EDUCATIONAL AGENCY.—The term "State educational agency" means the agency given the term by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8001).

SEC. 324. PROGRAM AUTHORIZED.
(a) ALLOTMENT AND RESERVATIONS.—(1) ALLOTMENT.—From the sum made available under section 323 and not reserved under paragraph (5) for a fiscal year, the Administrators shall make an allotment to...
SEC. 325. APPLICATIONS.
(a) STATE.—Each School educational agency desiring an allotment under this subtitle shall submit an application to the Administrators at such time, in such manner, and containing such information as the Administrators may require. Each such application shall—
(1) describe how the State educational agency will award grants under this subtitle; and
(2) describe how the State educational agency will encourage use of activities assisted under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.), or before or after school hours, or during the weekend shall be conducted before or after school hours, or during the weekend.

(b) APPLICATION.—Each local entity desiring a grant under subsection (a) shall submit an application to the Administrators at such time, in such manner, and accompanied by such information as the Administrators may require. Each such application shall include the information and assurances described in section 325(b) with respect to such local entity.

SEC. 326. LOCAL READING PROGRAMS.

(a) NONDUPLICATION.—Assistance provided under this subtitle shall be used only for a program or activity that does not duplicate, and is in addition to, an activity otherwise eligible in the locality of such program or activity.

(b) NONDISPLACEMENT.—An employer shall not displace an employee or position, including the displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program or activity receiving assistance under this subtitle.

SEC. 327. NATIONAL LEADERSHIP AND EVALUATION.

SEC. 328. ADJUSTMENT OR TERMINATION OF FUNDING.

Notwithstanding any other provision of this subtitle, the Administrators may decrease or terminate any funding provided under this subtitle if the Administrators determine that a recipient of such funding does not—
(1) improve reading performance with respect to eligible children;
(2) implement the recipient's strategies to improve reading performance with respect to eligible children.

SEC. 329. NONDUPLICATION AND NONDISPLACEMENT MENT.

(a) NONDUPLICATION.—Assistance provided under this subtitle shall be used only for a program or activity that does not duplicate, and is in addition to, an activity otherwise eligible in the locality of such program or activity.

(b) NONDISPLACEMENT.—An employer shall not displace an employee or position, including the displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program or activity receiving assistance under this subtitle.

SEC. 330. FUNDING.

(a) RESERVATION.—From amounts made available to carry out the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) for each of the fiscal years 1998 through 2002, the Chief Executive Officer of the Corporation for National and Community Service shall make available $200,000,000 to carry out this subtitle.

(b) APPROPRIATION.—There are appropriated to the Secretary of Education to carry out this subtitle $200,000,000 for fiscal year 1998, $250,000,000 for fiscal year 1999, $300,000,000 for fiscal year 2000, and $350,000,000 for fiscal year 2001, and $350,000,000 for fiscal year 2002.

(c) ENTITLEMENT.—Subject to subsections (a) and (b), each entity receiving an allotment, award a grant, or entering into a contract or cooperative agreement, under this subtitle for a fiscal year shall be entitled to payments for such fiscal year under the allotment, grant, contract, or cooperative agreement.
TITLE IV—INVESTING IN TECHNOLOGY FOR THE CLASSROOMS
Subtitle A—Sense of the Senate

SEC. 401. FINDINGS.

Congress finds as follows:

(1) Technology is a central component of preparing students for the 21st century.
(2) Equipping schools with technology is no longer a luxury. It is a necessity. By the year 2000, 60 percent of all jobs in the Nation will require skills in computer and network use.
(3) Technology in the classroom improves student performance, academic skills, study habits, writing, and engagement in school. With these gains come decreases in dropout rates and decreases in attendance and discipline problems.
(4) Not enough students have access to computers, distance learning, and telecommunications technologies. A 1995 Government Accounting Report found that 10,000,000 students, and 1 school in every 4 schools, do not have sufficient computers to meet their needs.
(5) Of the 5,800,000 computers in United States schools, many are older models that do not have the power to perform advanced functions such as those involving video and the Internet.
(6) Only 9 percent of all instructional rooms including classrooms, laboratories, and library media, have connections to the Internet.
(7) The Federal Government began a new commitment to funding education technology by investing an additional $200,000,000 in subpart 2 of part A of title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6841 et seq.) in fiscal year 1997. Although such investment is an important step, it is not sufficient to meet the technology needs of schools and school children in the 21st century.

SEC. 402. SENSE OF THE SENATE.

It is the sense of the Senate that it is in the Nation's best interest for the Federal Government to invest at least $1,800,000,000 in additional funding for education technology programs between fiscal years 1998 and 2002.

Subtitle B—Education Technology Clearinghouses

SEC. 421. PURPOSE.

It is the purpose of this subtitle to authorize a program to support regional educational technology clearinghouses that facilitate the donation of surplus equipment and technology to schools and libraries from Federal or State governmental agencies, businesses, and other private entities.

SEC. 422. AUTHORITY.

(a) In General.—The Secretary of Education shall make grants or contracts under this subtitle subject to the following conditions:

(1) In cooperation with State educational agencies and local educational agencies, develop a regional program to support a clearinghouse that facilitates the transfer of surplus equipment and technology to schools and libraries from Federal or State governmental agencies, businesses, and other private entities;
(2) disseminate information to State educational agencies and local educational agencies about the availability and procurement of the equipment and technology through the clearinghouse;
(3) disseminate information to the public about activities under this subtitle, including information about the donations being accepted by the clearinghouse;
(4) have in place a process for ensuring that such equipment and technology is distributed in a fair and equitable manner, with school districts with the greatest need for such equipment and technology receiving priority for donations under this subtitle;
(5) provide technical assistance to a school or library to ensure that the equipment and technology being donated is consistent with the short- and long-term educational technology plans of the school or library, respectively;
(6) use funds under this subtitle to upgrade equipment that the entity determines such upgrading meets the short- and long-term educational plan of the school or library receiving the equipment or technology; and
(7) ensure that the transfer of equipment and technology does not violate copyright, patent, or trademark laws.

SEC. 423. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $5,000,000 for fiscal year 1998 and such sums as may be necessary for each of the 4 succeeding fiscal years.

By Mr. DASCHLE (for himself, Ms. MIKULSKI, Mr. KENNEDY, Mr. BREAUx, Mr. DODD, Mrs. MURRAY, Mr. INOUYE, Mr. JOHNSTON, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Mr. DURBIN, Mr. KERRY, and Mr. GLENN):

S. 13. A bill to provide access to health insurance coverage for uninsured children and pregnant women; to the Committee on Finance.

CHILDREN'S HEALTH CARE ACT OF 1997

Mr. BREAUx. Mr. President, I rise today in support of the Children's Health Care Act of 1997, a bill designed to expand health insurance for an estimated 10 million American children who have no health insurance. Last year, when Congress passed the Kassebaum/Kennedy bill, it took a big step towards increasing the availability of private health insurance coverage for certain children. While the Kassebaum/Kennedy legislation will increase access to the health insurance market for many people, there are still too many low-income working families in this country who are unable to afford coverage even though it may be more readily available to them.

According to a 1994 GAO report, 14.2 percent of all children are uninsured, the highest rate in any industrialized country. In Louisiana alone there are 254,952 children without health insurance. Nine out of ten of these children live in families with working parents. These parents go to work every day to earn a living and provide for their families. Some might say that providing for one's family should include health insurance but when you've got food to buy and rent to pay, health insurance can sometimes be an unaffordable luxury. Perhaps even more troubling is that the number of uninsured children is expected to grow as employers continue to cut back on dependant coverage, leaving many working parents unable to afford insurance for their families. While Medicaid has picked up some of these children and will continue to do so, these expansions won't be enough to completely offset the losses in private coverage that we have seen.

Mr. President, an important lesson we have learned in recent years is that big government mandates won't work. But I believe expanding coverage of children is a necessary step to follow up on the significant progress we made last year. We should build on the momentum from the Kassebaum/Kennedy bill to help low-income working families buy health insurance they need for their children. Basic primary and preventive care services that insurance provides are critical to a child's healthy development, and like all kinds of preventive care, it's cheaper than treating a child once he or she gets sick. As we all know, uninsured children are more likely to get care in an emergency room at later stages in their illness and are more likely to require an expensive hospital stay.

This bill is a market-based plan that will provide tax credits to help working families buy the health care they need. Our goal is to stimulate a competitive market for children's health plans which are relatively inexpensive but have a big economic payoff. I am hopeful that Democrats and Republicans will be able to agree on this issue because it's in everyone's interest that our nation's children have the health care and health insurance they need since they are the future of this country. For the future of a healthy America, we need healthy kids now.

Ms. MIKULSKI. Mr. President, I am honored to join the Senate Minority Leader in cosponsoring the Children's Health Care Act of 1997. This bill will help uninsured children and their families purchase health insurance for their children and will build on the success of last year's Kassebaum-Kennedy health care reform legislation. It makes the health of all America's children a national priority. It takes the Democratic health care agenda one more step.

Our country has failed to meet the health care needs of America's children. The United States has the highest rate of uninsured any industrialized country. In my home State of Maryland, nearly 1 in 5 children is uninsured. That's almost 200,000 kids in Maryland alone. This is a disgrace for a country as bountiful as ours is. We say children are our priority. We can put in the law books the values we hold in our hearts. That makes good policy and good sense.

These are the children of working families. Their parents may both be working 40-hour a week jobs. Jobs that offer no benefits. This problem is pervasive. Nine out of ten children without health insurance live in families with parents who work.
working parents. Two thirds of uninsured children live in families with incomes above the poverty line. The problem cuts across class and race.

As I travel through my own State, working parents tell me how they worry for their children not having health insurance. They are afraid that they won’t be able to take them to the doctor when they get really sick. With this bill, American parents won’t have to fear for their children. This legislation meets the peace of mind test.

I want to make sure children’s health care needs are met comprehensively and equitably. This bill stands up and challenges what is wrong with our health care system. It affirms our need to develop human capital as well as economic capital. It’s about getting our priorities straight and putting families first. I salute the Minority Leader for moving this important issue forward.

MS. MOSELEY-BRAUN. Mr. President, I rise today to offer my support as an original cosponsor of the Children’s Health Coverage Act of 1997—S. 13. Vice President Hubert Humphrey may have summed it up best when he concluded that “the moral test of government is how that government treats those who are in the dawn of life—the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life—the sick, the needy, and the handicapped.”

Well, Mr. President, the Children’s Health Coverage Act is our test for the 105th Congress and how this Congress will respond to the need to care for our children, who are in the dawn of their life; 10.5 million children have no health insurance coverage. The GAO conclusion that children without insurance are less likely to grow up to be healthy, and productive adults may be the most telling fact. If we know the effect being uninsured has on our children, how can we not respond?

The ultimate guarantee of our children’s health would be to make comprehensive health insurance coverage more readily available either through a private or public source. In the interim, however, the Children’s Health Coverage Act will make a number of important steps to improve the health of our children. First, enhancing health care coverage for pregnant women will make health care a priority in the front-end through enhanced prenatal care. In 1993, almost 200,000 children were born to women who received either no prenatal care or prenatal care after the first trimester of their pregnancy. Good prenatal care can reduce rates of low-weight births and infant mortality, thus preventing avoidable disabilities.

Next, the Children’s Health Coverage Act will not erode existing health coverage of children. Children are less likely to have private health insurance coverage faster than any other group. In many cases, Medicaid has been the safety-net for new babies. Medicaid has been the safety-net for pregnant women. In many cases, Medicaid has been the safety-net for pregnant women. In many cases, Medicaid has been the safety-net for pregnant women.

Mr. President, caring for our children is critical to the success and the survival of this nation. However, we must not be content with only meeting the physiological needs of our children. We must also adopt a holistic approach to meeting the needs of our children. A significant number of our children have special health care needs. There are also many children who have special educational, financial, and social needs.

During the “Stand for Children” rally last year, five core principles were espoused that are essential to safeguarding our children. These principles are to give our children a Head start, a fair start, a safe start, a moral start, and a healthy start. These are fundamental principles that should govern our nation’s agenda towards children. The Children’s Health Coverage Act is a very good step toward ensuring a healthy start for our children. I hope that my colleagues can join me in supporting this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 13

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Children’s Health Coverage Act”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—HEALTH INSURANCE COVERAGE FOR ELIGIBLE CHILDREN

Sec. 101. Establishment of program to provide eligible children with access to health insurance coverage.

Sec. 102. Procedure for obtaining coverage under certified health plans.

Sec. 103. Subsidy adjustment.

Sec. 104. Limitation on preexisting condition exclusion period and prohibition on discrimination.

Sec. 105. Medicaid buy-in program.

Sec. 106. Oversight by Secretary.

91X of the Social Security Act (42 U.S.C. 1101 et seq.) and—

(1) such individual does not have access to employer sponsored health coverage; or

(ii) the employer of the individual or family involved offers employer sponsored health coverage and the employer contribution for such 12-month period does not exceed—

(aa) in the case of an individual (or family) described in section 103(a)(2)(A), 80 percent or more of the costs of enrollment in the plan; or

(bb) in the case of an individual (or family) described in section 103(a)(2)(B), 50 percent or more of the costs of enrollment in the plan; or

(i) as of the date of enactment of this Act, covered under a health plan that is not a group health plan (as defined in section 25B(1) of the Public Health Service Act), and the family of such individual is not eligible to claim a deduction under section 162(l) of the Internal Revenue Code of 1986.

(7) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(b) Subsidy Eligible Health Coverage.—The term "subsidy eligible health coverage" means health insurance coverage under—

(A) a certified health plan; or

(B) an employer sponsored health plan providing rates for coverage or child-only coverage options; for which a subsidy is available under this title.

TITLE I—HEALTH INSURANCE COVERAGE FOR ELIGIBLE CHILDREN

SEC. 101. ESTABLISHMENT OF PROGRAM TO PROVIDE ELIGIBLE CHILDREN WITH ACCESS TO HEALTH INSURANCE COVERAGE.

(a) Establishment.—The Secretary shall establish a program under which a premium subsidy eligible child, and the family of such child, may receive a subsidy to be used to pay a portion of the premium associated with the enrollment of the child for subsidy eligible health coverage under a certified health plan or employer sponsored health plan.

(b) State Responsibilities.—Under the program established under subsection (a)—

(1) the insurance commissioner of a State may certify a health plan if the commissioner determines that—

(A) the health plan provides comprehensive coverage, including preventive, basic, and catastrophic benefits that meet the health care needs of children (either as part of a family plan or a child-only plan);

(B) the average premium for the enrollment of a child under such plan is reasonable when taking into consideration the demographic characteristics related to the population for which the plan will be marketed;

(C) each premium subsidy eligible child that is enrolled under the plan will be assessed the same premium;

(D) the plan provides for guaranteed issue with respect to premium subsidy eligible children; and

(E) complies with the provisions of section 104 regarding preexisting condition exclusions;

(2) the health insurance commissioner of the State shall provide information on the availability of certified health plans and the availability of subsidies in accordance with this title;

(3) the appropriate State entity (as determined by the Chief Executive Officer of the State) shall conduct income verification and reconciliation activities with respect to eligible children and families desiring to participate in the program in the State and issue certificates in accordance with section 102;

(4) the appropriate State entity (as determined under paragraph (4)) shall be responsible for the collection of premiums from premium subsidy eligible children and the forwarding of such premiums to the appropriate certified health plans;

(5) the State (through its own authority or acting in conjunction with the Secretary under subsection (f)(3)) shall ensure that each eligible child in the State has a reasonable choice of health insurance issuers that offer child-only coverage consistent with the standards developed by the Secretary under this title;

(6) the State shall establish any other requirements necessary for the purposes of subsection (f)(3) to carry out this title within the State; and

(7) the State shall comply with any other requirements established by the Secretary.

(c) Partial Waiver.—

(1) IN GENERAL.—Any health plan may submit an application with the appropriate State insurance commissioner for certification under this section and such plan shall be certified if it meets the requirements of subsection (b)(1). Employer-sponsored health plans shall not be required to be certified under this title.

(2) Requirement for Federal Contractors.—

(A) IN GENERAL.—Each health insurance issuer that offers 1 or more health plans that provide family coverage options shall submit an application, with the appropriate State insurance commissioner, for the certification of 1 or more health plans that provide children's only coverage described in subsection (b)(1). Each such application shall be certified if such plans provide coverage for children as described in subsection (b)(1)(A).

(B) Penalty.—A health insurance issuer shall be liable for a penalty for failure to submit an application for certification of at least 1 health plan that provides children-only coverage, and may apply for the certification of 1 or more health plans that provide such coverage if such plans provide coverage for children as described in subsection (b)(1)(B).

(3) Application of Amount to Child Portions of Plan.—In establishing and applying the average coverage amount under paragraph (1), the Secretary shall ensure that the amount relates solely to the comprehensive coverage applicable to the premium subsidy eligible child. If coverage of a premium subsidy eligible child is under a certified family plan, the average coverage amount shall relate solely to that portion of coverage under the health plan and regional variations in health care costs.

(d) Application of Amount to Child Portions of Plan.—In establishing and applying the average coverage amount under paragraph (1), the Secretary shall ensure that the amount relates solely to the comprehensive coverage applicable to the premium subsidy eligible child. If coverage of a premium subsidy eligible child is under a certified family plan, the average coverage amount shall relate solely to that portion of coverage under the health plan and regional variations in health care costs.

(e) Waiver of Previous Coverage Limitations.—

(1) Establishment of Process.—The Secretary shall establish a process to waive the limitation described in section 261(D) with respect to an individual if the Secretary determines that the individual was enrolled under a health plan during the period referred to in such section as a dependent of another individual and that the coverage was terminated involuntarily or the loss of such coverage results from a change in employment.

(2) Limitation.—The process established under paragraph (1) shall not permit a waiver of the limitation with respect to the individual who was enrolled under the health plan during the period referred to in such section as a dependent of another individual if the Secretary determines that the coverage was terminated involuntarily or the loss of such coverage results from a change in employment.

(f) Provision of Technical Assistance by Secretary.—

(1) Alternative Procedures.—The Secretary shall establish procedures, in consultation with the insurance commissioner of a State, to assist the State in establishing alternative rate review and approval procedures for the certification of health plans under this section.
consistent with the goals and requirements of this title.

(2) STRATEGIES TO IMPROVE INSURANCE MARKET.—

(A) IN GENERAL.—The Secretary, at the request of and in conjunction with a State, shall develop and pursue strategies to encourage competition, prevent fraudulent practices, and prevent access barriers, and achieve goals consistent with this title with respect to the health insurance market in the State. Such strategies may include the establishment of commercial insurance pooling arrangements that may be used by small businesses and integrated with other purchasing pools, the implementation of competitive bidding mechanisms, and the coordination of insurance delivery systems with delivery systems under title XIX of the Social Security Act.

(B) TERMINATION.—The Secretary may terminate or revise a strategy implemented by the State by a written notice if the Secretary determines that the strategy conflicts with a provision of this title.

(3) CHOICE OF ISSUERS.—The Secretary, at the request of and in conjunction with a State, shall develop and implement strategies to ensure that choice is provided to eligible children in accordance with subsection (b)(5). Such strategies may include the strategies described in paragraph (2)(A).

(4) PROCEDURES TO IDENTIFY THOSE ELIGIBLE FOR CARING OUT THE PROGRAM.—Under this title, the Secretary shall establish procedures to identify premium subsidy eligible children whose enrollment in a certified health plan is substantially subsidized under this title and who subsequently become eligible for assistance under a State plan under title XIX of the Social Security Act as a result of disability, the amount of health care costs, or similar factors. Such procedures, while ensuring the continuity and coordination of care, shall ensure that assistance under such title XIX is the primary payer for children eligible for such assistance.

SEC. 102. PROCEDURE FOR OBTAINING COVERAGE UNDER CERTIFIED HEALTH PLANS.

(a) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a subsidy for the purchase of coverage under a certified health plan under this title, a family on behalf of a premium subsidy eligible child may file an application for a subsidy under this title at any time in accordance with subsection (b), and the State entity shall use an application that shall be as simple in form as possible and understandable to the average individual. The application may require attachment of such documentation as deemed necessary by the State in order to ensure eligibility for a subsidy.

(2) TIME FOR FILING.—A family on behalf of a premium subsidy eligible child may file an application for a subsidy under this title at any time in accordance with this subsection.

(3) USE OF SIMPLE FORM.—For purposes of this subsection, the Secretary may establish an application that shall be simple in form as possible and understandable to the average individual. The application may require attachment of such documentation as deemed necessary by the State in order to ensure eligibility for a subsidy.

(b) AVAILABILITY OF FORMS.—The State entity shall make an application form available through health care providers and participating issuers, public assistance offices, public libraries, and at other locations including community health centers, classrooms, libraries, and other places accessible to a broad cross-section of families.

(c) ISSUANCE OF CERTIFICATE.—

(1) IN GENERAL.—If the State entity described in subsection (a) determines that an applicant is eligible for a subsidy under this title, the entity shall notify the applicant of such eligibility and request that the applicant designate a certified health plan that the applicant desires to enroll in.

(2) NOTIFICATION OF PLAN.—Upon a designation under subparagraph (A), the entity shall forward a certificate of eligibility in the name of the applicant to the designated plan. Such certificate shall contain identifying information concerning the applicant and the eligible child involved and the amount of premium subsidy for which the applicant is eligible.

(2) DETERMINATION BY STATE.—As elected by a family at the time of submission of an application under subsection (a), the State entity shall make a determination concerning family income either—

(A) by multiplying by 4 of the income of the family for the 3-month period immediately preceding the month in which the application is made, or

(B) based upon estimated income for the entire year in which the application is submitted.

(3) TERM.—A certificate under paragraph (2) shall remain in effect for the 6-month period beginning on the date of the issuance of the certificate. To continue to be eligible for a subsidy, a family must apply to renew the certificate before the end of such period.

(4) ENROLLMENT.—Upon receipt of a certificate of eligibility under subsection (b), a certified health plan shall ensure that the eligible child involved is appropriately enrolled and that a copy of the enrollment and coverage materials are provided to the enrollee.

(5) PAYMENT OF PREMIUMS.—

(a) IN GENERAL.—Upon receipt of the appropriate enrollment materials from a certified health plan under subsection (c), a premium subsidy eligible child, the family income of which exceeds the limit described in title XIX of the Social Security Act, as a result of disability, the amount of health care costs, or similar factors, shall be determined by replacing the “applicable percentage” for purposes of clause (i) with the term “applicable percentage” as defined in this paragraph.

(b) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term “applicable percentage” shall be determined using the following table:

<table>
<thead>
<tr>
<th>Income</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does not exceed 200 percent of poverty</td>
<td>100%</td>
</tr>
<tr>
<td>Exceeds 200 percent but does not exceed 250 percent of poverty</td>
<td>90%</td>
</tr>
<tr>
<td>Exceeds 250 percent but does not exceed 300 percent of poverty</td>
<td>80%</td>
</tr>
<tr>
<td>Exceeds 300 percent of poverty</td>
<td>70%</td>
</tr>
</tbody>
</table>

(c) APPLICATION.—For purposes of clause (i), the term “applicable percentage” shall be determined using the following table:

<table>
<thead>
<tr>
<th>Income</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $25,000</td>
<td>100%</td>
</tr>
<tr>
<td>$25,000 or more to $50,000</td>
<td>90%</td>
</tr>
<tr>
<td>$50,000 or more to $75,000</td>
<td>80%</td>
</tr>
<tr>
<td>More than $75,000</td>
<td>70%</td>
</tr>
</tbody>
</table>

(d) PAYMENT OF PREMIUMS.—

(1) IN GENERAL.—To be eligible to receive a premium subsidy adjustment in this paragraph for a premium subsidy eligible child who is determined to be a premium subsidy eligible child under paragraph (2) to be eligible for a premium subsidy adjustment under paragraph (3) to be paid by the certified plan, the amount of premium subsidy to be paid by such child.

(2) AMOUNT.—

(A) FULL SUBSIDY ELIGIBILITY.—With respect to a family, the family income of which does not exceed 200 percent of the poverty line for a family of the size involved, the amount of a premium subsidy adjustment specified in this paragraph for a premium subsidy eligible child shall, subject to clause (ii), be equal to 90 percent of the annual premium for the child as determined under paragraph (3) to be paid by the certified plan.

(i) IN GENERAL.—With respect to a family, the family income of which exceeds 200 percent of the poverty line, the amount of a premium subsidy adjustment specified in this paragraph for a premium subsidy eligible child shall be determined by substituting the “applicable percentage” for “90 percent” in subparagraph (A).

(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the term “applicable percentage” shall be determined using the following table:

<table>
<thead>
<tr>
<th>Income</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does not exceed 200 percent of poverty</td>
<td>100%</td>
</tr>
<tr>
<td>Exceeds 200 percent but does not exceed 250 percent of poverty</td>
<td>90%</td>
</tr>
<tr>
<td>Exceeds 250 percent but does not exceed 300 percent of poverty</td>
<td>80%</td>
</tr>
<tr>
<td>Exceeds 300 percent of poverty</td>
<td>70%</td>
</tr>
</tbody>
</table>
eligible for a premium subsidy adjustment which shall, subject to subparagraph (B), be equal to 10 percent of the annual premium for the child for such year for coverage of the child under a certified health plan.

(B) LIMITATION.—The amount of a subsidy adjustment for which a premium subsidy eligible child is eligible under subparagraph clause (A) shall be limited to the average coverage amount for the child as determined under section 101(b)(3), for the certification of health plans so long as such criteria do not directly conflict with the goals of the criteria described in such section; or

(2) To those premiums implemented, or continues in effect any standard or requirement relating solely to health insurance issuers in connection with certified health plans or the certification of eligible children to the extent that such standard or requirement prevents the application of a requirement of this title.

108. MISCELLANEOUS PROVISIONS.

(a) TRANSITION RULE.—With respect to the 12-month period described in section 266(e), such period shall be reduced as follows:

(1) For premium subsidy eligible children desiring to enroll in a certified plan during the first full month after the date on which this Act becomes effective, the period shall be 6 months.

(2) For premium subsidy eligible children desiring to enroll in a certified plan during the second full month after the date on which this Act becomes effective, the period shall be 7 months.

(3) For premium subsidy eligible children desiring to enroll in a certified plan during the third full month after the date on which this Act becomes effective, the period shall be 8 months.

(4) For premium subsidy eligible children desiring to enroll in a certified plan during the fourth full month after the date on which this Act becomes effective, the period shall be 9 months.

(5) For premium subsidy eligible children desiring to enroll in a certified plan during the fifth full month after the date on which this Act becomes effective, the period shall be 10 months.

(6) For premium subsidy eligible children desiring to enroll in a certified plan during the sixth full month after the date on which this Act becomes effective, the period shall be 11 months.

TITLE II—HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN

SEC. 201. EXPANDING HEALTH INSURANCE COVERAGE FOR PREGNANT WOMEN.

(a) ESTABLISHMENT OF GRANT PROGRAM.—

The Secretary shall establish a program to provide grants to States to enable such States to assist pregnant women in obtaining appropriate prenatal, perinatal and postnatal care.

(b) APPLICATION.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From the amount available for grants under subsection (e) for a fiscal year, the Secretary shall award a grant to each State in an amount that is equal to an amount which bears the same relation to the average per capita cost of providing health insurance coverage for pregnant women in the State as determined under paragraph (2) to the average amount of the State as determined under subsection (a) for grants under this section.

(2) PREGNANCY COVERAGE AMOUNT.—For purposes of paragraphs (1) and (2), the pregnancy coverage amount of a State shall be equal to—

(A) the number of estimated uninsured pregnant women in the State the family income of which does not exceed 300 percent of the poverty line for a family of the size involved; and

(B) an amount which bears the same relation to the average per capita cost of providing pregnancy benefits to such women as determined under paragraph (1).
described in subparagraphs (A) and (B) of paragraph (2).

Use of Amounts.—A State shall use amounts received under a grant provided under this section to assist pregnant women in obtaining appropriate prenatal, perinatal and postnatal care as approved by the Secretary.

Authorization of Appropriations.—

There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 301. GRANTS FOR INNOVATIVE OUTREACH.

(a) Establishment of Grant Program.—The Secretary shall establish a program to provide categorical grants to States to assist children and pregnant women in obtaining health care services and coverage for which they are eligible.

(b) Application.—To be eligible to receive a grant under this section, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(c) Amount of Grant.—The Secretary shall determine the amount of a grant provided under this section.

(d) Use of Amounts.—A State shall use amounts received under a grant provided under this section to carry out innovative outreach activities to promote the timely enrollment of children and pregnant women in health plans or other programs that provide prenatal care and other pregnancy-related services or comprehensive care for children.

Authorization of Appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE III—CHILDREN’S HEALTH COVERAGE SUBSIDY CREDITS

SEC. 302. HEALTH COVERAGE PROVIDED TO PREMIUM ELIGIBLE CHILDREN THROUGH A TAX CREDIT FOR INSURERS.

(a) Determination of Amount.—There shall be allowed as a credit against the applicable Federal insurance tax imposed by this subtitle for the taxable year an amount equal to the premium subsidy provided by a health insurance issuer for coverage under subsection (a) or more certified health plans during the taxable year under the Children’s Health Coverage Act.

(b) Applicable Tax.—For purposes of this section, the term ‘applicable tax’ means the excess (if any) of—

(1) the sum of—

(A) the tax imposed under this chapter (other than the taxes imposed under the provisions of subparagraphs (C) through (O) of section 26(b)(1)), plus

(B) the tax imposed under chapter 21, over

(2) the credits allowable under subparts B and D of this part.

(c) Eligible Premium Subsidies.—The term ‘eligible premium subsidies’ means premium subsidies for premium subsidy eligible children (as defined in section 26(b) of the Children’s Health Coverage Act).

d) Other Definitions.—For purposes of this section, the term ‘health insurance issuer’ includes any entity that provides a ‘certified health plan’ have the meaning given those terms by section 2 of the Children’s Health Coverage Act.

(b) Transfer to Trust Funds.—The Secretary shall transfer from the general fund to the Old-Age, Survivors, and Disability Insurance Trust Fund and to the Hospital Insurance Trust Fund amounts equivalent to the amount of the reduction in taxes imposed by section 3111 of the Internal Revenue Code of 1986 by reason of the credit determined under section 302(b) (relating to the children’s health coverage subsidy credit for insurers). Any such transfer shall be made at such time and in such manner as the Secretary determines would have been deposited in either such Trust Fund.

Conforming Amendment.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

Sec. 30B. Children’s health coverage subsidy credit for insurers.

Effective Date.—The amendments made by this section shall be treated as though made by this section, the terms ‘health insurance issuer’ and ‘certified health plan’ have the meaning given those terms by section 2 of the Children’s Health Coverage Act.

S. 14. A bill to provide for retirement savings and security, and for other purposes; to the Committee on Finance.

Retirement Security Act of 1997

Mr. Kennedy, Mr. President, today I join with the distinguished Minority Leader, Senator Daschle, in co-sponsoring legislation that would give me the great pleasure of introducing the future of working families in this country. One of this Congress’s highest priorities should be pension reform.

The Treasury now spends $66 billion a year in tax subsidies to encourage pension coverage, but working families are not getting full value for this money. 56 percent of the workforce is not currently covered by any private pension plan. The situation is worse for employees of small businesses. Eighty-five percent of those employed by firms with fewer than 25 workers have no pension coverage. For low-wage workers, the situation is worst of all. More than 28 million employees—80 percent—who earn under $15,000 a year are not covered by a pension plan. Forty-one million employees who earn less than $30,000 a year do not participate in a retirement plan—60 percent.

Women make up an excessive portion of the working population that is not covered by a pension plan. Employees covered by union agreements are nearly twice as likely to have a pension, but women are half as likely to hold these jobs. More than eight million women who work for small firms have no access to pension coverage. Low-wage women are especially hard-hit. Sixty percent of those earning under $15,000 a year are women. Nearly sixteen million women who earn less than $15,000 a year are not participating in a pension plan—80 percent. Twenty-three million women earning less than $30,000 a year don’t participate in a retirement plan—nearly 60 percent.

Women are more than twice as likely as men to hold part-time jobs with no pension coverage. Women make up more than half the workforce in industries with the lowest rates of pension coverage—such as the service and retail industries. In those industries with higher rates of access to pensions—mining, durable manufacturing, and communications—women make up just one-fourth of the workforce.

We must change these figures. I am proud to join in sponsoring the Retirement Security Act that Senator Daschle is introducing today to deal with these serious problems.

This bill will make real progress in expanding access to pensions for all working families. It will facilitate retirement savings by millions of Americans, by enabling workers to ask their employers to set aside savings from paychecks and deposit the savings directly into retirement accounts. This “pension checkoff” is a simple, practical step to make the private pension system more accessible to all workers.

The bill will also provide tax incentives for low-wage employees to set aside money for retirement. Families
on the lower rungs of the economic ladder deserve a secure income when they retire. This bill will reform the tax laws to make them more beneficial to low-income workers. No one who works for a living should have to retire in poverty.

The bill advances other important goals as well. It strengthens the security of the pension system, so that the benefits families rely on will be there when they retire. It will stop employers from forcing employees to invest their retirement contributions in the employer's stock, against the workers' wishes. It will provide closer monitoring of pension plan terminations, to prevent companies from raiding employee pensions.

The bill also promotes pension portability. The checkoff system will allow employees to continue saving for retirement even if they change jobs or leave the labor market for a time. Wherever they go, they can take their pension plan with them. In addition, the bill makes it easier for employees to roll over their retirement accounts to a new employer's plan.

The bill will remove the most significant obstacles to pension coverage for women. It builds on the efforts of Senator MOSLEY-BRAUN and Senator BOXER in the last Congress to improve pension benefits for surviving spouses. It will also enable spouses to contribute to IRAs. The pension checkoff system will benefit millions of working women whose employers do not provide pension plans.

I commend Senator DASCHLE for the leadership he has shown in introducing this important bill. At a time when Social Security is facing tremendous budget pressure, it is essential that the private pension system be accessible and affordable to every working family. I look forward to working with colleagues on both sides of the aisle to pass this necessary legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Security Act of 1997".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Title I—Pension Access and Coverage
- Title II—Security
- Title III—Portability
- Title IV—Toward Equity for Women
- Title V—Date for Adoption of Plan Amendments

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Sec. 103. Contributions to individual retirement plans.
Sec. 104. Investment options.
Sec. 105. Accounting and information.
Sec. 106. Administrative costs.
Sec. 107. Fiduciary responsibilities; liability and penalties; bonding; investigative authority.
Sec. 108. Selection of contractor.

CHAPTER 2—NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT ACCOUNTS

Sec. 111. Nonrefundable tax credit for contributions to individual retirement plans.

CHAPTER 3—EXPANDED INDIVIDUAL RETIREMENT ACCOUNTS TO INCREASE COVERAGE AND PORTABILITY

SUBCHAPTER A—IRA DEDUCTION

Sec. 112. Increase in income limitations.
Sec. 113. Inflation adjustment for deductible amount and income limitations.

SUBCHAPTER B—DISTRIBUTIONS AND INVESTMENTS

Sec. 114. Distributions from IRAs may be used without additional tax to purchase first homes, to pay higher education, or to pay financially devastating medical expenses.
Sec. 115. Contributions must be held at least 5 years in certain cases.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

Sec. 116. Periodic pension benefits statements.

Subtitle B—Improved Fairness in Retirement Plan Benefits

Sec. 117. Amendments to simple retirement plans.
Sec. 118. Nondiscrimination rules for qualified cash or deferred arrangements.
Sec. 119. Definition of highly compensated employees.

Subtitle C—Improving Retirement Plan Coverage

Sec. 120. Credit for pension plan start-up costs for small employers.
Sec. 121. Treatment of multiemployer plans under section 415.
Sec. 122. Exemption of mirror plans from nondiscrimination rules.
Sec. 123. Special rules for self-employed individuals.
Sec. 124. Improving participation in the thrift savings plan for Federal employees.
Sec. 125. Modification of 10 percent tax for noncontributory distributions.

Subtitle D—Simplifying Plan Requirements

Sec. 126. Full funding limitation for multiemployer plans.
Sec. 127. Elimination of partial termination costs for multiemployer plans.
Sec. 128. Modifications to nondiscrimination and minimum participation rules with respect to governmental plans.
Sec. 129. Elimination of requirement for plan descriptions and the filing requirement for summary plan descriptions and descriptions of material modifications to a plan; technical corrections.
Sec. 130. New technologies in retirement plans.

TITLE II—SECURITY

Sec. 200. Amendment of ERISA.
Sec. 201. General Provisions

Sec. 202. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
Sec. 203. Study on investments in collectibles.
Sec. 204. Qualified employer plans prohibited from making loans through credit cards and other intermediaries.
Sec. 205. Multiemployer plan benefits guaranteed.
Sec. 206. Prohibited transactions.
Sec. 207. Substantial owner benefits.
Sec. 208. Reversion report.
Sec. 209. Development of additional remedies.

Subtitle B—ERISA Enforcement

Sec. 210. Repeal of limited scope audit.
Sec. 211. Additional requirements for qualified public accountants.
Sec. 212. Clarification of fiduciary penalties.
Sec. 213. Conforming amendments relating to ERISA enforcement.

TITLE III—PORTABILITY

Sec. 301. Faster vesting of employer matching contributions.
Sec. 302. Rationalization of the restrictions on distributions from 401(k) plans.
Sec. 303. Treatment of transfers between defined contribution plans.
Sec. 304. Missing participant fund.

TITLE IV—TOWARD EQUITY FOR WOMEN

Sec. 401. Individual's participation in plan not treated as participation by spouse.
Sec. 402. Modifications of joint and survivor annuity requirements.
Sec. 403. Division of pension benefits upon divorce.
Sec. 404. Deferred annuities for surviving spouses of Federal employees.
Sec. 405. Payment of lump-sum credit for former spouses of Federal employees.
Sec. 406. Women's pension toll-free phone number.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

Sec. 501. Date for adoption of plan amendments.

TITLE I—PENSION ACCESS AND COVERAGE

Sec. 100. Amendment of 1986 Code.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Improved Access to Individual Retirement Savings

CHAPTER 1—CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS THROUGH PAYROLL DEDUCTIONS

Sec. 101. Definitions.

For purposes of this chapter:

(1) CONTRACTOR.—The term "contractor" means the private entity awarded a contract by the Secretary of Labor under section 108.

(2) CONTRIBUTION CERTIFICATE.—The term "contribution certificate" means a certificate submitted by an eligible employee to the employee's employer and the contractor which—

(A) identifies the employee by name, address, and social security number,

(B) includes a certification by the employee that the employee is an eligible employee, and

(C) identifies the amount of the contribution to an individual retirement plan the employee wishes to make for the taxable year through a payroll deduction, not to exceed...
the amount allowed under section 408 of the Internal Revenue Code of 1986 to an individual retirement plan for such year.

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means, with respect to any taxable year, an employee whose employer does not sponsor a qualified retirement plan (as defined in section 407(c) of the Internal Revenue Code of 1986).

(B) EMPLOYEE.—The term "employee" does not include an employee as defined in section 3401(a) of the Internal Revenue Code of 1986.

(3) INDIVIDUAL RETIREMENT PLANS.—

(A) IN GENERAL.—The term "individual retirement plan" has the meaning given the term in section 3401(a)(37) of the Internal Revenue Code of 1986.

(B) APPLICATION OF RULES.—Rules applicable to an individual retirement plan under the Internal Revenue Code of 1986 are applicable to an individual retirement plan referred to in this chapter.

SEC. 102. ESTABLISHMENT OF PAYROLL DEDUCTION AND INVESTMENT SYSTEM.

The contractor shall establish a system under which—

(1) eligible employees, through employer payroll deduction systems, may make contributions to individual retirement plans, and

(2) amounts in the individual retirement plans are invested as provided in section 104.

SEC. 103. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—The system established under section 102 shall provide that contributions made to an individual retirement plan for any taxable year are—

(1) contributions under an employer payroll deduction system, and

(2) additional contributions which, when added to contributions under paragraph (1), do not exceed the amount allowed under section 408 of the Internal Revenue Code of 1986 for the plan for such year.

(b) EMPLOYER PAYROLL DEDUCTION SYSTEMS.—

(1) IN GENERAL.—The system established under section 102 shall provide that contributions made to an individual retirement plan for any taxable year are—

(i) a statement relating to the individual's earnings;

(ii) the amount allocated to the individual's account in each qualified professional asset management plan;

(iii) the amount the individual may elect to transfer to another qualified professional asset management plan;

(iv) the amount the individual may elect to transfer to a non-qualified professional asset management plan;

(v) the amount the individual may elect to receives information on how to make informed investment decisions and how to achieve retirement objectives.

(b) ADDITIONAL INFORMATION.—

(1) IN GENERAL.—The system established under section 102 shall provide for the furnishing of additional information to eligible employers to assist eligible employers in establishing and maintaining an individual retirement plan and of transferring amounts to such plans.

(2) PLAN PARTICIPANTS.—

(A) IN GENERAL.—Such system shall provide that each individual for whom an individual retirement plan is maintained shall be periodically furnished with—

(i) a statement relating to the individual's plan, and

(ii) a summary description of the investment options under the system and a history of the investment performance of such options during the 5-year period preceding the evaluation.

(3) PLAN VALUATION.—Such system shall also provide that each individual for whom an individual retirement plan is established shall be entitled, upon request, to a periodic valuation of amounts in each fund described in section 104(b) in order to enable the individual to make an election to transfer such amounts between funds.

(4) INVESTMENT INFORMATION.—The contractor shall also make available to eligible employees information on how to make informed investment decisions and how to achieve retirement objectives.

(5) INFORMATION NOT INVESTMENT ADVICE.—Information provided under this subsection

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The contractor shall provide for—

(A) the allocation to each plan of an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in such plan, and

(B) the use of such plan for the plan's appropriate share of the administrative expenses to be paid out.

(3) EXAMINATION OF PLANS.—

(A) IN GENERAL.—The contractor shall annually engage, on behalf of all individuals for whom an individual retirement plan is maintained, an independent qualified public accountant (within the meaning of section 103(a)(3)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 102(a)(3)(D)) who shall conduct an examination during the 5-year period preceding the evaluation.
shall not be treated as investment advice for purposes of any Federal or State law.

SEC. 106. ADMINISTRATIVE COSTS.

(a) In General.—Except as provided from amounts described in section 401(k), any expenditures incurred by the Secretary of Labor shall be treated in the same manner as such provisions apply to the Thrift Savings Fund.

SEC. 108. SELECTION OF CONTRACTOR.

(a) Selection.—(1) In General.—The Secretary of Labor shall select a contractor on a competitive basis, the duties under this chapter to a private entity.

(b) Treatment as Trustee.—For purposes of section 219 of the Internal Revenue Code of 1986 the Secretary shall provide public comment prior to implementation.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as are necessary for the Secretary of Labor to design and award the contract described in section 408(a)(2) of such Code.

SEC. 112. INCREASE IN INCOME LIMITATIONS.

(a) In General.—Subparagraph (B) of section 219(g)(3) (defining applicable dollar amount) is amended by inserting after the item relating to a self-employed individual the following new subsection:

``(2) $50,000 ($45,000 in the case of taxable years beginning in 1997, 1998, or 1999)''.

(b) Effective Date of Amendments.—The amendments made by this section apply to taxable years beginning after December 31, 1997.
"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting calendar year 1996 for calendar year 1992 in subparagraph (B) thereof.

"(2) APPLICABLE DOLLAR AMOUNT.—In the case of any taxable year beginning in a calendar year after 2002, the applicable dollar amounts under subsection (g)(3)(B) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by—

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting calendar year 1999 for calendar year 1992 in subparagraph (B) thereof.

"(3) Rounding rules.—

(A) DEDUCTION AMOUNTS.—If any amount after adjustment under paragraph (1) is not a multiple of $500, such amount shall be rounded to the nearest multiple of $500.

(B) APPLICABLE DOLLAR AMOUNTS.—If any amount after adjustment under paragraph (2) is not a multiple of $5,000, such amount shall be rounded to the nearest multiple of $5,000.

"(4) CONFORMING AMENDMENTS.—

(1) Section 408(a)(11) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

"(5) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

Subchapter B—Distributions and Contributions

SEC. 131. DISTRIBUTIONS FROM IRAS MAY BE USED WITHOUT ADDITIONAL TAX TO PURCHASE FIRST HOMES, TO PAY HIGHER EDUCATION, OR TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new paragraph:

(E) DISTRIBUTIONS FROM CERTAIN PLANS FOR FIRST HOMEBUYER, HIGHER EDUCATION, OR TO PAY FINANCIALLY DEVASTATING MEDICAL EXPENSES.—Distributions from an individual's retirement plan—

(i) which are qualified first-time homebuyer distributions (as defined in paragraph (7)); or

(ii) to the extent such distributions do not exceed the qualified higher education expenses (as defined in paragraph (8)) of the taxpayer for the taxable year.

(b) FINANCIALLY DEVASTATING MEDICAL EXPENSES.—

(1) IN GENERAL.—The term "qualified higher education expenses" means—

(A) amounts paid or incurred by an individual to the extent such payment or distribution received by an individual to the extent such payment or distribution is used for the purpose of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

(B) QUALIFIED ACQUISITION COSTS.—For purposes of this paragraph, the term "qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a residence. Such term includes any usual or reasonable settlement, financing, or other closing costs.

"(C) FIRST-TIME HOMEBUYER; OTHER DEFINITIONS.—For purposes of this paragraph—

(i) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means any individual if—

(I) such individual (and if married, such individual's spouse) has no prior ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the principal residence to which this paragraph applies,

(II) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A).

In the case of an individual described in section 144(i)(1)(C) for any year, an ownership interest shall not include any interest under a contract of deed described in such section.

An individual who loses an ownership interest in a principal residence incident to a divorce or legal separation is deemed for purposes of this subparagraph to have had no ownership interest in such principal residence within the period referred to in subclause (I).

(ii) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 1034.

(iii) DATE OF ACQUISITION.—The term "date of acquisition" means the date—

(I) on which a binding contract to acquire the principal residence to which this paragraph applies is entered into,

(II) on which construction or reconstruction of such a principal residence is commenced.

(D) SPECIAL RULE WHERE DELAY IN ACQUISITION.—Any portion of any distribution from any individual retirement plan which fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except—

(I) such portion shall not be applied to such portion, and

(ii) such portion shall not be taken into account in determining whether section 408(d)(3)(B) applies to any other amount.

(E) ELIGIBLE EDUCATION EXPENSES.—For purposes of paragraph (2)(E)(ii)

(A) IN GENERAL.—The term "qualified higher education expenses" means—

(i) the taxpayer,

(ii) the taxpayer's spouse, or

(iii) a dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151(c)(3) or (5),

as defined in this section, and

(iv) an eligible student,

as defined in this section.

(B) EXCEPTIONS.—The term "qualified higher education expenses" does not include—

(i) expenses with respect to any course or other education involving sports, games, or hobbies, unless such expenses—

(I) are part of a degree program, or

(II) are deductible with respect to the same tax year as such course or other education.

(ii) any student activity fees, athletic fees, insurance expenses, or other expenses unrelated to a student's academic course of instruction.

(C) COORDINATION WITH SAVINGS BOND PROVISIONS.—The amount of qualified higher education expenses shall be reduced by any amount excludable from gross income under section 135.

(D) ELIGIBLE STUDENTS.—For purposes of subparagraph (A), the term "eligible student" means a student who—

(i) meets the requirements of section 408(d)(3)(A) (relating to the Higher Education Act of 1965 (20 U.S.C. 1091(a)(1)), as in effect on the date of the enactment of this section, and

(ii) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education, or

(iii) is enrolled in a course which enables the student to improve the student's job skills or to acquire new job skills.

(E) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" means an institution whose courses include—

(i) courses described in section 144(i)(1)(C) for any year, and

(ii) courses described in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this section, and

(iii) are eligible to participate in programs under title IV of such Act.

(E) ORDERING RULE.—For purposes of this paragraph—

(ii) the first-in, first-out rule.

(D) DISTRIBUTIONS TO AN INDIVIDUAL FOR FIRST HOME PURCHASES OR EDUCATIONAL PURPOSES.—Distributions made by this section shall apply to payments and distributions after December 31, 1996.

SEC. 132. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS.

(A) IN GENERAL.—Section 72(t), as amended by section 133(c), is amended by adding at the end the following new paragraph:

(9) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.

(1) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

(B) ORDERING RULE.—For purposes of this paragraph—

(1) FIRST-IN, FIRST-OUT RULE.—Distributions shall be treated as having been made—

(i) first from the earliest contribution account (and earnings allocable thereto) remaining in the account at the time of the distribution, and

(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

(C) ALLOCATION OF EARNINGS.—Earnings shall be allocated to contributions in such manner as provided by the Secretary.

(D) AGGREGATIONS OF CONTRIBUTIONS.—Except as provided by the Secretary, for purposes of this subparagraph—

(i) all contributions which are made during the same taxable year may be treated as 1 contribution, and
“(II) all contributions made before the first day of the 5-year period ending on the day before any distribution may be treated as 1 contribution.

(b) RULE FOR ROLLOVERS.—

‘‘(i) PENSION PLANS.—Subparagraph (A) shall not apply to distributions out of an individual retirement plan which are allocable to rollover contributions to which section 402(c), 403(a)(4), or 403(b)(8) applied.

‘‘(ii) CONTRIBUTION PERIOD.—For purposes of subparagraph (A), amounts shall be treated as having been contributed by a plan during any period such contributions were held (or are treated as held under this clause) by any individual for a retirement plan from which transferred.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1996.

CHAPTER 4—PERIODIC PENSION BENEFITS STATEMENTS

SEC. 141. PERIODIC PENSION BENEFITS STATEMENTS.

(a) IN GENERAL.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1050) is amended by striking ‘‘shall furnish to any plan participant or beneficiary who so requests in writing, a statement described in subsection (a)(a)’’ and inserting ‘‘shall furnish at least 90 days before any distribution may be treated as meeting the requirements of subparagraph (A)(v) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions of 1 percent or 3 percent of compensation, respectively, unless the plan participants are notified in writing (either separately or as part of the notice under section 408(p)(2)(C)) that such contributions may be transferred without cost or penalty to another individual account or annuity.’’.

(b) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052) is amended to read as follows:

‘‘(D) The date on which there is a rollover of the assets of the account to any other simple retirement account or individual retirement plan.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the earlier of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under section 408(p) of the Internal Revenue Code of 1986, no plan sponsor who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from—

(A) the designation of the trustee or issuer of such account, or

(B) the manner in which the assets in the account are invested,

and

(b) FIDUCIARY DUTIES. Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended—

‘‘(a)(1) In the case of a simple retirement account which meets the requirements of section 408(p) of the Internal Revenue Code of 1986, no plan sponsor who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from—

(A) the designation of the trustee or issuer of such account, or

(B) the manner in which the assets in the account are invested,

(2) by striking ‘‘D EFINITIONS’’ in the heading of section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following new paragraph:

‘‘(b) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052) is amended to read as follows:

‘‘Subject to an effective date that is at least 90 days before any distribution may be treated as meeting the requirements of subparagraph (A)(v) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions of 1 percent or 3 percent of compensation, respectively, unless the plan participants are notified in writing (either separately or as part of the notice under section 408(p)(2)(C)) that such contributions may be transferred without cost or penalty to another individual account or annuity.’’.

(2) by striking paragraph (2) in subsection (d), and

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the earlier of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under section 408(p) of the Internal Revenue Code of 1986, no plan sponsor who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from—

(A) the designation of the trustee or issuer of such account, or

(B) the manner in which the assets in the account are invested,

and

(b) FIDUCIARY DUTIES. Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended—

‘‘(a)(1) In the case of a simple retirement account which meets the requirements of section 408(p) of the Internal Revenue Code of 1986, no plan sponsor who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from—

(A) the designation of the trustee or issuer of such account, or

(B) the manner in which the assets in the account are invested,

(2) by striking ‘‘D EFINITIONS’’ in the heading of section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following new paragraph:

‘‘(b) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052) is amended to read as follows:

‘‘Subject to an effective date that is at least 90 days before any distribution may be treated as meeting the requirements of subparagraph (A)(v) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions of 1 percent or 3 percent of compensation, respectively, unless the plan participants are notified in writing (either separately or as part of the notice under section 408(p)(2)(C)) that such contributions may be transferred without cost or penalty to another individual account or annuity.’’.

(2) by striking paragraph (2) in subsection (d), and

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the earlier of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under section 408(p) of the Internal Revenue Code of 1986, no plan sponsor who is otherwise a fiduciary shall be liable under this part for any loss, or by reason of any breach, which results from—

(A) the designation of the trustee or issuer of such account, or

(B) the manner in which the assets in the account are invested,
section shall apply to taxable years beginning after December 31, 1997.

SEC. 152. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Subparagraph (B) of section 401(k)(12) (relating to alternative methods of meeting nondiscrimination requirements) is amended to read as follows:—
``(B) NONELECTIVE AND MATCHING CONTRIBUTIONS.—
(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

(ii) NONELECTIVE CONTRIBUTIONS.—The requirements of this clause are met if, under the arrangement, the employer makes contributions on behalf of each employee who is not a highly compensated employee, and who is eligible to participate in the arrangement in an amount equal to at least 1 percent of the employee’s compensation.

(iii) MATCHING CONTRIBUTIONS.—The requirements of this clause are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to the lesser of—

(1) a percentage equal to the aggregate amount that would not be treated as matching the requirements of subparagraph (B) or (C) unless such requirements are met with regard to subsection (i), and, for purposes of subsection (ii), and, for purposes of subsection (i), unless contributions provided under a plan satisfy subsection (a)(4) on the basis of equivalent benefits, employer contributions under subparagraph (B) or (C) of section 401(k) are reduced by one-half of any employee to a qualified pension plan or a qualified employer payroll deduction system.

(b) CONTRIBUTIONS TO PART OF QUALIFIED CASH OR DEFERRED ARRANGEMENT.—Subparagraph (E)(ii) of section 401(k)(12), as so added, is amended to read as follows:—
``(E) NONELECTIVE AND MATCHING CONTRIBUTIONS.—
(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

(ii) NONELECTIVE CONTRIBUTIONS.—The requirements of this clause are met if, under the arrangement, the employer makes contributions on behalf of each employee who is not a highly compensated employee, and who is eligible to participate in the arrangement in an amount equal to at least 1 percent of the employee’s compensation.

(iii) MATCHING CONTRIBUTIONS.—The requirements of this clause are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee, and who is eligible to participate in the arrangement in an amount equal to the lesser of—

(1) a percentage equal to the aggregate amount that would not be treated as matching the requirements of subparagraph (B) or (C) unless such requirements are met with regard to subsection (i), and, for purposes of subsection (ii), and, for purposes of subsection (i), unless contributions provided under a plan satisfy subsection (a)(4) on the basis of equivalent benefits, employer contributions under subparagraph (B) or (C) of section 401(k) are reduced by one-half of any employee to a qualified pension plan or a qualified employer payroll deduction system.

(c) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Subsection (b) of section 401(m)(3) (relating to alternative method of satisfying tests) is amended—

(1) by striking “(f)" in subparagraph (B), and

(2) by striking the section heading and inserting—
``(f) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—
``(1) IN GENERAL.—The requirements of this subsection are met if, under the arrangement, the employer makes contributions on behalf of each employee who is not a highly compensated employee, and who is eligible to participate in the arrangement in an amount equal to the lesser of—

(1) a percentage equal to the aggregate amount that would not be treated as matching the requirements of subparagraph (B) or (C) unless such requirements are met with regard to subsection (i), and, for purposes of subsection (ii), and, for purposes of subsection (i), unless contributions provided under a plan satisfy subsection (a)(4) on the basis of equivalent benefits, employer contributions under subparagraph (B) or (C) of section 401(k) are reduced by one-half of any employee to a qualified pension plan or a qualified employer payroll deduction system.

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—Subparagraph (E) of section 401(k)(3) is amended to read as follows:—
``(E) For purposes of this paragraph, in the case of the first plan year after the period described in paragraph (1), the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

(1) 1 percent, or

(ii) the actual deferral percentage of non-highly compensated employees determined for such first plan year.

(iii) an employer who elects to have this clause apply, or

(iv) except as the extent provided by the Secretary, a successor plan.
``(E) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1433 of the Small Business Job Protection Act of 1996.

SEC. 153. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Subparagraph (B) of section 414(q)(1) (defining highly compensated employee) is amended by adding at the end the following new paragraph:
``(8) employees who are included in the amendments made by section 38(b) (defining current year business credit) and
``(9) employees who are included in the amendments made by section 38(b) (defining currently business credit) but are not included in the amendments made by section 38(b) (defining current year business credit).
``(b) APPLICABILITY.—(1) For purposes of this section, the term ‘eligible employer’ means an employer which—

(1) had an average daily number of employees during the preceding taxable year not in excess of 50, and

(2) did not make any contributions on behalf of any employee to a qualified pension plan or a qualified employer payroll deduction system.

(c) DETERMINATION OF AVERAGE DEFERRAL PERCENTAGE.—(1) A AGREGATION RULES.—All persons included in the definition of ‘eligible employer’ under section (a) or (b) of section 52 or subsection (d) of section 414(r) shall be treated as a single person.

(2) AGGREGATION RULES.—All persons related to the eligible employer shall be treated as a single person.

(d) COLLECTION OF TAX.—For purposes of this section, the term ‘eligible employer’ means an employer which—

(1) had an average daily number of employees during the preceding taxable year not in excess of 50, and

(2) did not make any contributions on behalf of any employee to a qualified pension plan or a qualified employer payroll deduction system.

(e) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED START-UP COSTS.—The term ‘qualified start-up costs’ means any ordinary and necessary expenses of an eligible employer which—

(A) are paid or incurred in connection with the establishment of a qualified pension plan or a qualified employer payroll deduction system, and

(B) are of a nonrecurring nature.

(2) QUALIFIED PENSION PLAN.—The term ‘qualified pension plan’ means—

(A) a defined benefit plan described in section 401(a)(17), (24), or (25), and

(B) a simplified employee pension (as defined in section 414(q)(3)).

(3) QUALIFIED EMPLOYER PAYROLL DEDUCTION SYSTEM.—The term ‘qualified employer payroll deduction system’ means a system described in section 103 of the Retirement Security Act of 1997.

(f) SPECIAL RULES.—For purposes of this section—

(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (c)(1) or section 52 or subsection (d) of section 414(r) shall be treated as one person.
"(2) DISALLOWANCE OF DEDUCTION.—No de-
duction shall be allowable under this chapter for any qualified start-up costs for which a credit is allowable under subsection (a)."

(c) EXEMPTION FOR MULTIEmployER PLANS.—

(1) Section 457(d) is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF PENSION CREDIT.—No portion of the unused business credit (as defined in section 4972(c)(10), as amended by this section) attributable to the small employer pension plan start-up cost credit determined under section 45D may be carried back to a taxable year ending before the date of the enactment of section 49D."

(2) The table of sections for part IV of chapter 1 of title 53 is amended by adding at the end the following new item:

"Sec. 45D. Small employer pension plan start-up cost credit.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 162. TREATMENT OF MULTIEmployER PLANS UNDER SECTION 415.

(a) COMPENSATION LIMIT.—Paragraph (1) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

"(1) IN GENERAL.—Subsections (b)(2) and (c)(1) shall not apply to any excess benefit arrangement and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan.

"(B) EXCESS BENEFIT ARRANGEMENT DEFINED.—For purposes of this section, the term ‘excess benefit arrangement’ means a plan which is maintained by an eligible employer solely for purposes of providing benefits for employees in excess of the limits on contributions and benefits imposed by section 415. Such term includes a qualified governmental excess benefit arrangement (as defined in section 415(m)(3))."

(2) CONFORMING AMENDMENT.—Subpara-
graph (E) of section 457(f)(2) (relating to tax treatment of participants where plan or arrangement is not eligible) is amended to read as follows:

"(E) an excess benefit arrangement (as de-
defined in subsection (e)(2)(B))."

(c) EXEMPTION FOR SURVIVOR AND DISABIL-

(1) by inserting ‘‘or a multiemployer plan’’ (as defined in section 4972(c)(10)) after ‘‘after section 45G(d)’’ in clause (i),

(2) by Israel ‘‘or multiemployer plan’’ after paragraph (3) in clause (ii), and

(3) by inserting ‘‘and multiemployer plan’’ after ‘‘governmental’’ in the heading.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1444 of the Small Business Job Protection Act of 1996.
A) by inserting “(3 years in the case of a multiemployer plan)" after “year”, and
B) by striking “ANNUAL VALUATION” in the heading and inserting “VALUATION”.

(2) AMENDMENTS TO ERISA.—

(1) FULL-FUNDING LIMITATION.—Section 302(c)(7)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(c)(7)(C)) is amended—

(A) by inserting “or in the case of a multiemployer plan,” after “paragraph (B)(i),” and
B) by striking and inserting “and multiemployer plans” after “paragraph (B)(i)” in the heading therefor.

(2) VALUATION.—Section 302(c)(9) of such Act (29 U.S.C. 1002(c)(9)) is amended—

(A) by inserting “(3 years in the case of a multiemployer plan)’’ after “year”, and
B) by striking “ANNUAL VALUATION” in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 172. ELIMINATION OF PARTIAL TERMINATION RULES FOR MULTIEmployER PLANS.

(a) PARTIAL TERMINATION RULES FOR MULTIEmployER PLANS.—Section 411(d)(3) (relating to termination or partial termination; discontinuance of contributions) is amended by adding at the end the following new subparagraph:

“(ii) The requirements of subsection (m)(2) (including the reference to a qualifying employer security) shall apply to a governmental plan (within the meaning of section 414(d)).”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—A governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) shall be treated as satisfying the requirements of sections 403(a)(3), 403(a)(4), 403(a)(26), 401(k), 404, and 410 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 174. ELIMINATION OF REQUIREMENT FOR PLAN DESCRIPTIONS AND THE FILING REQUIREMENT FOR SUMMARY PLAN DESCRIPTIONS AND DESCRIPTIONS OF MATERIAL MODIFICATIONS TO A PLAN; TECHNICAL CORRECTIONS.

(a) FILING REQUIREMENTS.—Section 101(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(b)) is amended by striking paragraphs (1), (2), and (3) and redesignating paragraphs (4) and (5) as paragraphs (1) and (2), respectively.

(b) PLAN DESCRIPTION.—

(1) IN GENERAL.—Section 102(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1022(a)) is amended—

(A) by striking paragraph (2), and
B) by striking “(a)(3)” and inserting “(a)”.

(2) CONFORMING AMENDMENTS.—

(A) Section 102(b) of such Act (29 U.S.C. 1022(b)) is amended by striking “and Plan description shall contain” and inserting “Plan description shall contain”.

B) The heading for section 102 of such Act is amended by striking “PLAN DESCRIPTION AND”.

(c) FURNISHING OF REPORTS.—

(1) IN GENERAL.—Section 104(a)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104(a)(1)) is amended to read as follows:

“SEC. 104. (a)(1) The administrator of any employee benefit plan subject to this part shall file with the Secretary the annual report for a plan year within 210 days after the close of such year (or within such time as may be extended by the Secretary in order to reduce duplicative filing). The Secretary shall make copies of such annual reports available for inspection in the public document room of the Department of Labor.”

(2) SECRETARY MAY REQUEST DOCUMENTS.—

A) IN GENERAL.—Section 104(a) of such Act (29 U.S.C. 104(a)) is amended by adding at the end the following new paragraph:

“(6) The administrator of any employee benefit plan subject to this part shall furnish to the Secretary any documents relating to the employee benefit plan, including but not limited to, the latest summary plan description (including any summaries of changes not contained in the summary plan description), and the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or maintained, and any additional information which the Secretary may require to discharge his duties under this part.

B) PENALTY.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (6) the following new paragraph:

“(7) If, within 30 days of a request by the Secretary to a plan administrator for documents or information, the plan administrator fails to furnish the material requested, the Secretary may assess a civil penalty against the plan administrator of up to $100 a day from the date of such failure (but in no event in excess of $1,000 per request). No penalty shall be imposed under this paragraph for any failure resulting from matters reasonably beyond the control of the plan administrator.”

(d) CONFORMING AMENDMENTS.—

(1) Section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104(b)(1)) is amended by striking “section 102(a)(1)” each place it appears and inserting “section 102(a)(2)”.

(2) Section 104(b)(2) of such Act (29 U.S.C. 104(b)(2)) is amended by striking “the plan description and” and inserting “the latest updated summary plan description and”.

(3) Section 104(b)(4) of such Act (29 U.S.C. 104(b)(4)) is amended by striking “plan description”.

(4) Section 106(a) of such Act (29 U.S.C. 106(a)) is amended by striking “descriptions”.

(5) Section 107 of such Act (29 U.S.C. 1072) is amended by striking “description”.

(6) Paragraph (2)(B) of section 108 of such Act (29 U.S.C. 1072) is amended to read as follows: “(B) after publishing or filing the annual reports,”

(7) Section 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)) is amended by striking “or (5)” and inserting “(5), or (6)”.

(e) TECHNICAL CORRECTION.—Section 1144(c) of the Social Security Act (42 U.S.C. 1300b-14(c)) is amended by redesignating paragraph (9) as paragraph (8).

SEC. 175. NEW TECHNOLOGIES IN RETIREMENT PLANS.

The Secretary of the Treasury and the Secretary of Labor shall expand their efforts to examine existing guidance regarding notice, recordkeeping, and operational requirements for retirement plans, in order to permit the use of new technologies by plan sponsors and administrators in ways which maintain the protection of the rights of participants and beneficiaries.

TITLE II—SECURITY

SEC. 200. AMENDMENT OF ERISA.

Except as otherwise expressly provided, when this title makes an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to the Social Security Act (42 U.S.C. 1300b-14(c)) is amended by redesignating paragraph (9) as paragraph (8).

Subtitle A—General Provisions

SEC. 201. SECTION 401(k) INVESTMENT PROTECTION.

(a) LIMITATIONS ON INVESTMENT IN EMPLOYER SECURITIES AND EMPLOYEE REAL PROPERTY BY CASH OR Deferred ARRANGEMENTS.—Paragraph (3) of section 407(d) (29 U.S.C. 1107(d)) is amended by adding at the end the following new paragraph:

“(D) The term ‘eligible individual account plan’ does not include that portion of an individual account plan that consists of elective deferrals (as defined in section 402(g)(3) of the Internal Revenue Code of 1986) pursuant to a qualified cash or deferred arrangement as defined in section 401(k) of the Internal Revenue Code of 1986 (and earnings thereon), if such elective deferrals (or earnings thereon) are required to be invested in qualifying employer securities or qualifying employer real property as defined in this section, or to the documents and instruments governing the plan or at the direction of a person other than the participant (or the participant’s beneficiary) on whose account the deferrals are made to the plan. For the purposes of subsection (a), such portion shall be
treated as a separate plan. This subpara-
graph shall not apply to an individual ac-
count plan if the fair market value of the as-
sets of all individual account plans main-
tained by the plan satisfies an amount that
is less than 1% of the fair market value of the as-
sets of all pension plans maintained by the
employer.

SEC. 202. REQUIREMENT OF ANNUAL, DETAILED
INVESTMENT REPORTS APPLIED TO CERTAIN 401(k) PLANS.

(a) In General.—Section 104(b)(3) (29 U.S.C. 1024(b)(3)) is amended—
(1) by striking after “310”;
(2) by striking “and” after “313”; and
(3) by striking paragraphs (2), (5), and (6) each place it appears in
subsection (2).''.

(b) Regulations.—
(1) In General.—The Secretary of Labor, in
prescribing regulations required under sec-
amended—
(1) by striking “$5” each place it appears in
paragraphs (2), (5), and (6); and
(2) by redesignating paragraphs (3) (and (4) and (5), respectively).

(c) Effective Date.—The amendments
made by this section shall apply to the

SEC. 203. STUDY ON INVESTMENTS IN COLLECT-
IBLES.

(a) Study.—The Secretary of Labor shall, in
consultation with the Treasury, study the extent to which
pension plans invest in collectibles and
whether such investments present a risk to
the pension security of the participants and
beneficiaries of such plans.

(b) Report.—Not later than 12 months
date of the enactment of this Act, the Secret-
ary of Labor shall submit a report to the
Congress containing the findings of the
study described in subsection (a) and any
recommendations for legislative action.

SEC. 204. QUALIFIED EMPLOYEE DEVELOPMENT
PLANS PROHIBITED FROM MAKING LOANS
THROUGH CREDIT CARDS AND PHARMACIES.

(a) In General.—Section 401 of the Internal Revenue Code of 1986 is
amended by adding at the end the following new paragraph:
“(35) Prohibition of loans through credit cards and other intermediaries.—A
trust shall not constitute a qualified trust under this section if the plan makes any loan to
any beneficiary under the plan through the use of any credit card or any other intermediary.

(b) Effective Date.—The amendment
made by subsection (a) shall apply to plan years beginning after the date of the enactment
of this Act.

SEC. 205. MULTIEmployer PLAN BeneFITs
Guaranteed.

(a) In General.—Section 4022(c) (29 U.S.C. 1322(c)) is amended—
(1) by striking “$5” each place it appears in
paragraph (1) and inserting “$11”,
(2) by striking “$15” in paragraph (1) and inserting “$33”, and
(3) by striking paragraphs (2), (5), and (6) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) Effective Date.—The amendments
made by this section shall apply to plan years after the date of
the enactment of this Act.

SEC. 206. PROHIBITED TRANSACTIONS.

(a) In General.—Section 502(i) (29 U.S.C. 1132(i)) is amended by striking “5 percent”, and inserting “10 percent”.

(b) Effective Date.—The amendments
made by this section shall apply to prohibited transactions occurring after the date of
the enactment of this Act.

SEC. 207. SUBSTANTIAL OWNER BENEFITS.

(a) Modification of Phase-In of Guarantees.—Subparagraph (A) of section 4044(b) (29 U.S.C. 1344(b)) is amended—
(1) by striking “$50,000”, each place it appears in
paragraphs (1), (2), and (4), and inserting “$100,000”, and
(2) by striking “$100,000”, each place it appears in
paragraphs (5), (6), and (7).''.

(b) Effective Date.—The amendments
made by this section shall apply to plan years after the date of
the enactment of this Act.

(c) Conform ing Amendment.—Section 4004(b) (29 U.S.C. 1334(b)) is amended by striking “$33”, and inserting “$50”.

(d) Effective Date.—The amendments
made by this section shall apply to plan years after the date of
the enactment of this Act.

SEC. 208. REVERSION REPORT.

(a) In General.—Section 4008 (29 U.S.C. 1308) is amended by adding at the end the fol-
lowing new subsection:
“(b) Reversion Report.—As soon as prac-
ticable after the close of each fiscal year, the Secretary of Labor (acting in
the Secretary’s capacity as chairman of the corporation’s board) shall transmit to the President and
the Congress a report providing information on plans from which residual assets are dis-
tributed to employers pursuant to section 4044(d).

(b) Conforming Amendment.—Section 4008 (29 U.S.C. 1308) is amended by striking “SEC. 4008.” and inserting “SEC. 4008. (a) Annual Report.”.

(c) Effective Date.—The amendments
made by this section shall apply to fiscal years beginning after December 31, 1996.

SEC. 209. DEVELOPMENT OF ADDITIONAL REM-
EDIES.

(a) Findings.—The Congress finds that—
(1) many benefits guarantees under many of those proposed by the President and recently
signed into law, are designed to expand retire-
ment savings;
(2) this goal can be achieved in part by simplifying the pension system and reducing
administrative costs of maintaining pension
plans for all employers;
and
(3) these simplifications can benefit not only
the implementation and ongoing administra-
tion of pension plans but also the correction
anteed under this section shall not exceed the product of--
(i) a fraction (not to exceed 1) the numer-
ator of which is the number of years from the
date of the effective transfer or the date of
the plan to the termination date, and
the denominator of which is 30, and
(ii) the amount of the majority owner’s
majority owner, the amount of benefits guar-
anteed under this section shall not exceed the product of--
(i) a fraction (not to exceed 1) the numer-
ator of which is the number of years from the
date of the effective transfer or the date of
the plan to the termination date, and
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(i) a fraction (not to exceed 1) the numer-
ator of which is the number of years from the
date of the effective transfer or the date of
the plan to the termination date, and
the denominator of which is 30, and
(iii) the amount of the majority owner’s
majority owner, the amount of benefits guar-
of problems that arise in the operation of such plans;
(4) The Secretary of the Treasury has com-
monly already acted to develop programs intended to facilitate such corrections; and
(5) Efficient correction serves participants and
beneficiaries not only by fulfilling the law’s requirements regarding pension plans but also by directing funds into the retirement system rather than toward correction efforts and by en-
couraging employers to continue to sponsor support for such plans.
(b) The Sense of Congress.—It is the sense of
the Congress that the Secretary of the Treasury
should—
(1) review existing correction mechanisms to determine whether modifications might facilitate additional utilization by sponsors, improve voluntary compliance, and hasten the correction of pension plans,
(2) set out additional means of addressing nonegregious violations should be explored,
(3) make whatever legislative recom-
recommendations, if any, appear necessary to fulfill these goals, and
(4) remain cognizant that the Congress, as well as the Secretary, considers the continu-
sing need for savings for work-
ers, retirees, and beneficiaries of funda-
mental importance.
Subtitle B—ERISA Enforcement
SEC. 211. REPEAL OF LIMITED SCOPE AUDIT.
(a) In General.—Section 103(a)(3)(C) (29 U.S.C. 1023(a)(3)(C)) is amended by adding at the end of such clause:
"(ii) if an accountant is offering an opinion under this section in the case of an employee pension
benefit plan, the accountant shall, to the extent consistent with generally ac-
ccepted auditing standards, rely on the work of any independent public accountant of any
bank or similar institution or insurance car-
rier that holds assets or processes trans-
actions of the employee pension benefit plan
providing that such bank, institution, or in-
surance carrier is regulated, supervised, and
subject to periodic examination by a State or Federal agency.",
(b) Conforming Amendments.—
(1) Section 103(a)(3)(A) of such Act (29 U.S.C. 1023(a)(3)(A)) is amended by striking "subpara-
graph (C)(i)" and inserting "subpara-
graph (C)(ii)".
(2) Section 103(a)(3)(C) of such Act (29 U.S.C. 1023(a)(3)(C)) is amended by striking "(C) The" and inserting "(C)(i) In the case of
any independent public accountant of any
bank or similar institution or insurance car-
rrier that holds assets or processes trans-
actions of the employee pension benefit plan
providing that such bank, institution, or in-
surance carrier is regulated, supervised, and
subject to periodic examination by a State or Federal agency.",
(c) Effective Date.—The amendments made by paragraphs (a) and (b) shall take effect on the date of the enactment of this Act.
SEC. 212. ADDITIONAL REQUIREMENTS FOR PLANS OF PUBLIC ACCOUNTANTS.
(a) In General.—Section 103(a)(3)(D) (29 U.S.C. 1023(a)(3)(D)) is amended—
(1) by inserting "(i)" after "(D)";
(2) by inserting ", with respect to any en-
gagement of an accountant under subpara-
graph (A)" after "means";
(3) by redesigning clauses (i), (ii), and (iii) as subclauses (i), (ii), and (iii), respect-
ively;
(4) by striking the period at the end of sub-
clause (ii) (as so redesignated) and inserting a comma;
(5) by adding after subclause (iii) (as so re-
designated), and flush with clause (i), the fol-
lowing:
"but only if such person meets the require-
ments of clauses (ii) and (iii) with respect to such engagement.", and
(6) by adding at the end the following new clauses:
"(ii) A person meets the requirements of
this clause with respect to an engagement of
such person under subparagraph (A) if such person—
"(1) has in operation an appropriate inter-
nal quality control system;
"(2) is the quality control monitor, a continuing edu-
cation or training which contributes to the
accountant’s professional proficiency and
which meets such requirements as may be
prescribed by the Secretary in regulations;
(2) has completed, within the 2-year pe-
riod immediately preceding such engage-
ment, the following:
"(A) the order or requirement to pay
an amount to the plan in connection with
a violation of part 4 of this subtitle, or
"(B) the judgment, order, decree, or settle-
ment agreement expressly provides for the
offset of all or part of the amount ordered or
required to be paid to the plan against the
participant’s accrued benefit in the plan,
and
"(C) the participant has a spouse at
the time at which the offset is to be made;
"(ii) such person is qualified joint and
survivor annuity means the qualified joint and
survivor annuity which is payable during the joint
survivor annuity’ means the qualified joint and
survivor annuity.
"(B) For purposes of this paragraph, the term ‘minimum-required quali-
fi cation’ means the joint and survivor annuity which is the actuarial
equivalent of a single annuity for the life of a participant and under which the survivor annuity
is 50 percent of the amount of the annuity which is payable during the joint
life of the participant and the spouse.
(2) Effective Date.—Paragraphs (a) and (b) of this section shall apply to
judgments, orders, and decrees issued, and settle-
ment agreements entered into, on or after the date of the enactment of this Act.
(b) Civil Penalties for Breach of Fiduciary Responsibility.
(1) Imposition and Amount of Penalty Made Discretionary.—Section 502(1)(1) (29 U.S.C. 1132(1)(1)) is amended—
(A) by striking "and" and inserting "may", and
(B) by striking "equal to" and inserting "not greater than";
(2) Applicable Recovery Amount.—Sec-
tion 502(1)(2) (29 U.S.C. 1132(1)(2)) is amended to read as follows:
"(2) For purposes of paragraph (1), the term ‘applicable recovery amount’ means any amount which is recovered from (or on behalf of) any fiduciary or other person with respect to a breach or violation described in paragraph (1) on or after the date that follows by 30 days the receipt by such fiduciary or other person of written notice from the Secretary of the viola-
tion, whether paid voluntarily or by a court in a suit brought in
stituted by the Secretary under subsection (a)(2) or (a)(5). The Secretary may, in the
Secretary’s sole discretion, extend the 30-day period described in the preceding sentence.
(3) Other Rules.—Section 502(i) (29 U.S.C. 1132(i)(1)) is amended by adding at the end the following new paragraph:
"(5) A person shall be jointly and severally liable for the penalty described in paragraph..."
(1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

"(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation occurring after the 3 years of service recovery amount.".

(4) Effective dates.—

(A) In general.—The amendments made by this subsection shall apply to any breach occurring at the end of this Act or after the enactment of this Act.

(B) Transition rule.—In applying the amendment made by paragraph (2) (relating to applicable recovery amount), a breach or other violation occurring before the time during its existence shall be treated as having occurred after such date of enactment.

SEC. 234. CONFORMING AMENDMENTS RELATING TO ENFORCEMENT.

(a) Special rule for certain judgments and settlements.—Section 401(a)(13) of the Employee Retirement Income Security Act of 1974 (relating to assessment of penalties for failure to meet requirements) is amended by adding at the end the following new subparagraph:

"(C) Special rule for certain judgments and settlements.—Subparagraph (A) shall not apply to any offset of a participant's accrued benefit in a plan against an amount that the participant is ordered or required to pay to the plan:

"(i) the order or requirement to pay arises—

"(I) under a judgment of conviction for a crime involving such plan,
"(II) under a judgment of conviction for a crime involving such plan,
"(iii) if the participant has a spouse at the time at which the offset is to be made—

"(A) the later of—

"(I) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

"(B) January 1, 1998, or

"(2) Conforming amendments.—Section 401(k) plans.—A plan satisfies the requirements of this subparagraph if—

"(i) the plan includes a qualified cash or deferred arrangement (as defined in section 401(m)(4)(A)) of the Internal Revenue Code of 1986, and

"(ii) an employee who has completed at least 3 years of service is accorded a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer matching contributions (as defined in section 401(m)(4)(A)).

For purposes of this subparagraph, matching contributions shall be taken into account regardless of whether the matching contributions made with respect to such contributions are taken into account for purposes of this subparagraph if—

"(A) striking "a plan termination" and inserting "severance from service" and inserting "severance from employment".

(b) Business sale requirements deleted.—

(1) In general.—Section 401(k)(2)(B)(ii) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking "an event" and inserting "a plan termination".

(2) Conforming amendments.—Section 401(k)(10) of such Code is amended by striking subparagraph (A) and inserting the following:

"(A) In general.—A plan termination is determined in this paragraph if the termination of the plan is without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7))."

(b) by striking paragraph (A) and inserting the following:

"(A) In general.—A plan termination is determined in this paragraph if the termination of the plan is without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7))."

"(B) by striking paragraph (A), and"
SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED CONTRIBUTION PLANS.

(a) IN GENERAL.—Section 411(d)(6) of the Internal Revenue Code of 1986 (relating to accrued benefit not to be decreased by amendment) is amended by adding the following new subparagraph:

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"qualified joint and ½ survivor annuity" means an annuity—

(1) for the participant while both the participant and the spouse are alive with a survivor annuity for the life of surviving individual (either the participant or the spouse) equal to 67 percent of the amount of the annuity which is payable to the participant while both the participant and the spouse are alive,

(2) which is the actuarial equivalent of a single annuity for the life of the participant, and

(3) which, for all other purposes of this title, is treated as a qualified joint and survivor annuity.

(b) Illustration Requirement.—Clause (i) of section 417(a)(3)(A) of such Code (relating to explaining of joint and survivor annuity) is amended to read as follows:

(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and ½ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the form before any form of retirement benefit is chosen.

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 403. DIVISION OF BENEFITS UPON DIVORCE.

(a) Amendments to the Internal Revenue Code of 1986.—Subtitle (p)(2) of section 414 of the Internal Revenue Code of 1986 is amended by adding the following new subparagraph:

(1) DEEMED DOMESTIC RELATIONS ORDER UPON DIVORCE.—

(i) in general.—A divorce decree issued with respect to the participant and the former spouse pursuant to a State domestic relations law (including an annulment or other order of marital dissolution) shall, upon delivery to a plan along with the information required by subparagraph (C)(i), be deemed by the plan to be a domestic relations order issued in connection with such divorce and the numerator of which is the total period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the period of participation by the participant under the plan.

(ii) marital share.—The marital share shall be the accrued benefit of the participant under the plan as of the date of the divorce (to the extent such accrued benefit is vested as of the date of the divorce or any later date) multiplied by a fraction, the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

(iii) Interpretation As Qualified Domestic Relations Order.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies subparagraphs (C) through (E) (and a copy of such rules shall be provided to the participant and former spouse). Each plan shall permit the participant to be paid not later than the earliest retirement age under the plan.

(iv) Application.—This subparagraph shall not apply to the extent that a qualified domestic relations order issued in connection with such divorce provides otherwise.

(b) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1996.

SEC. 404. DEEMED DOMESTIC RELATIONS ORDER UPON DIVORCE.

(a) Amendments to the Internal Revenue Code of 1986.—Subtitle (p)(2) of section 414 of the Internal Revenue Code of 1986 is amended by adding the following new subparagraph:

(2) which is the actuarial equivalent of a deferred annuity under section 8338 but be

(b) Amendments to the Internal Revenue Code of 1986.—Subsection (d)(2)(B) of section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding the following new subparagraph:

(iii) Deemed Domestic Relations Order Upon Divorce.—

(i) in general.—A divorce decree issued with respect to the participant and the former spouse pursuant to a State domestic relations law (including an annulment or other order of marital dissolution) shall, upon delivery to a plan along with the information required by subparagraph (C)(i), be deemed by the plan to be a domestic relations order issued in connection with such divorce and the numerator of which is the total period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the period of participation by the participant under the plan.

(ii) marital share.—The marital share shall be the accrued benefit of the participant under the plan as of the date of the divorce (to the extent such accrued benefit is vested as of the date of the divorce or any later date) multiplied by a fraction, the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

(iii) Interpretation As Qualified Domestic Relations Order.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies subparagraphs (C) through (E) (and a copy of such rules shall be provided to the participant and former spouse). Each plan shall permit the participant to be paid not later than the earliest retirement age under the plan.

(iv) Application.—This subparagraph shall not apply to the extent that a qualified domestic relations order issued in connection with such divorce provides otherwise.

(c) Effective Date.—The amendments made by this section shall be effective for distributions made after December 31, 1996.
We must continue the successes of the 1994 Biden crime law. And, at the same time, we must take up the new challenge of confronting crime and drug abuse among our youth with a commonsense strategy balancing tough sanctions, certain punishment, and protecting literally millions of kids from the criminals and drug pushers who can target any kid from any family whose parents are at work when the school day ends.

We must continue the success of the 1994 crime law.

While I give the credit first and foremost to the police officers on our Nation’s streets, the verdict from the FBI’s national crime statistics is that since the 1994 crime law, violent crime is down and down significantly.

1996 is projected to have the lowest murder toll since 1988, and a murder rate that is lowest since 1971;

1996 is projected to have the lowest violent crime total since 1990;

the murder toll for ‘January 1, 1998’ the later of—

(1) January 1, 1998, or

(2) 90 days after the opening of the first legislative session beginning after January 1, 1999, of the governing body with authority to amend the plan, but only if such governing body does not meet continuously.

(b) GOVERNMENTAL PLANS—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subsection (a) shall be applied by substituting for “January 1, 1998” the later of—

(1) January 1, 1998, or

(2) 90 days after the opening of the first legislative session beginning after January 1, 1999, of the governing body with authority to amend the plan, but only if such governing body does not meet continuously.

(c) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS—Notwithstanding any other provision of this Act, in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, any amendment made by this Act which requires an amendment to such plan shall not be required to be made before the last day of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1998, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereafter of the date of the enactment of this Act), or

(2) January 1, 1999.

By Mr. DASCHLE (for himself, Mr. BIDEN, Mr. LEAHY, Mr. KOHL, Mr. BREAU, Mr. FORD, Ms. MIKLUSKI, Mr. DODD, Mr. DURBIN, Mr. KERRY, Mr. LEVIN, Ms. LANDRIEU, Mr. TORRICELLI, Ms. MONSEY-BRAUN, Mr. ROCKEFELLER, Mr. GLENN, and Mr. ROCKEFELLER):

S. 15. A bill to control youth violence, crime, and drug abuse, and for other purposes; to the Committee on the Judiciary.


Mr. BIDEN. Mr. President, today I rise to introduce—along with Senator DASCHLE, Senator LEAHY, and many other Senators—legislation which will be a key cornerstone of the Senate Democrats’ anti-drug focus for the new Congress.

Our thrust is clear and straightforward: We propose aggressive steps to:

Target gang paraphernalia by boosting the penalties for criminals who arm themselves with bullet-proof body armor and deadly accurate laser-sighted shotguns, and so on. And, as Senator LEAHY has identified, we must make some commonsense reforms to speed law enforcement access to the numeric pagers so often used by youth gang criminals.

Create a new crime of interstate trafficking in street gang paraphernalia—a step which better targets Federal law enforcement resources than simply federalizing ever more State crimes and encroaching upon the State’s traditional handling of juvenile crimes.

Funding increases over the 1994 crime law also means that we should increase the penalties for witness intimidation, a favored tactic of criminal street gangs.

This is a proposal outlined by the President just this weekend.

Third, we must redouble our efforts to treat and prevent youth drug abuse.

For the past several months, you have heard me modify one of the key arguments of the President’s 1992 campaign by stating—“it’s drugs, stupid, it’s drugs.”

This statement is—unfortunately—necessary in the face of rising drug abuse among our children. While drug abuse among adults is holding steady, all the surveys tell us that more and more children are falling prey to drugs.

We propose a multi-prong response, because drugs need to be fought not only in our communities, but also in our scientific laboratories where important breakthroughs are being made interdicting new medicines into criminal distribution—‘just say no’—we propose additional funding for the Federal Medications Development Program and to provide incentives to the private sector to develop new medicines to treat heroin and cocaine addiction.

We must also expand drug courts to cover 50,000 children—a vast improvement on the no drug testing, no treatment, and no threat of punishment system which typifies too many juvenile courts today.

As I proposed last year, we must tighten controls on the club drug—ketamine—that is popular with too many children today.
Funding drug treatment for 600,000 drug-addicted children is also key—particularly as our Nation stands on the edge of a baby-boomerang wave that will mean more teenagers—and more teen addicts.

Reauthorizing the drug director's office as well as the Safe & Drug-Free Schools Program which is the core of Federal drug prevention efforts are two other necessary steps.

In addition, and in response to the recent passage of so-called medical marihuana initiatives, we seek a measure which should be supported even by their proponents—a simple study to determine if drug abuse among children rises in these two States.

Fourth, we call for a renewed effort to prevent youth violence.

No where has the crime policy debate been subject to more distortions and misunderstandings than on a goal all of us should share—let's prevent kids from getting involved in crime, violence and drugs in the first place.

To get past all the misunderstanding, we propose to call upon the prestigious, non-partisan National Academy of Sciences to answer the questions—can we prevent youth crime? And, if so, how do we do so in the most efficient way possible?

Let me repeat a challenge I offered last week—I will live by the results of this study, if those who oppose prevention efforts will as well. If the national academy says we can't figure out this task, so be it, I will not seek appropriations for any funds we authorize through this legislation. But, if the national academy of sciences says that we can, I challenge all to support full funding for these crime prevention efforts.

But, in the meantime, it seems to me that we do know at least one thing about preventing youth crime and drug abuse—what we know in the simple phrase used by mothers everywhere: "Idle hands are the devil's workshop."

This refers to the commonsense notion that if we can just get kids off the streets and into supervised programs during the after school hours when kids are likely to be the victims of gangs and criminals or the customers of drug pushers—if we can just do that simply things, with boys and girls clubs or more drug prevention efforts we can make important inroads against drug abuse and crime among children.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 15

BE IT ENACTED by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Short title; table of contents.
(a) Short Title.—This Act may be cited as the "Youth Violence, Crime, and Drug Abuse Control Act of 1997."
(b) Table of Contents.—The table of contents for this Act is as follows:

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Sec. 523. Evaluation of research criteria.
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Sec. 531. Sense of Senate regarding funding for programs determined to be ineffective.

TITLE VI—EXTENSION OF VIOLENT CRIME REDUCTION TRUST FUND

Sec. 601. Extension of violent crime reduction trust fund.

TITLE 2. DEFINITIONS

In this Act—

(1) the term "Attorney General" means the Attorney General of the United States;
(2) the term "Indian tribe" means a tribe, band, pueblo, nation, or other organized group or community of Indians, including an Alaska Native village (as defined in or established under Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;
(3) the term "juvenile" has the meaning given that term under applicable State law;
(4) the term "local government" 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;
(5) the term "unit of local government" means any city, county, township, borough, parish, or other entity exercising governmental authority under State law;
(6) the term "Violent Crime Reduction Trust Fund" means the fund established under title XXXI of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14211 et seq.);
and
(7) the term "youth" means a person who is not younger than 5 and not older than 18 years of age.

TITLE I—CRIME CONTROL

Subtitle A—More Police Officers on the Beat

SEC. 101. MORE POLICE OFFICERS ON THE BEAT.


(1) in clause (v), by striking "and" at the end;

(2) in clause (vi), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following: "100,000".

SEC. 102. GRANTS FOR EQUIPMENT, TECHNOLOGY, AND SUPPORT SYSTEMS.

Section 1701(b)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd) is amended to read as follows:

"(A) not may exceed 20 percent of the funds available for grants pursuant to this subsection in any fiscal year.",

SEC. 103. NATIONAL COMMUNITY POLICE TELECOMMUNICATIONS.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended by adding at the end the following:

"SEC. 170Q. NATIONAL POLICE TELECOMMUNICATIONS.

(a) FINDINGS. Congress finds that—

(1) police departments and sheriffs confirm that the 911 emergency telecommunication system is overloaded and that a large percentage of those calls are nonemergency calls;

(2) many communities have seen increases in their 911 call volumes of between 40 percent and 50 percent annually;

(3) police officers are forced to spend too much time responding to emergency situations, which eliminates time for proactive community policing; and

(4) efforts to limit the use of 911 by using general telephone numbers, and educating the public to reference a general number in the telephone book have been ineffective.

(b) PURPOSE. The purposes of this section are—

(1) to encourage the Federal Communications Commission to reserve the 311 nonemergency number on a national basis for use in responding to nonemergency police telephone calls; and

(2) to establish a Federal assistance program to assist States and localities in establishing 311 nonemergency systems and to educate citizens in the use of 911 and 311.

(c) AUTHORITY TO MAKE 311 NONEMERGENCY GRANTS.—The Attorney General, acting through the Director of the Office of Community Oriented Policing Services, may make grants to States, units of local government, Indian tribes, other public and private entities, and multijurisdictional or regional consortia, to encourage the use of and to implement 311 nonemergency telecommunication systems for public safety.

(d) GENERAL REGULATORY AUTHORITY.—The Attorney General may promulgate regulations and guidelines to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Violent Crime Reduction and Law Enforcement Trust Fund to carry out this section—

(1) such sums as may be necessary for each of the fiscal years 1998 through 2000; and

(2) $10,000,000 for each of the fiscal years 2001 and 2002.

SEC. 104. TECHNICAL AMENDMENT.

Section 20102(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3793) is amended by striking "100,000" each place it appears and inserting "150,000".

Subtitle B—Violent Offender Incarceration and Truth-in-Sentencing Grants

SEC. 121. FORMULA ALLOCATIONS.

Section 20106 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3796dd) is amended by striking the following: "fiscal year disbursements shall be allocated to each State that meets the requirements of section 20104, in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.", and all that follows before the period.

SEC. 122. EXTENSION OF VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS.

(a) VIOLENT OFFENDER INCARCERATION GRANTS.—Section 20308(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3793(a)(18)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (D), by striking "and" at the end;

(B) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following: "10 percent for violent juvenile offender incarceration grants under section 214 of the Youth Violence, Crime, and Drug Abuse Control Act of 1997.",

(b) TRUTH IN SENTENCING GRANTS.—Section 20302(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3793) is amended by—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following: "(H) $174,000,000 for fiscal year 2002.''.

(c) AUTHORITY TO MAKE TRUTH-IN-SENTENCING GRANTS.—Section 20303 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 3793) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(G) the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made;";

and

(4) by striking subsection (b) and inserting the following:

"(B) ALLOCATION OF TRUTH-IN-SENTENCING GRANTS UNDER SECTION 20104.—The amounts available for grants under section 20304 shall be allocated as follows:

(1) FORMULA ALLOCATION.—0.75 percent shall be allocated to each State that meets the requirements of section 20104, except that the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, if eligible under section 20104, shall each be allocated 0.05 percent.

(2) ADDITIONAL ALLOCATION.—The amount remaining after application of paragraph (1) shall be allocated to each State that meets the requirements of section 20104, in the ratio that the number of part 1 violent crimes reported by such State to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made, bears to the average annual number of part 1 violent crimes reported by all States that meet the requirements of section 20103(b) to the Federal Bureau of Investigation for the 3 years preceding the year in which the determination is made.",

Subtitle C—Domestic Violence

SEC. 131. EXTENSION OF VIOLENCE AGAINST WOMEN ACT.

(a) GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN.—Section 1001(a)(18) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(18)) is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by striking "and" at the end; and

(3) by adding at the end the following:

"(H) $174,000,000 for fiscal year 2001; and

(G) $174,000,000 for fiscal year 2002.''.

(b) EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ASSAULTS AGAINST WOMEN.—

(1) IN GENERAL.—Section 4051(b) of Public Law 103-222 (108 Stat. 1800) is amended by adding the following: "(AA) $5,000,000 for fiscal year 2001; and

(b) AMENDMENT.—Section 19104(a)(12) of the Public Health Service Act is amended—

(1) in paragraph (4), by striking "and" at the end; and
(B) by adding at the end the following: 
"(6) $85,000,000 for fiscal year 2003; and 
(7) $120,000,000 for fiscal year 2004.
"(d) GRANTS FOR BATTERED WOMEN'S SHELTERS. 
Section 1001(a)(21) of title I of the Omnibus 
Crime Control and Safe Streets Act of 1968 
(42 U.S.C. 3793(a)(21)) is amended— 
(1) by striking paragraphs (4) through (6) 
(2) in paragraph (5), by striking "and" at 
the end; and 
(3) by adding at the end the following: 
"(7) $250,000,000 for fiscal year 2002."
"(e) VICTIMS OF CHILD ABUSE PROGRAMS. 
Section 216(a) of the Victims of Child Abuse 
Act of 1990 (42 U.S.C. 13014(a)) is amended— 
(1) in paragraph (4), by striking "and" at 
the end; 
(2) in paragraph (5), by adding "and" at 
the end; and 
(3) by adding at the end the following: 
"(6) $20,000,000 for fiscal year 2001; and 
(7) $30,000,000 for fiscal year 2002.
"SEC. 132. RURAL DOMESTIC VIOLENCE AND 
CHILD ABUSE ENFORCEMENT ASSISTANCE. 
Section 1001(a)(1) of title I of the Omnibus 
Crime Control and Safe Streets Act of 1968 
(42 U.S.C. 3793(a)(1)) is amended by striking "through fiscal year" and inserting "through to fiscal year".
"(d) GRANTS FOR BATTERED WOMEN'S SHELTERS. 
Section 1001(a)(9) of the Family Violence 
Prevention and Services Act (42 U.S.C. 1393(q)(9)) is amended— 
(1) in paragraph (4), by striking "and" at 
the end; 
(2) in paragraph (5), by striking "and" at 
the end and inserting a semicolon; and 
(3) by adding at the end the following: 
"(4) $200,000,000 for fiscal year 2001; and 
(5) $250,000,000 for fiscal year 2002."
"SEC. 133. EXTENSION OF DNA IDENTIFICATION \ 
AND MANDATORY RESTITUTION FUNDING. 
Section 2101(b) of the Violent Crime Control 
and Law Enforcement Act of 1990 (Public 
Law 103±322; 108 Stat. 3636) is amended— 
(1) by striking "through fiscal year 2000" and inserting "through fiscal year 2002"; 
(2) in paragraph (5), by striking "and" at 
the end; 
(3) in paragraph (6), by striking the period 
"and" at the end and inserting a semicolon; and 
(4) by adding at the end the following: 
"(4) $300,000,000 for fiscal year 2002.
"SEC. 134. EXTENSION OF BYRNE GRANT FUNDING. 
Section 2101(b) of the Violent Crime Control 
and Law Enforcement Act of 1994 (Public 
Law 103±322; 108 Stat. 3636) is amended— 
(1) by striking "through fiscal year 2000" and 
inserting "through fiscal year 2002"; 
(2) in paragraph (5), by striking "and" at 
the end; 
(3) in paragraph (6), by striking the period 
"and" at the end and inserting a semicolon; and 
(4) by adding at the end the following: 
"(4) $300,000,000 for fiscal year 2002.
"SEC. 135. EXTENSION OF TECHNICAL AUTOMA- 
TION GRANT FUNDING. 
Section 2105(b) of the Violent Crime Control 
and Law Enforcement Act of 1994 (Public 
Law 103±322; 108 Stat. 3636) is amended— 
(1) by striking "through fiscal year 2000" and 
inserting "through fiscal year 2002"; 
(2) in paragraph (5), by striking "and" at 
the end; 
(3) in paragraph (6), by striking the period 
"and" at the end and inserting a semicolon; and 
(4) by adding at the end the following: 
"(4) $300,000,000 for fiscal year 2002.
"SEC. 136. EXTENSION OF GRANTS FOR STATE 
COURT PROSECUTORS. 
Section 21602 of the Violent Crime Control 
and Law Enforcement Act of 1994 (Public 
Law 103±322; 108 Stat. 3636) is amended— 
(1) in subsection (a)— 
(A) by striking "other criminal justice par- 
ticipants and" inserting "other criminal 
justice participants", and 
(B) by striking "this Act" and all that 
follows before the period at the end of the sec- 
tion and inserting "this Act, the Youth Vio- 
lence, Crime, and Drug Abuse Control Act of 
1997, and amendments thereto"; 
(2) by redesignating subsection (d) as sub- 
section (a); and 
(3) by inserting after subsection (c) the fol- 
lowing: 
"(d) Not less than 20 percent of the total 
amount appropriated to carry out this sub- 
title in each of the fiscal years 2001 and 2002 
shall be made available for providing in- 
creased resources to State juvenile courts 
system participants, including juvenile public 
defenders, and other juvenile court sys- 
tem participants."; 

"SEC. 137. EXTENSION OF MANDATORY SENTEN- 
CING OPTIONS FOR YOUTH OFFENDERS. 
Section 3053 of title I of the Omnibus United States Code, is amended to read as follows: 
"§ 5037. Dispositional hearing 
(a) IN GENERAL. 
"(1) HEARING.—In a proceeding under section 
5033(a), if the court finds a juvenile to be a 
juvenile delinquent, the court shall hold a 
hearing concerning the appropriate disposi- 
tion of the juvenile not later than 20 court 
days after the finding of juvenile delin- 
quency unless the court has ordered further 
study pursuant to subsection (e). 
"(2) REPORT OF A JUVENILE DELINQUENT.—The 
report of a juvenile delinquent shall be prepared by the probation officer who shall promptly provide a copy to the juve- 
nile, the attorney for the juvenile, and the 
attorney for the governors, respectively; and 
"(3) VICTIM IMPACT INFORMATION.—Victim 
impact information shall be included in the 
report, and victims, or in appropriate cases 
their official representatives, shall be pro- 
vided the opportunity to make a statement 
to the court in person or present any infor- 
mation in relation to the disposition.
"SEC. 138. ORDER OF RESTITUTION.—After the 
disposable hearing, and after considering 
yarding policy statements promul- 
gated by the Sentencing Com- 
mittee of the title 28, the court shall enter an 
order of restitution pursuant to section 3556, 
and may suspend the findings of juvenile de- 
linquency, place the juvenile on probation, 
commit the juvenile to official detention 
cluding the possibility of a term of super- 
vised release, and impose any fine that 
would be authorized if the juvenile had been 
tried and convicted as an adult.
"(a) RELEASE OR DETENTION.—With respect 
to release or detention pending an appeal or a 
provision for a writ of habeas dis- 
position, the court shall proceed pursuant to 
the provisions of chapter 207. 
"(b) TERM OF PROBATION.—The term for 
which probation may be ordered for a juve- 
nile found to be a juvenile delinquent 
may not extend beyond the maximum term 
that would be authorized by section 3551(c) if 
the juvenile had been tried and convicted as an 
adult. Sections 3563, 3564, and 3565 are ap- 
licable to an order placing a juvenile on proba- 
tion.
"(c) TERM OF OFFICIAL DETENTION.— 
"(1) MAXIMUM TERM.—The term for which 
official detention may be ordered for a juve- 
nile found to be a juvenile delinquent 
may not extend beyond the lesser of— 
"(A) the maximum term of imprisonment 
that would be authorized if the juvenile had 
been tried and convicted as an adult; 
(10) years; or 
"(B) the date on which the juvenile 
achieves the age of 26.
"(d) APPLICABILITY OF OTHER PROVISIONS.— 
Section 3624 shall apply to an order placing a 
juvenile in detention.
"(e) TERM OF SUPERVISED RELEASE.—The term 
for which supervised release may be or- 
dered for a juvenile found to be a juvenile de- 
linquent may not extend beyond 5 years.
(e) CUSTODY OF ATTORNEY GENERAL.—
(1) IN GENERAL.—If the court desires more detailed information concerning a juvenile alleged to have committed an act of juvenile delinquency, while adjudicated delinquent, it may commit the juvenile, after notice and hearing at which the juvenile is represented by an attorney, to the custody of the Attorney General for observation and study by an appropriate agency or entity.

(2) OUTPATIENT BASIS.—Any observation and study pursuant to a commission under paragraph (1) shall be conducted on an outpatient basis, unless the court determines that inpatient observation and study are necessary to obtain the desired information, except that any violation of an alleged adjudicated delinquent, inpatient study may be ordered with the consent of the juvenile and the attorney for the juvenile.

(3) CONTENTS OF STUDY.—The agency or entity conducting an observation or study under this subsection shall make a complete study of the alleged or adjudicated delinquent to ascertain the personal traits, capabilities, background, any prior delinquency or criminal experience, any mental or physical defect, and any other relevant factors pertaining to the delinquent.

(4) SUBMISSION OF RESULTS.—The Attorney General shall submit to the court and the attorneys for the juvenile and the government the results of the study not later than 1 year after the date of enactment of this Act.

(b) juvenile delinquency proceeding, the court records of the original proceedings shall be restricted as prescribed by subsection (e).

SEC. 203. REINSTITUTING DISMISSED CASES.
Section 5036 of title 18, United States Code, as amended by striking the last sentence and inserting in lieu thereof the following: "(3) the court may, in its discretion, reinstitute the prosecution on the basis of the new information, if the court determines that in the interest of justice, it is necessary to do so."
(c) REPORT ON ACCOUNTABILITY AND PERFORMANCE MEASURES IN JUVENILE CORRECTIONS PROGRAMS.—

(1) IN GENERAL.—Not later than 6 months after enactment of this Act, the Attorney General shall, after consultation with the National Institute of Justice and other appropriate governmental and nongovernmental organizations, submit to Congress a report regarding the possible use of performance-based criteria in evaluating and improving the effectiveness of juvenile corrections facilities and programs.

(2) CONTENTS.—The report required under this subsection shall include an analysis of—

(A) performance-based measures that might be utilized as evaluation criteria, including measures of recidivism among juveniles who have been incarcerated in juvenile correctional facilities or who have participated in correctional programs;

(B) the feasibility of linking Federal juvenile corrections funding to the satisfaction of performance-based criteria by grantees (including the use of a Federal matching mechanism under which the share of Federal funding would vary in relation to the performance of the grantee or facility);

(C) whether, and to what extent, the data necessary for the Attorney General to utilize performance-based criteria in evaluating juvenile corrections programs are collected and reported nationally; and

(D) the estimated cost and feasibility of establishing minimal, uniform data collection and reporting standards nationwide that would allow for the use of performance-based criteria in evaluating juvenile corrections programs and facilities and administering Federal juvenile corrections funds.

SEC. 215. CERTAIN PUNISHMENT AND GRADUATED SANCTIONS FOR YOUTH OFFENDERS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) youth violence constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent youth violence;

(B) the behavior of youth who become violent offenders often follow a progression, beginning with aggressive behavior in school, truancy, uncontrollable conduct, leading to property crimes and then serious violent offenses;

(C) the juvenile justice systems in most States are not equipped to provide meaningful sanctions to nonviolent, nonviolent offenders because most of their resources are dedicated to dealing with more serious offenders;

(D) in most States, some youth commit multiple, nonviolent offenses without facing any significant criminal sanction;

(E) the failure to provide meaningful criminal sanctions for first time, nonviolent offenders sends the false message to youth that they can engage in antisocial behavior without suffering any negative consequences and that they are unwilling or unable to restrain that behavior;

(F) studies demonstrate that interventions during the early stages of a criminal career can halt the progression to more serious, violent behavior; and

(G) juvenile courts need access to a range of sentencing options so that at least some level of sanction is imposed on all youth offenders, including status offenders, and the severity of the sanctions increase along with the seriousness of the offense.

(2) PURPOSES.—The purposes of this section are to provide assistance to State and local juvenile courts to expand the range of sentencing options for first time, nonviolent offenders, including status offenders, and to select a range of graduated sanctions for more serious offenses.

(b) DEFINITIONS.—In this section—

(1) the term “first time offender” means a juvenile against whom formal charges have not previously been filed in any Federal or State judicial proceeding;

(2) the term “violent offender” means a juvenile who is charged with an offense that does not involve the use of force against the person of another; and

(3) the term “status offender” means a juvenile who is charged with an offense that would not be criminal if committed by an adult (other than an offense that constitutes the violation of a valid court order or a violation of a section 922(x) of title 18, United States Code (or similar State law)).

(c) GRANTS AUTHORIZATION.—

(1) IN GENERAL.—The Attorney General may make grants in accordance with this section to States, State courts, local courts, units of local government, and Indian tribes, for the purposes of—

(A) providing juvenile courts with a range of sentencing options such that first time juvenile offenders, including status offenders such as truants, vandals, and juveniles in violation of State or local curfew laws, face at least some level of punishment as a result of their initial contact with the juvenile justice system; and

(B) increasing the sentencing options available to juvenile judges so that juvenile offenders receive increasing severe sanctions—

(i) as the seriousness of their unlawful conduct increases;

(ii) for each additional offense.

(c) APPLICATIONS.—

(1) ELIGIBILITY.—In order to be eligible to receive a grant under this section, the chief judge of a State, unit of local government, or Indian tribe, shall submit an application to the Attorney General that contains such information as the Attorney General may reasonably require.

(2) REQUIREMENTS.—Each application submitted in accordance with paragraph (1) shall include—

(A) a request for a grant to be used for the purposes described in this section;

(B) a description of the communities to be served by the grant, including the extent of youth crime and violence in those communities;

(C) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subsection;

(D) a comprehensive plan described in paragraph (3) (in this section referred to as the “comprehensive plan”); and

(E) any additional information in such form and containing such information as the Attorney General may reasonably require.

(3) IMPLEMENTATION PLAN.—For purposes of paragraph (2), a comprehensive plan shall include—

(A) an action plan outlining the manner in which the Attorney General will achieve the purposes described in subsection (c)(1);

(B) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in subpara (A);

(C) an estimate of the costs of full implementation of the plan; and

(D) a plan evaluating the impact of the grant on the jurisdiction’s juvenile justice system.

(e) GRANT AWARDS.—

(1) IN GENERAL.—The Attorney General shall make grants under this section to States, State courts, local courts, units of local government, and other appropriate governmental and nongovernmental organizations, submit to Congress a report regarding the possible use of performance-based criteria in evaluating and improving the effectiveness of juvenile corrections facilities and programs.

(d) FEDERAL SHARE.—

(1) IN GENERAL.—The Attorney General shall allot not less than 0.75 percent of the total amount made available to carry out this section in each fiscal year to applicants for grants under this section.

(2) IN KIND CONTRIBUTIONS.—For purposes of paragraph (1), in-kind contributions may constitute any portion of the non-Federal share of a grant under this section.

(3) REPORT AND EVALUATION.—

(A) IN GENERAL.—Not later than October 1, 1998, and October 1 of each year thereafter, each grant recipient...
under this section shall submit to the Attorney General a report that describes, for the year to which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(2) EVALUATION AND REPORT TO CONGRESS.—Not later than March 1, 1999, and March 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation of grants under this subsection and a report that contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this section, and an evaluation of programs established by grant recipients under this section.

(3) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this section, the Attorney General shall consider—

(A) a comparison between the number of first time offenders who received a sanction for criminal behavior in the jurisdiction of the grant recipient before and after initiation of the program;

(B) changes in the recidivism rate for first time offenders in the jurisdiction of the grant recipient;

(C) comparison of the recidivism rates and the seriousness of future offenses of first time offenders in the jurisdiction of the grant recipient that receive a sanction and those who do not;

(D) changes in truancy rates of the public schools in the jurisdiction of the grant recipient;

(E) changes in the arrest rates for vandalism and other property crimes in the jurisdiction of the grant recipient.

(4) DOCUMENTS AND INFORMATION.—Each grantee under this section shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section from the Violent Crime Reduction Trust Fund—

(i) such sums as may be necessary for each of the fiscal years 1998 and 1999; and

(ii) $175,000,000 for each of the fiscal years 2000 and 2001.

Subtitle C—Jvenile Gun Courts

SEC. 221. DEFINITIONS.

In this title—

(1) the term "firearm" has the same meaning as in section 921 of title 18, United States Code;

(2) the term "firearm offender" means any individual charged with an offense involving the illegal possession, use, transfer, or threatened use of a firearm; and

(3) the term "local court" means any section or division of a State or municipal juvenile court system;

(4) the term "juvenile gun court" means a specialized division within a State or local juvenile court system, or a specialized docket within a State or local court that considers exclusively cases involving juvenile firearm offenses.

SEC. 222. GRANT PROGRAM.

The Attorney General may provide grants in accordance with this subtitle to States, State law enforcement agencies, units of local government, and Indian tribes for court-based juvenile justice programs that target juvenile firearm offenders through the establishment of juvenile gun courts.

SEC. 223. APPLICATIONS.

(a) ELIGIBILITY.—In order to be eligible to receive a grant under this subtitle, the chief executive officer of the unit of local government, or Indian tribe, or the chief judge of a local court, shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

(b) REQUIREMENTS.—Each application submitted in accordance with subsection (a) shall include—

(1) a request for a grant to be used for the purposes described in this subtitle;

(2) a comprehensive plan of the grantee to serve the grant, including the extent of juvenile crime, juvenile violence, and juvenile firearm use and possession in such communities;

(3) written assurances that Federal funds received under this subtitle will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this subtitle;

(4) a comprehensive plan described in subsection (c) (hereafter in this subtitle referred to as the "comprehensive plan"); and

(5) any additional information in such form and containing such information as the Attorney General may reasonably require.

(c) COMPREHENSIVE PLAN.—For purposes of subsection (b), a comprehensive plan is described in this subsection it includes—

(1) a description of juvenile crime and violence problems in the jurisdiction of the applicant, including gang crime and juvenile firearm use and possession;

(2) an analysis of the manner in which the applicant would use the grant amounts in accordance with this subtitle;

(3) a description of any resources available in the jurisdiction of the applicant to implement the action plan described in paragraph (2); and

(4) a description of the plan of the applicant for evaluating the performance of the juvenile gun court.

SEC. 224. GRANT AWARDS.

(a) CONSIDERATIONS.—In awarding grants under this subtitle, the Attorney General shall consider—

(1) the ability of the applicant to provide the stated services;

(2) the level of juvenile crime, violence, and drug use in the community;

(3) to the extent practicable, achievement of an equitable geographic distribution of the grant awards.

(b) DIVERSITY.—The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle to applicants in each State from which applicants have applied for grants under this subtitle.

(c) INDIAN TRIBES.—The Attorney General shall allocate not less than 0.75 percent of the total amount made available each fiscal year to carry out this subtitle to applicants in each State from which applicants have applied for grants under this subtitle.

(d) CRITERIA.—In assessing the effectiveness of programs established and operated by grant recipients pursuant to this subtitle, the Attorney General shall consider—

(1) the number of juveniles tried in gun court sessions in the jurisdiction of the grant recipient;

(2) a comparison of the amount of time between the filing of charges and ultimate disposition in gun court and nongun court cases;

(3) the recidivism rates of juvenile offenders tried in gun court sessions in the jurisdiction of the grant recipient in comparison to those tried outside of drug courts;

(4) changes in the amount of gun-related and gang-related crime in the jurisdiction of the grant recipient; and

(5) the quantity of firearms and ammunition recovered in gun court cases in the jurisdiction of the grant recipient.

SEC. 225. USE OF GRANT AMOUNTS.

Each grant made under this subtitle shall be used—

(1) to establish juvenile gun courts for adjudication of juvenile firearm offenders;

(2) to grant prosecutorial discretion to try, in a gun court, offenses involving the illegal possession, transfer, or threatened use of a firearm; and

(3) to require prosecutors to transfer such cases to the gun court calendar not later than 30 days after arraignment;

(4) to require that gun court trials commence not later than 60 days after transfer to the gun court;

(5) to facilitate innovative and individualized sentencing (such as incarceration, house arrest, victim impact classes, electronic monitoring, restitution, and gang prevention programs);

(6) to provide services in furtherance of paragraph (5);

(7) to provide grounds for continuance of a grant and grant continuances only for the shortest practicable time;

(8) to ensure that any term of probation or supervised release imposed on a firearm offender in a juvenile gun court, in addition to, or in lieu of, a term of incarceration, shall include any additional term of probation or supervised release that is necessary during such probation or supervised release and that violation of that prohibition shall result in, to the maximum extent permitted under law, a term of incarceration; and

(9) to allow transfer of a case or an offender out of the gun court by agreement of the parties, subject to court approval.

SEC. 226. GRANT LIMITATIONS.

Not more than 5 percent of the amounts made available to the Attorney General or a grant recipient under this subtitle may be used for administrative purposes.

SEC. 227. FEDERAL SHARE.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Federal share of a grant made under this subtitle may not exceed 90 percent of the total cost of the program or programs.  Any amount provided by that grant for the fiscal year for which the program receives assistance under this subtitle—

(b) WAIVER.—The Attorney General may waive, in whole or in part, the requirements of subsection (a).

(c) IN-KIND CONTRIBUTIONS.—For purposes of subsection (a), in-kind contributions may constitute any portion of the non-Federal share of a grant under this subtitle.

(d) CONTINUED AVAILABILITY OF GRANT AMOUNTS.—Any amounts provided to a grant recipient under this subtitle shall remain available until expended.

SEC. 228. REPORT AND EVALUATION.

(a) REPORT TO THE ATTORNEY GENERAL.—Not later than March 1 of each year thereafter, each grant recipient under this subtitle shall submit to the Attorney General a report that describes, for the period, in which the report relates, any progress achieved in carrying out the comprehensive plan of the grant recipient.

(b) EVALUATION AND REPORT TO CONGRESS.—Not later than October 1 of each year thereafter, the Attorney General shall submit to Congress an evaluation and report that contains a description of grant amounts made available, activities of grant recipients, a compilation of statistical information submitted by grant recipients under this subtitle, and an evaluation of programs established by grant recipients under this subtitle.

(c) CRITERIA.—In assessing the effectiveness of the programs established and operated by grant recipients pursuant to this subtitle, the Attorney General shall consider—

(1) the number of juveniles tried in gun court sessions in the jurisdiction of the grant recipient;

(2) a comparison of the amount of time between the filing of charges and ultimate disposition in gun court and nongun court cases;

(3) the recidivism rates of juvenile offenders tried in gun court sessions in the jurisdiction of the grant recipient in comparison to those tried outside of drug courts;

(4) changes in the amount of gun-related and gang-related crime in the jurisdiction of the grant recipient; and

(5) the quantity of firearms and ammunition recovered in gun court cases in the jurisdiction of the grant recipient.

SEC. 229. DOCUMENTS AND INFORMATION.—Each grant recipient under this subtitle shall provide the Attorney General with all documents and information that the Attorney General determines to be necessary to conduct an evaluation of the effectiveness of programs funded under this subtitle.
SEC. 229. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund:

(1) such sums as may be necessary for each of the fiscal years 1998, 1999, and 2000;
(2) $50,000,000 for fiscal year 2001; and
(3) $50,000,000 for fiscal year 2002.

Subtitle D—Gang Violence Reduction

PART 1—INCREASED PENALTIES FOR GANG-RELATED ACTIVITIES

SEC. 241. GANG FRANCHISING.

(a) In General.—Chapter 26 of title 18, United States Code, is amended by adding at the end the following:

``SEC. 522. INTERSTATE FRANCHISING OF CRIMINAL STREET GANGS.

``(a) Prohibited Act.—Whoever travels in interstate or foreign commerce, or causes another to do so, to recruit, solicit, induce, command, or cause to create, or attempt to create a franchise of a criminal street gang shall be punished in accordance with subsection (C).

``(b) Definitions.—

``(1) Criminal street gang.—The term 'criminal street gang' has the meaning given that term in section 521 of title 18, United States Code.

``(2) Franchise.—The term 'franchise' means an organized group of individuals related by name, moniker, or other identifier, that engages in coordinated violent crime or drug trafficking activities in interstate or foreign commerce, or each a criminal street gang in another State.

``(3) Penalties.—A person who violates subsection (a) shall be imprisoned for not more than 10 years, fined under this title, or both.

``(d) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement for the recruitment of minors in the creation of a criminal street gang franchise.''.

(b) Conforming Amendment.—The chapter analysis for chapter 26 of title 18, United States Code, is amended by adding at the end the following:

``§ 522. Interstate franchising of criminal street gangs.''

SEC. 242. GANG FRANCHISING AS A RICO PREDICATE.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "or" before "(E)"; and
(2) inserting "or (G) an offense under section 522 of this title" before the semicolon at the end.

SEC. 243. INCREASE IN OFFENSE LEVEL FOR PARTICIPATION IN CRIME AS GANG MEMBER.

(a) Definition of Criminal Street Gang.—In this section, the term "criminal street gang" has the same meaning as in section 521(a) of title 18, United States Code.

(b) Sentencing Enhancement.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide an appropriate enhancement for any offense committed in connection with, or in furtherance of, the activities of a criminal street gang if the defendant is a member of the criminal street gang at the time of the offense.

(c) Consistency.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and
(2) avoid duplicative punishment for substantially the same offense.

SEC. 244. INCREASING THE PENALTY FOR USING PHONES, PAGER, OR THE INTERNET TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.

Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—
(2) by striking "providing" as inserted in paragraph (1) and inserting "as provided in paragraph (1)"; and
(3) by inserting after paragraph (2) the following:

``(f) Whoever uses physical force or the threat of physical force, or attempts to do so, with intent to tamper with, or interfere with, a record, document, or other object, from an official proceeding;''.

SEC. 245. PENALTY FOR TRAVEL IN SUPPORT OF VIOLENT AND DRUG TRAFFICKING OFFENSES.

(a) In General.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

``§ 3281. Capital offenses and Class A felonies involving murder

``In an indictment for any offense punishable by death or an indictment or information for a Class A felony involving murder (as defined in section 1111 or as defined under applicable State law in the case of an offense under section 1968(a) involving racketeering activity described in section 1961(1)) may be found at any time without limitation.''.

(b) Applicability.—The amendment made by subsection (a) applies to any offense for which the applicable statute of limitations had not run as of the date of enactment of this Act.

SEC. 246. EXTENSION OF STATUTE OF LIMITATIONS FOR VIOLENT AND DRUG TRAFFICKING CRIMES.

(a) In General.—Chapter 213 of title 18, United States Code, is amended—

(1) in the item relating to section 3281, by inserting "and Class A felonies involving murder" before the period; and
(2) by adding at the end the following:

``§ 3296. Class A violent and drug trafficking offenses.

``Except as provided in section 3281, no person shall be prosecuted, tried, or punished for a Class A felony that is a crime of violence or a drug trafficking crime (as that term is defined in section 924(c)) unless the indictment is returned or the information is filed within 10 years after the commission of the offense.''.

(c) Conforming Amendments.—The chapter analysis for chapter 213 of title 18, United States Code, is amended—

(1) in the item relating to section 3281, by inserting "and Class A felonies involving murder" before the period; and
(2) by adding at the end the following:

``§ 3296. Class A violent and drug trafficking offenses.''

PART 2—GANG PARAPHERNALIA

SEC. 251. ENHANCING LAW ENFORCEMENT ACCESS TO CLONE NUMERIC PAGERS.

(a) Amendment to Chapter 206.—Chapter 206 of title 18, United States Code, is amended—

(1) in the chapter heading, by striking "AND Trap and Trace Devices" and inserting "AND Trap and Trace Devices, AND CLONE NUMERIC PAGERS"; and
(2) in the chapter analysis—

(A) by striking "and trap and trace device" each place that term appears and inserting "and a trap and trace device, and a clone pager"; and
(B) by striking "or a trap and trace device" each place that term appears and inserting "or a trap and trace device, or a clone pager".

(3) in section 3212—

(A) in the section heading, by striking "AND Trap and Trace Device" and inserting "AND Trap and Trace Device, AND CLONE PAGER"; and
(B) by striking "and a trap and trace device" each place that term appears and inserting "and a trap and trace device, or a clone pager";
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(4) in section 3122—
(A) in the section heading, by striking "OR A TRAP AND TRACE DEVICE" and inserting "A TRAP AND TRACE DEVICE, OR A CLONE PAGE";
(B) by striking "or a trap and trace device" each place that term appears and inserting "a trap and trace device, or a clone pager"; and
(i) by striking the quotation marks at the end; and
(ii) by striking "or trap and trace device" each place that term appears and inserting ", trap and trace device, or clone pager";

(5) in section 3123—
(A) in the section heading, by striking "OR A TRAP AND TRACE DEVICE" and inserting "A TRAP AND TRACE DEVICE, OR A CLONE PAGE";
(B) by striking subsection (a) and inserting the following:

(1) in paragraph (1)—
(i) by striking before the semicolon the following: ", or in the case of a clone pager, the identity, if known, of the person to whom the clone pager is substantially programmed"; and
(ii) in subparagraph (A), by striking "the clone pager, or a trap and trace device" each place that term appears and inserting "the clone pager, or a trap and trace device, or a clone pager";

(C) by inserting "or clone pagers" after "devices"; and

(D) in section 3127—
(A) by redesigning paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and
(B) by inserting after paragraph (4) the following:

"(5) the term 'clone pager' means a numeric display device that receives transmissions intended for another numeric display paging device.";

(C) CONFIRMING AMENDMENTS—

(1) Section 2512(b)(1) of title 18, United States Code, is amended by striking clause (i) and inserting the following:

"(i) to use a pen register, a trap and trace device, or a clone device, as those terms are defined for the purposes of chapter 206 (relating to pen registers, trap and trace devices, and clone pagers) of this title); or"

(2) Section 2512(d) of title 18, United States Code, is amended—

(A) in subparagraph (B), by striking "or" at the end; and
(B) by inserting after subparagraph (C) the following: "or"

"(D) any transmission made through a clone pager (as defined in section 3122(5) of this title)."

SEC. 252. PROHIBITIONS RELATING TO BODY ARMOR.

(a) DEFINITIONS.—In this section—

(1) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(2) avoid duplicative punishment for substantially the same offense.

Subtitle E—Rights of Victims in State Juvenile Courts

SEC. 261. STATE GUIDELINES.

(a) IN GENERAL.—The Attorney General shall establish guidelines for State programs to require:

(A) prior to disposition of adjudicated juvenile delinquents, that victims, or in appropriate cases their official representatives, shall be provided the opportunity to make a statement to the court in person or by present any information in relation to the disposition;

(B) that victims of the juvenile adjudicated delinquent be given notice of the disposition; and

(C) that restitution to victims may be ordered as part of the disposition of adjudicated juvenile delinquents.

(2) DEFINITION OF VICTIM.—In this section, the term "victims" means any individual against whom a crime of violence has been committed, and includes a person who is the attempted use, or threatened use of physical force against the person or property of another by or as a result of an attempt to cause physical force against the person or property of another by or on the basis of the crime of violence.

(b) NO CAUSE OF ACTION CREATED.—Nothing in this section shall be construed to create a cause of action against any State or any agency or employee thereof.

(c) COMPLIANCE.—Not later than 3 years after the date of enactment of this Act, each State shall implement this section, except that the Attorney General may grant an additional 2 years to a State if the Attorney General determines that the State is making good faith efforts to implement this section.

(d) INELIGIBILITY FOR AMOUNTS.—In general, beginning on the expiration of the period described in paragraph (1) or (such extended period as the Attorney General may grant with respect to a State that the Attorney General determines that the State is making good faith efforts to implement this section), a State shall not be eligible for any amounts under this title in any fiscal year that any State fails to comply with this section, that State shall receive—
(i) not more than 90 percent of the amount that the State would otherwise receive under subparagraph (A) shall be allocated to otherwise eligible States that are in compliance with this section on a pro rata basis.

TITLES—PREVENTION AND TREATMENT OF YOUTH DRUG ABUSE AND ADDICTION

Subtitle A—Protecting Youth From Dangerous Drugs

SEC. 301. RESCHEDULING OF "CLUB DRUGS".

Notwithstanding section 201 or subsection (a) or (b) of section 502 of the Controlled Substances Act (21 U.S.C. 811, 812(a), 812(b)) respecting the scheduling of controlled substances, the Attorney General shall, by order, add ketamine hydrochloride to schedule III of such Act.

Subtitle B—Development of Medicines for the Treatment of Drug Addiction

PART 1—PHARMACOTHERAPY RESEARCH

SEC. 321. REAUTHORIZATION FOR MEDICATION DEVELOPMENT PROGRAM.

Section 464P(e) of the Public Health Service Act (42 U.S.C. 285o±4(e)) is amended to read:

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1998 through 2002 of which the following amount may be appropriated from the Violent Crime Reduction Trust Fund:

"(1) $100,000,000 for fiscal year 2001; and

"(2) $100,000,000 for fiscal year 2002.

PART 2—PATENT PROTECTIONS FOR DRUGS.

SEC. 331. RECOMMENDATION FOR INVESTIGATION OF DRUGS.

Section 525(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360aa(a)) is amended—

(1) by striking "States" each place it appears and inserting "States, or for treatment of an addiction to illegal drugs"; and

(2) by striking "such disease or condition" each place it appears and inserting "such disease, condition, or treatment of such addiction";

SEC. 332. DESIGNATION OF DRUGS.

Section 526(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)) is amended—

(1) in paragraph (1)—

(A) by inserting before the period in the first sentence the following: "or for treatment of an addiction to illegal drugs"; and

(B) in the third sentence, by striking "rare disease or condition" and inserting "rare disease or condition, or for treatment of an addiction to illegal drugs"; and

(C) by striking "such disease or condition" each place it appears and inserting "such disease, condition, or treatment of such addiction";

and

(2) in paragraph (2)—

(A) by striking "(2) For " and inserting "(2)(A) For";

(B) by striking "(A) affects" and inserting "(i) affects";

(C) by striking "(B) affects" and inserting "(ii) affects"; and

(D) by adding at the end the following:

"(B) TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.—The term 'treatment of an addiction to illegal drugs' means any pharmacological treatment for an individual who—

"(i) habitually uses the illegal drug in a manner that endangers the public health, safety, or welfare; or

"(ii) is so addicted to the use of the illegal drug that the individual is not able to control the addiction through the exercise of self-control;

(ii) blocks the behavioral and physiologic effects of using an illegal drug for an individual described in clause (i);

(iii) safely serves as a replacement therapy for the treatment of drug abuse for an individual described in clause (i);

(iv) moderates or eliminates the process of withdrawal for an individual described in clause (i);

(v) blocks or reverses the toxic effect of an illegal drug on an individual described in clause (i); or

(vi) prevents, where possible, the initiation of drug abuse in individuals at high risk.

"(C) ILEGAL DRUG.—The term 'illegal drug' means a controlled substance identified under schedules I, II, III, IV, and V in section 202(c) of the Controlled Substance Act (21 U.S.C. 812(c))."

SEC. 333. PROTECTION OF DRUGS.

Section 529 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc) is amended—

(1) by striking "rare disease or condition" and inserting "rare disease or condition or addiction";

and

(2) by striking "such disease or condition" and inserting "such disease, condition, or treatment of the addiction";

and

(3) in subsection (b)(1), by striking "the disease or condition" and inserting "the disease, addiction, or treatment";

SEC. 334. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS.

Section 528 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cb) is amended—

(1) by striking "rare disease or condition" and inserting "rare disease or condition or addiction for treatment of an addiction to illegal drugs";

and

(2) by striking "the disease or condition" each place it appears and inserting "the disease, condition, or addiction";

PART 3—ENCOURAGING PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPIES

SEC. 341. DEVELOPMENT, MANUFACTURE, AND PRODUCTION FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS.


(1) by striking "rare disease or condition" each place it appears and inserting "the disease, condition, or addiction";

(2) by striking "such disease or condition" and inserting "such disease, condition, or treatment of such addiction";

(3) in subsection (a)(1), by striking "the drug is effective through evidence" and inserting "the drug is effective through evidence";

"(4) in subsection (a)(2), by striking "(A) a significant number of the participants in the test who have an addiction to cocaine or heroin are willing to continue taking the drug as long as necessary for the treatment of the addiction; and

"(5) in subsection (a)(3), by striking "a significant number of the participants in the test who were provided the drug for the period of time required for the treatment of the addiction refrained from the use of cocaine or heroin for a period of 3 years after the date of the initial administration of the drug on the participants; and

and

(4) by striking "the drug shall have a reasonable cost of production."

(2) REVIEW AND PUBLICATION OF CRITERIA.—The criteria established under subsection (a) shall, prior to the publication and application of such criteria, be submitted for review to the Committee on the Judiciary and the Committee on Economic and Educational Opportunities of the House of Representatives, and the Committee on Labor and Human Resources of the Senate. Not later than 90 days after notifying each of the committees, the Secretary shall publish the criteria in the Federal Register.

SEC. 552. PURCHASE OF PATENT RIGHTS FOR DRUG DEVELOPMENT.

"(a) APPLICATION.—

"(1) IN GENERAL.—The patent owner of a drug to treat an addiction to cocaine or heroin, may submit an application to the Secretary—

"(A) to enter into a contract with the Secretary to sell to the Secretary the patent rights of the owner relating to the drug; or

"(B) in the case in which the drug is approved by the Secretary for more than 1 indication, to enter into an exclusive licensing agreement with the Secretary for the manufacture and distribution of the drug to treat an addiction to cocaine or heroin.

"(2) REQUIREMENTS.—An application described in paragraph (1) shall be submitted at such time and in such manner, and accompanied by such information, as the Secretary may require.

"(b) CONTRACT AND LICENSING AGREEMENT.—

"(1) REQUIREMENTS.—The Secretary may enter into a contract or a licensing agreement with a patent owner who has submitted an application in accordance with (a) if the drug covered under the contract or licensing agreement meets the criteria established by the Secretary under section 551(a).

"(2) SPECIAL RULE.—The Secretary may enter into—

"(A) not more than 1 contract or exclusive licensing agreement relating to a drug for the treatment of an addiction to cocaine; and

"(B) not more than 1 contract or licensing agreement relating to a drug for the treatment of an addiction to heroin.

"(3) COVERAGE.—A contract or licensing agreement described in subparagraph (A) or
(B) of paragraph (2) shall cover not more than 1 drug.

(4) PURCHASE AMOUNT.—Subject to amounts provided in advance in appropriations acts, the amount to be paid to a patent owner who has entered into a contract or licensing agreement under subsection relating to the drug to treat an addiction to cocaine or heroin shall not exceed $100,000,000, and the amount to be paid to a patent owner who has entered into a contract or licensing agreement under subsection relating to a drug to treat an addiction to cocaine shall not exceed $50,000,000.

(c) TRANSFER OF RIGHTS UNDER CONTRACT OR LICENSING AGREEMENT.—(1) CONTRACTS.—A contract entered into under this subsection relating to a drug to treat an addiction to cocaine or heroin shall not be made unless the owner who has entered into the contract or licensing agreement under this subsection relating to a drug to treat an addiction to cocaine or heroin shall enter into a contract or licensing agreement under this subsection relating to a drug to treat an addiction to heroin and shall not exceed $50,000,000.

(2) LICENSING AGREEMENTS.—A licensing agreement entered into under subsection (b)(1) to purchase an exclusive license relating to a drug for the manufacture and distribution of a drug to treat an addiction to cocaine or heroin shall transfer to the Secretary—

(A) the exclusive right to make, use, or sell the patented drug within the United States for the term of the patent;

(B) any foreign patent rights held by the patent owner; and

(C) any patent rights relating to the process of making or manufacturing the drug, and

(D) any trade secret or confidential business information relating to the development of the drug, process for manufacturing the drug, and therapeutic effects of the drug relating to use of the drug to treat an addiction to cocaine or heroin within the United States for the term of the patent.

(3) by adding at the end the following:

``(2) $300,000,000 for fiscal year 2001; and

(3) $300,000,000 for fiscal year 2002.''.

PART 2—DRUG COURTS

SEC. 361. REAUTHORIZATION OF DRUG COURTS PROGRAM.


(1) in subparagraph (E), by striking “and” at the end; and

(2) by adding at the end the following:

``(G) $400,000,000 for fiscal year 2001; and

(H) $400,000,000 for fiscal year 2002.’’.

SEC. 362. JUVENILE DRUG COURTS.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by redesigning part Y as part Z; and

(2) by striking in section 2501 as amended—

(A) by striking in section 2501 as amended—

(1) in subparagraph (E), by striking “and” and

(2) by adding at the end the following:

``(G) $400,000,000 for fiscal year 2001; and

(H) $400,000,000 for fiscal year 2002.’’.

``(2) by adding at the end the following:

``(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services;

(E) payment by the offender of treatment costs, to the extent practicable, as costs for urinalysis or counseling; or

(F) payment by the offender of restitution, to the extent practicable, to either a victim of the offense at issue or to a restitution or similar victim support fund.

Continued Availability of Grant Funds.—Amounts made available under this part shall remain available until expended.

SEC. 2502. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

The Attorney General shall issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders.

SEC. 2503. DEFINITION.

In this part, the term ‘violent offender’ means an individual charged with an offense during the course of which—

(1) the individual carried, possessed, or used a firearm or dangerous weapon;

(2) the death of or serious bodily injury of another person occurred as a direct result of the commission of such offense; or

(3) the individual used force against the person of another.

SEC. 2504. ADMINISTRATION.

(a) Regulatory Authority.—The Attorney General shall issue any regulations and guidelines necessary to carry out this part.

(b) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall include a long term strategy and detailed implementation plan;

(c) CERTIFICATION OF GRANTS.—The Attorney General shall certify that there will be appropriate coordination with all affected agencies and that there will be appropriate consultation with all affected agencies in the implementation of the program;

(d) PARTICIPATING OFFENDERS.—Participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

(e) RECORDS.—(1) The Attorney General shall establish procedures for obtaining necessary support and continuing the proposed program following the conclusion of federal support;

(C) make grants to States, States courts, local courts, units of local government, and Indian tribes to establish programs that—

(i) involve continuous early judicial supervision over juvenile offenders, other than violent juvenile offenders with substance abuse, or substance abuse-related problems; and

(2) integrate administration of other sentence and services, including—

(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervision, release or probation for each participant;

(B) substance abuse treatment for each participant;

(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

(D) programmatic, offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services;

(E) payment by the offender of treatment costs, to the extent practicable, as costs for urinalysis or counseling; or

(F) payment by the offender of restitution, to the extent practicable, to either a victim of the offense at issue or to a restitution or similar victim support fund.

Continued Availability of Grant Funds.—Amounts made available under this part shall remain available until expended.

SEC. 2502. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS.

The Attorney General shall issue regulations and guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders.

SEC. 2503. DEFINITION.

In this part, the term ‘violent offender’ means an individual charged with an offense during the course of which—

(1) the individual carried, possessed, or used a firearm or dangerous weapon;

(2) the death of or serious bodily injury of another person occurred as a direct result of the commission of such offense; or

(3) the individual used force against the person of another.

SEC. 2504. ADMINISTRATION.

(a) Regulatory Authority.—The Attorney General shall issue any regulations and guidelines necessary to carry out this part.

(b) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall include a long term strategy and detailed implementation plan;

(2) explain the inability of the applicant to fund the program adequately without Federal assistance;

(3) certify that the Federal support provided will be used to supplement, and not supplant, State, tribal, or local sources of funding that would otherwise be available;

(4) identify related governmental or community initiatives that complement or will be coordinated with the proposal;

(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the drug court program;

(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

(8) describe the methodology that will be used in evaluating the program.
SEC. 2505. APPLICATIONS.

"To request funds under this part, the chief executive or the chief justice of a State, or the chief executive or chief judge of a unit of local government or Indian tribe shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

SEC. 2506. FEDERAL SHARE.

"(a) In General.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2505 for the fiscal year for which the program receives assistance under this part.

"(b) The Attorney General may waive, in whole or in part, the requirement of a matching contribution under subsection (a).

"(c) In-Kind Contributions.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this part.

SEC. 2507. DISTRIBUTION OF FUNDS.

"(a) GEOGRAPHICAL DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"(b) The Attorney General shall allocate 0.75 percent of amounts made available under this subtitle for grants to Indian tribes.

SEC. 2508. REPORT.

"(a) In General.—A State, Indian tribe, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General, in March of the year following such fiscal year, a report regarding the effectiveness of programs established pursuant to this part.

SEC. 2509. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) Technical Assistance and Training.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) Evaluations.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) Administration.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.

SEC. 2510. USE OF FUNDS.

"The Attorney General may reallocate any grant funds that are not awarded for juvenile drug courts under this part for use for other juvenile delinquency and crime prevention initiatives.

SEC. 2511. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part a sum necessary to carry out this part.

"(1) such sums as may be necessary for each of the fiscal years 1998, 1999, and 2000; and

"(2) such sums as may be necessary to carry out this part for each of the fiscal years 2001 through 2005.

PART 3—DRUG TREATMENT

SEC. 371. DRUG TREATMENT FOR JUVENILES.

Title V of the Public Health Service Act (42 U.S.C. 1396n et seq.) is amended by adding at the end the following:

"PART G—RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES

"SEC. 375. RESIDENTIAL TREATMENT PROGRAMS FOR JUVENILES

"(a) In General.—The Director of the Center for Substance Abuse Treatment shall award grants to, or enter into cooperative agreements or contracts, with public and nonprofit private entities for the purpose of providing treatment to juveniles for substance abuse, as appropriate, regarding substance abuse.

"(b) Services for Each Participant.—A funding agreement for an award under subsection (a) for an applicant is that, in the program operated pursuant to such agreement, the services will be made available to each person admitted to the program.

"(c) Individualized Plan of Services.—A funding agreement for an award under subsection (a) for an applicant is that—

"(1) treatment services will be available through the applicant, either directly or through agreements with other public or nonprofit service providers, in programs in which, during the course of receiving such treatment the juveniles reside in facilities made available by the programs;

"(2) the services will be made available to any person admitted to the program.

"(d) Eligible Supplemental Services.—Grants under subsection (a) may be used to provide an eligible juvenile, the following services:

"(1) individual, group, and family counseling, as appropriate, regarding substance abuse;

"(2) followup services to assist the juvenile or young adult in prevent a relapse into such abuse;

"(3) hospital referrals.—Referrals for necessary hospital services.

"(4) preparation for reentry into society.—Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit service providers, in programs in which, during the course of receiving such treatment the juveniles reside in facilities made available by the programs.

"(e) Individual Qualifications for Receipt of Award.—

"(1) Certification by Relevant State Agency.—With respect to the principal agency of a State, or of an Indian tribe that administers programs relating to substance abuse, the Director may award a grant to, or enter into a cooperative agreement or contract with, any agency if the Indian tribe has certified to the Director that—

"(A) the applicant has the capacity to carry out a program described in subsection (a);

"(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

"(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State or Federal Government, or institutional, certification requirements regarding the provision of the services involved.

"(2) Status as Medicaid Provider.—Subject to subparagraphs (B) and (C), the Director may make a grant, or enter into a cooperative agreement or contract, under subsection (a) only if, in the case of such a program, the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(3) Mental Diseases.—With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of services to an individual with a mental disease, as defined in subparagraph (B) of this paragraph, that is attributable to a mental disease that has been diagnosed by a licensed professional, as determined by the Director.

"(4) In General.—With respect to the costs of the program to be carried out by an applicant, the requirements of clause (1) of subparagraph (a) of paragraph (4) of section 1122 of this title will not apply to the costs incurred by the recipient for the provision of services appropriate for the juvenile.

"(5) Mentally Ill Qualified Persons.—The requirements of clause (1) of subparagraph (a) of paragraph (4) of section 1122 of this title shall not apply to the provision of services for an individual that has a mental disease or mental disability that is attributable to a mental disease that has been diagnosed by a licensed professional, as determined by the Director.

"(6) Mental Disease.—With respect to the costs of the program to be carried out by an applicant, the requirements of clause (1) of subparagraph (a) of paragraph (4) of section 1122 of this title will not apply to the costs incurred by the recipient for the provision of services appropriate for the juvenile.

"(7) In-Kind Contributions.—In-kind contributions may constitute a portion of the non-Federal share of a grant under this part.

"(8) Matching Requirements.—The Director of the Center for Substance Abuse Treatment shall allocate 0.75 percent of amounts made available under this part to carry out this part as a matching requirement.

"(9) In General.—In the case of the drug courts under this part, any agreement made pursuant to clause (a) or (f) of paragraph (2) of section 371 of the Comprehensive Crime Control Act of 1990 shall be deemed to be an agreement for the provision of such court services.

"(10) In General.—In the case of the establishment of an eligible juvenile drug court, any agreement made pursuant to clause (a) of section 371 of the Comprehensive Crime Control Act of 1990 shall be deemed to be an agreement for the provision of such court services.
January 21, 1997

CONGRESSIONAL RECORD — SENATE

Subtitle D—National Drug Control Policy

SEC. 381. REAUTHORIZATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

(a) REAUTHORIZATION.—Section 1009 of the National Drug Control Strategy of 1998 (21 U.S.C. 1506) is amended by striking “1997” and inserting “2002”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1110 of the National Narcotics Leadership Act of 1988 (21 U.S.C. 1506) is amended by striking “8” and inserting “13”.

SEC. 382. STUDY ON EFFECTS OF CALIFORNIA AND ARIZONA DRUG INITIATIVES.

(a) DEFINITION.—In this section, the term ‘controlled substance’ has the same meaning as the term ‘controlled substance’ as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(b) STUDY.—The Director of National Drug Control Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall conduct a study on the effect of the 1996 voter referenda in California and Arizona concerning the medicinal use of marijuana and other controlled substances, respectively.

(I) marijuana usage in Arizona and California;

(2) usage of other controlled substances in Arizona and California;

(3) perceptions of youth of the danger associated with marijuana and other controlled substances in Arizona and California;

(4) emergency room admissions for drug abuse in Arizona and California;

(5) seizures of controlled substances in Arizona and California;

(6) arrest rates for use of controlled substances in Arizona and California;

(7) arrest rates for trafficking of controlled substances in Arizona and California;

(8) conviction rates in cases concerning use of controlled substances in Arizona and California;

(9) conviction rates in jury trials concerning use of controlled substances in Arizona and California.

(c) REPORT.—Not later than January 1, 1998, the Director of National Drug Control Policy, in consultation with the Attorney General and the Secretary of Health and Human Services, shall—

(1) issue a report on the results of the study under subsection (b);

(2) submit a copy of the report to the Committees on the Judiciary of the House of Representatives and the Senate.

SEC. 383. INCREASED PENALTIES FOR USING FEDERAL PROPERTY TO GROW OR MANUFACTURE CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

‘‘(b) PENALTIES.—Section 401(b)(5) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended to read as follows:

‘‘(5) The term ‘growing, cultivating, importing, exporting, producing, manufacturing, using, engaging in any manner in the distribution of a controlled substance’ means an activity within the United States in connection with the distribution of a controlled substance. (1) ‘Drug abuse’ means—

(a) allergic reactions to drugs;

(b) addiction to drugs;

(c) adverse effects of drugs on the body;

(d) dependence on drugs;

(e) illness caused by drugs; and

(f) other effects of drugs on the body.

(b) DISTRIBUTION.—The term ‘distribution’ means—

(a) the sale, dispensing, manufacturing, growing, cultivating, importing, exporting, producing, using, engaging in any manner in the distribution of a controlled substance; and

(b) the making or possessing of the proceeds from a controlled substance.

(c) ADMINISTRATION.—The term ‘administration’ means—

(a) the act of using or applying a controlled substance in a manner that is prohibited by law; and

(b) the placing of a controlled substance into the body of another person.

(d) CONSUMPTION.—The term ‘consumption’ means—

(a) the act of using a controlled substance in a manner that is prohibited by law; and

(b) the act of consuming a controlled substance.

(e) POSSESSION.—The term ‘possession’ means—

(a) the act of having a controlled substance in one’s possession; and

(b) the act of having a controlled substance in one’s control.

(f) TRANSPORTATION.—The term ‘transportation’ means—

(a) the act of transporting a controlled substance; and

(b) the act of transporting a controlled substance in a manner that is prohibited by law.

(g) TRANSPORT.—The term ‘transport’ means—

(a) the act of transporting a controlled substance; and

(b) the act of transporting a controlled substance in a manner that is prohibited by law.

(h) Accessibility of Program.—A funding agreement for an award under subsection (a) for an applicant is that the program operated pursuant to such subsection will be operated in a region that is accessible to low income juveniles.

(i) Continuing Education.—A funding agreement for an award under subsection (a) is that the program operated pursuant to such subsection will be operated in a region that is accessible to low income juveniles.

(j) Imposition of Charges.—A funding agreement for an award under subsection (a) is that the charge imposed for the provision of authorized services to or on behalf of an eligible juvenile, such charge—

(I) will be made according to a schedule of charges that is made available to the public;

(II) will be adjusted to reflect the economic condition of the juvenile involved; and

(III) will not be imposed on any such juvenile whose family has an income of less than 150 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673 of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 10111).

(k) Reports to Director.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

(I) describing the utilization and costs of services provided under the award;

(II) specifying the number of juveniles served and the type and costs of services provided; and

(III) providing such other information as the Director determines to be appropriate.

(l) Notice of Application.—The Director shall make an award under subsection (a) only if an application for an award submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

(m) Equal Allocation of Awards.—In making an award under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, as well as among areas within the same region, subject to the availability of qualified applicants for the awards.

(n) Duration of Award.—

(1) IN GENERAL.—The period during which payments are made to an entity from an award under this section may not exceed 5 years.

(2) Approval of Director.—The provision of payments described in paragraph (1) shall be subject to—

(A) annual approval by the Director of the payments; and

(B) the availability of appropriations for the fiscal year at issue to make the payments.

(3) No limitation.—This subsection may not be construed to establish a limitation on the number of awards that may be made to an entity under this section.

(o) Evaluations; Dissemination of Findings.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

(p) Reports to Congress.—Not later than October 1, 1998, the Director shall submit to the Committee on the Judiciary of the House of Representatives, and to the Committee on the Judiciary of the Senate, a report describing programs carried out pursuant to this section.

(q) Periodic Reports.—

(1) IN GENERAL.—Not less than biennially after the date described in paragraph (1), the Director shall report to the Congress describing the activities to prevent substance abuse among juveniles.

(2) Summary.—Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

(r) Definitions.—In this section:

(1) Authorized Services.—The term ‘authorized services’ means treatment services and such other services as the Director determines to be necessary.

(2) Juvenile.—The term ‘juvenile’ means anyone 18 years of age or younger at the time that an application for a program operated pursuant to subsection (a) is submitted to the Director.

(3) Eligible Juvenile.—The term ‘eligible juvenile’ means a juvenile who has been admitted to a program operated pursuant to subsection (a).

(4) Funding Agreement Under Subsection (a).—The term ‘funding agreement under subsection (a)’, with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

(f) Treatment Services.—The term ‘treatment services’ means treatment for substance abuse, including the counseling and services described in subsection (c).

(5) Supplemental Services.—The term ‘supplemental services’ means the services described in subsection (d).

(g) Authorization of Appropriations.—

(1) IN GENERAL.—For the purpose of carrying out this section and section 576 there is authorized to be appropriated such sums as may be necessary for fiscal years 1998, 1999, and 2000. There is authorized to be appropriated from the Violent Crime Reduction Trust Fund, $10,000,000 in each of the fiscal years 2001 and 2002.

(2) Transfer.—For the purpose described in paragraph (1), in addition to the amounts authorized to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

(3) Rule of Construction.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

(h) Sections 576. Outpatient Treatment Programs for Drug Abuse.

(1) Grant.—The Secretary of Health and Human Services, acting through the Director of the Center for Substance Abuse Treatment, shall make grants to establish projects for the outpatient treatment of substance abuse among juveniles.

(2) Program.—Entitles receiving grants under this section shall engage in activities to prevent substance abuse among juveniles.

(i) Evaluation.—The Secretary of Health and Human Services shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.”.
TIEs will take place in a secure environment
will be supervised by an appropriate number
of responsible adults; and
activities funded under this subtitle;
funds that would otherwise be available for
supplement and not supplant, non-Federal
funds

TITLE IV—PROTECTING YOUTH FROM VIOLENT CRIME
Subtitle A—Grants for Youth Organizations
SEC. 401. GRANT PROGRAM.
The Attorney General may make grants to
States, Indian tribes, and national nonprofit
organizations in crime prone areas, such as
Boys and Girls Clubs, Police Athletic Leagues,
4-H Clubs, D.A.R.E. America, and
Kids N Kops programs, for the purpose of—
(1) providing constructive activities to
youth during after school hours, weekends,
and school vacations to prevent the criminal
victimization of participants;
(2) providing supervised activities in safe
environments to youth in crime prone areas;
(3) providing antidrug education to prevent
drug abuse;
(4) supporting police officer training and
salaries and educational materials to expand
D.A.R.E. America’s middle school campaign;
or
(5) providing constructive activities to
youth in a safe environment through parks
and other public recreation areas.
SEC. 402. REQUIREMENTS FOR NATIONAL ORGANIZATIONS.
(a) APPLICATIONS.—
(1) ELIGIBILITY.—In order to be eligible
to receive a grant under this section, the chief
officer of a national, non-Federal community
based organization shall submit an applica-
tion to the Attorney General in such form
and containing such information as the
Attorney General may reasonably require.
(2) APPLICATION REQUIREMENTS.—Each ap-
lication submitted in accordance with para-
graph (1) shall include—
(A) a request for a grant to be used for the
purposes described in this subtitle;
(B) a description of the communities to be
served by the grant, including the nature of
juvenile crime, violence, and drug use in the
communities;
(C) written assurances that Federal funds
received under this subtitle will be used to
supplement and not supplant, non-Federal
funds that would otherwise be available for
activities funded under this subtitle;
(D) written assurances that all activities
will be supervised by an appropriate number
of responsible adults; and
(E) a plan for assuring that program activi-
ties will take place in a secure environment
that is free of crime and drugs;
(b) GRANT AWARDS.—In awarding grants
under this section, the Attorney General shall con-
sider—
(1) the ability of the applicant to provide the
stated services;
(2) the history and establishment of the ap-

Subtitle B—“Say No to Drugs” Community Centers Act of 1997
SEC. 421. SHORT TITLE; DEFINITIONS.
(a) SHORT TITLE.—This subtitle may be
called the “Say No to Drugs Community
Centers Act of 1997”.
(b) DEFINITIONS.—For purposes of this
subtitle—
(i) the term “community-based organiza-
tion” means a private, locally initiated orga-
nization that—
(A) is a nonprofit organization, as that
term is defined in section 103(23) of the [ju-
vine] justice and Delinquency Prevention Act
of 1974 (42 U.S.C. 5603(23)); and
(B) involves the participation, as appro-
priate, of members of the community and
community institutions, including—
(i) business and civic leaders actively in-
volved in providing employment and busi-
ness development opportunities in the com-
munity;
(ii) educators;

under this subtitle shall submit to the Attorney
General a report that describes, for the year to
which the report relates—
(1) the activities provided;
(2) the number of youth participating;
(3) the extent to which the grant enabled the
provision of activities to youth that
would not otherwise be available; and
any other information that the Attorney
General requires for evaluating the
effectiveness of the program.
(b) EVALUATION AND REPORT TO CON-
gress.—Not later than March 1, 1999, and
March 1 of each year thereafter, the Attorney
General shall submit to the Congress an
evaluation and report that contains a de-
tailed statement regarding grant awards, ac-
tivities of grant recipients, a compilation of
statistical information submitted by grant
recipients under this subtitle, and an evalu-

1.

(2) the number of youth served by the grant
recipient;
(2) the percentage of youth participating in
the program charged with acts of delin-
quency or crime compared to youth in the
community at large;
(3) the percentage of youth participating in
the program that uses drugs compared to
youth in the community at large;
(4) the percentage of youth participating in
the program that are victimized by acts of
delinquency or crime compared to youth in
the community at large; and
(5) the truancy rate of youth participating
in the program compared to youth in the
community at large.
(d) DOCUMENTS AND INFORMATION.—Each
grant recipient under this subtitle shall pro-
vide the Attorney General with all docu-
ments and information that the Attorney
General determines to be necessary to con-
duct an evaluation of the effectiveness of
programs funded under this subtitle.
SEC. 404. AUTHORIZATION OF APPROPRIATIONS.
(a) IN GENERAL.—There are authorized to
be appropriated to carry out this subtitle from
the Violent Crime Reduction Trust Fund—
(1) such sums as may be necessary for each of
the fiscal years 1998 through 2000;
(2) for fiscal year 2001, $125,000,000; and
(3) annually thereafter, such sums as may be
necessary.
(b) CONTINUED AVAILABILITY.—Amounts
made available under this subtitle shall re-
main available until expended.
(iii) religious organizations (which shall not provide any sectarian instruction or sectarian worship in connection with program activities funded under this subtitle); (iv) local, state, or Federal agencies; (v) local, state, or Federal courts; and (vi) other interested parties;

(2) the term “eligible community” means a community;

(A) identified by an eligible recipient for assistance under this subtitle; and

(B) an area that meets such criteria as the Attorney General may, by regulation, establish, including criteria relating to poverty, juvenile delinquency, and crime;

(3) the term “eligible recipient” means a community-based organization or public school that has—

(A) been approved for eligibility by the Attorney General, upon application submitted to the Attorney General in accordance with section 412(b); and

(B) demonstrated that the projects and activities it seeks to support in an eligible community involve the participation, when feasible and appropriate, of—

(i) parents, family members, and other members of the eligible community;

(ii) civic and religious organizations serving the eligible community;

(iii) school officials and teachers employed at schools located in the eligible community;

(iv) public housing resident organizations in the eligible community; and

(v) public and private nonprofit organizations and organizations serving youth that provide education, child protective services, or other human services to low income, at-risk youth and their families;

(4) the term “poverty line” means the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 672(d) of the Community Services Block Grant Act (42 U.S.C. 9002)) applicable to a family of the size involved; and

(5) the term “public school” means a public elementary school, as defined in section 1221(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)); and a public secondary school, as defined in section 1221(a)(2) of that Act (42 U.S.C. 1141(a)).

SEC. 422. GRANT REQUIREMENTS.

(a) Grant of assistance.—The Attorney General may make grants to eligible recipients, which grants may be used to provide to youth living in eligible communities during after school hours or summer vacations, the following services:

(1) Rigorous drug prevention education.

(2) Drug counseling and treatment.

(3) Academics and mentoring.

(4) Activities promoting interaction between youth and law enforcement officials.

(5) Vaccinations and other basic preventive health care.

(6) Sexual abstinence education.

(7) Other activities and instruction to reduce youth violence and substance abuse.

(b) Grant of amounts.—An eligible recipient that receives a grant under this subtitle—

(1) shall ensure that the stated program is carried out—

(A) when appropriate, in the facilities of a public school during nonschool hours; or

(B) in another appropriate local facility that is—

(i) in a location easily accessible to youth in the community; and

(ii) in compliance with all applicable State and local ordinances;

(2) shall use the grant amounts to provide to youth in the eligible community services and activities that include extracurricular and academic programs in another State or Indian tribe under subparagraph (B) remain unobligated, the Attorney General shall use such funds to award grants from the appropriate State or Indian tribe allocation determined under subparagraph (A) on a competitive basis to eligible recipients to pay for the Federal share of assisting eligible communities to develop and carry out programs in accordance with this subtitle.

(b) Grants to community-based organizations and public schools from allocations.—For each fiscal year described in subparagraph (A), the Attorney General may make grants to eligible communities to carry out this subtitle is equal to or less than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(ii) Indian tribes.—The Attorney General shall allocate all or any amount made available under this subtitle for grants to Indian tribes.

(2) Grants to community-based organizations, and public schools from allocations.—For each fiscal year described in subparagraph (A), the Attorney General may make grants to eligible communities to carry out this subtitle is equal to or less than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(b) Grants to community-based organizations, and public schools from allocations.—For each fiscal year described in subparagraph (A), the Attorney General may make grants to eligible communities to carry out this subtitle is equal to or less than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(b) Grants to community-based organizations, and public schools from allocations.—For each fiscal year described in subparagraph (A), the Attorney General may make grants to eligible communities to carry out this subtitle is equal to or less than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(b) Grants to community-based organizations, and public schools from allocations.—For each fiscal year described in subparagraph (A), the Attorney General may make grants to eligible communities to carry out this subtitle is equal to or less than $20,000,000, from the amount made available to carry out this subtitle, the Attorney General shall allocate not less than 0.75 percent for grants under subparagraph (B) to eligible recipients in each State.

(c) Administrative costs.—The Attorney General may use not more than 3 percent of the amounts made available to carry out this section in any fiscal year in carrying out this subtitle.
SEC. 423. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle from the Violent Crime Reduction Trust Fund:

(1) for fiscal year 2000, $125,000,000; and

(2) for fiscal year 2002, $125,000,000.

Subtitle C—Missing Children

SEC. 431. AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT OF 1984.

(a) DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.—Section 404 of the Missing Children's Assistance Act (42 U.S.C. 5773) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) in subsection (b)—

(A) by striking "administrative" and all that follows through "shall—" and inserting the following:

(b) TOLL-FREE HOTLINE AND NATIONAL RESOURCE CENTER.—The Administrator shall make grants to or enter into contracts with the National Center for Missing and Exploited Children, for purposes of—

(i) in subparagraph (A), by striking "establish and operate" and inserting "providing"; and

(ii) in subparagraph (B), by adding "and" at the end;

(C) in paragraph (2)—

(i) by striking "establish and operate" and inserting "operate"; and

(ii) in subparagraph (A), by inserting "foreign governments," after "State and local governments"; and

(III) in subparagraph (D)—

(i) by inserting "foreign governments," after "State and local governments"; and

(ii) by striking ";" and "at the end and inserting "period.

(D) in paragraph (3), by striking "(3) periodically" and inserting the following:

(3) NATIONAL INCIDENCE STUDIES.—The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

(I) periodically; and

(E) by redesigning paragraph (4) as paragraph (2).

(b) GRANTS.—Section 405(a) of the Missing Children's Assistance Act (42 U.S.C. 5775(a)) is amended by inserting "the National Center for Missing and Exploited Children and with" before "public agencies":

TITLE V—IMPROVING YOUTH CRIME AND DRUG PREVENTION

Subtitle A—Comprehensive Study of Federal Prevention Efforts

SEC. 501. STUDY BY NATIONAL ACADEMY OF SCIENCES.

(a) In General.—The Attorney General shall enter into a contract with a public or nonprofit private entity, subject to subsection (b), for the purpose of conducting a study or studies—

(1) to evaluate the effectiveness of federally funded programs for preventing youth violence, youth substance abuse, and dropping out of school;

(2) to identify specific federal programs and programs that receive Federal funds that contribute to reductions in youth violence, youth substance abuse, and at-risk factors and risk factors that are related to violent behavior and substance abuse;

(3) to identify specific programs that have not achieved their intended results; and

(4) to identify specific recommendations on programs that—

(A) should receive continued or increased funding because of their proven success; or

(B) should have their funding terminated or reduced because of their lack of effectiveness.

(b) NATIONAL ACADEMY OF SCIENCES.—The Attorney General shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described under subsection (a). If the Academy declines to conduct the study, the Attorney General shall carry out such subsection through public or nonprofit private entities.

(c) ASSISTANCE.—In conducting the study under subsection (a) the contracting party may obtain advice, data, and other relevant materials from the Department of Justice and any other appropriate Federal agency.

(d) REPORTING REQUIREMENTS.—

(1) In general.—Not later than January 1, 2000, the Attorney General shall submit a report describing the findings made as a result of the study required by subsection (a) to the Committee on the Judiciary and the Committee on Economic and Educational Opportunity of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate.

(2) CONTENTS.—The report required by this subsection shall contain specific recommendations concerning funding levels for the programs evaluated. Reports on the effectiveness of such programs and recommendations as to the funding levels to be provided to the appropriate subcommittees of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

(e) FUNDING.—There are authorized to be appropriated to carry out the study under subsection (a) $1,000,000,000.

Subtitle B—Evaluation Mandate for Authorized Programs

SEC. 522. EVALUATION OF CRIME PREVENTION PROGRAMS.

The Attorney General, with respect to the programs in titles II, III, and IV of this Act shall provide, directly or through grants and contracts, for the comprehensive and thorough evaluation of the effectiveness of each program established by this Act and the amendments made by this Act.

SEC. 523. EVALUATION AND RESEARCH CRITERIA.

(a) INDEPENDENT EVALUATIONS AND RESEARCH.—Evaluations and research studies conducted pursuant to section 522 shall be independent in nature, and shall employ rigorous and scientifically recognized standards and methodologies.

(b) CONTRACTUAL EVALUATIONS.—Evaluations conducted pursuant to this title may include comparison between youth participating in the programs and the community at large of rates of—

(1) delinquency, youth crime, youth gang activity, youth substance abuse, and other high risk factors;

(2) risk factors in young people that contribute to juvenile violence, including academic failure, excessive school absenteeism, and dropping out of school;

(3) risk factors in the community, schools, and family environments that contribute to youth violence; and

(4) criminalizations of youth.

SEC. 524. COMPLIANCE WITH EVALUATION MANDATE.

The Attorney General may require the recipients of Federal assistance for programs under this Act to collect, maintain, and report information considered to be relevant to any evaluation conducted pursuant to section 522, and shall conduct and participate in specified evaluation and assessment activities and functions.

SEC. 525. RESERVATION OF AMOUNTS FOR EVALUATION

(a) In General.—The Attorney General, with respect to titles II, III, and IV shall re-
with a gunshot to the back of his head. Three youths have been arrested, and the police suspect this heinous crime was the work of a gang. We must put a stop to the brutality of children killing children.

We also want to protect the children of this country from becoming victims of crime, from joining gangs, and from becoming drug addicts. This is not a partisan issue. Gang members do not ask before they strike whether their victim is Republican or Democratic. We in Congress need to make every effort to work together to get a handle on this problem.

The Democratic crime initiative we are introducing today builds on and continues the proven elements of the 1994 crime bill and takes the next steps to confront the problems of youth crime, drug abuse and gang violence. Our bill targets youthful offenders for certain crimes when they commit violent acts and offers helpful treatment when they need it. Although the number of juveniles arrested for violent crimes dipped in 1995, these numbers remain at unacceptable levels: sixty percent more juveniles were arrested for violent crimes in 1995 than in 1987.

Concern about the spread of gangs—the violence, the drug dealing and other criminal activity that gangs leave in their wake—has spread from our large cities to rural American towns. Indeed, one of the major factors responsible for the increases in juvenile crime over the past decade is the growth of criminal street gangs across this country. According to the Commissioner of the Federal Bureau of Prisons, the number of juveniles arrested for violent crimes in 1995 was the work of a gang. We must put a stop to the brutality of children killing children.

In my days as a prosecutor, gangs were unheard of in Vermont. Unfortunately, this is no longer the case. Just last month, the Vermont Corrections Commissioner reported significant increases in gang activity occurring in Vermont's prisons. There are also reports that franchises of the "los solidos" gang have set up shop in Rutland, and the "la familia" gang has moved into St. Johnsbury.

Gangs and drug trade, corrupt our youth, and disturb the tranquility of our streets. They are a problem we all now face, and they are a driving force in the crime wave which this Congress and the Federal Government must address, in partnership with our States and communities and with law enforcement authorities at all levels.

What do we propose to do about it? First, we hope to work constructively with our colleagues from the other side of the aisle to deal with the problems of gangs and youth violence. We were able to do that in 1994. Senator Biden, who was then chairman of the Senate Judiciary Committee, worked tirelessly to ensure passage of the 1994 crime law. The Democratic youth violence bill we introduce today has been crafted under the leadership of Senator Daschle and reflects the contributions of Senators Biden, Kohl, Feinstein, Kennedy, and others.

This Democratic leadership bill builds on the successes of the 1994 crime law, which is putting 100,000 cops on our Nation's streets and increased prevention and intervention efforts to keep children safe from crime and drugs. Specifically, it will:

- Expand the community oriented policing [cop] program to put 25,000 more cops on the beat;
- Continue the Violence Against Women Act by providing $600 million to prosecute batterers, shelter 400,000 battered women and their children and continue the national domestic violence hotline; and
- Provide $5 billion to build prisons so that States can round up serious violent offenders to serve at least 85 percent of their sentences will be better able to house criminals.

The Democratic crime bill also looks to the future with new laws and programs to crack down on youth violence. These measures target the use of "gang paraphernalia", the spread of gang "franchises", the intimidation of witnesses, and reform of the juvenile justice system, with more protection for the victims of juvenile crime.

Specifically, our bill would increase the penalties for illegally using "gang paraphernalia" such as body armor and laser sighting devices. Police officers use kevlar vests to protect their lives and hence our public safety. When criminals use kevlar vests, they do so to ensure their escape and enjoy the fruits of their crime. Under this bill, they would get more time when they are caught using such body armor in the commission of a crime.

The bill also makes it easier for law enforcement to use clone beepers to investigate gang activity. Bippers are how gang members and drug dealers keep in touch with each other. One tool law enforcement uses to investigate these criminals is a "clone beeper", which displays the same numbers displayed on the beepers of targeted criminals. This bill will permit law enforcement to get a clone beeper with a warrant to order them to get open orders when they already use to get information on the numbers dialed to or from a telephone. This is not to be confused with wiretap order to eavesdrop on what people say; clone beepers only give information on the numbers displayed on the beeper. The bill will speed up the process for law enforcement to get "clone beepers."

Our bill would double the penalty for using physical violence or threatening physical violence or employing a firearm to communicate the threat of violence or of harm to victims or informants. Nothing undermines our system of justice more than scaring people away from providing information that helps the police, prosecutors, judges and juries from finding the truth.

The bill would create a new federal crime for expanding gangs across State borders and increase penalties for using firearms to commit drug trafficking crimes. We also propose several needed changes in the juvenile justice system to respond to the need to crack down on violent youth with the full force of the law. This means increasing the incarceration periods for juvenile offenders so that they may be incarcerated until the age of 26 instead of mandatory release at the age of 21, streamlining procedures for prosecuting violent juveniles as adults, and building more prisons to incarcerate juvenile offenders. In addition, our bill creates new juvenil gun and drug courts to speed prosecution and sentencing for drug abuse and weapons violations.

The bill also improves the rights of victims of violent juvenile crime. Whether the perpetrator of a violent crime is an adult or a juvenile, the victim should have the opportunity to speak to the sentencing judge and be entitled to restitution.

Drugs have had a devastating affect on our communities. It is clear that no solution to the juvenile crime problem will work if it does not address the role that drug abuse and drug trafficking play in creating unsafe environments for our children. For this reason, the Democratic crime bill includes measures to prevent and treat youth drug addiction. These measures include:

- Providing $200 million investment in research and development of medicines to treat heroin and cocaine addiction; and
- Extending the drug courts program to force more than 500,000 adult and juvenile drug offenders to engage in a rigorous drug testing and drug treatment—or face certain imprisonment. This also protect children from becoming the victims of crime, with programs that would keep children like Darryl Hall in safer environments. These measures include:

  - Extending the Safe and Drug Free Schools Program; and
  - Creating after-school "safe havens" where children are protected from drugs, gangs and crime in supervised and productive environments.

In Vermont, we have a very successful program called "Roys' Run" that brings school-age children and our law enforcement officers together in a fun and constructive way. Last spring, the attorney general attended an annual event in Vermont celebrating this program and urged that the program be replicated elsewhere in the country. This bill would help make that a reality.

Youth crime has many causes, and no one bill can solve them all. But that should not paralyze us from taking sensible steps, in partnership with states and communities of all sizes and in all regions of the Nation, to begin turning the tables on youth crime and prevent violent youth.
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franchising spread of criminal street
cops on the beat. We must create a new
prevention programs. violent youthful offenders, and pro-
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violent crime in this country has gone
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problem.
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problem in our State. The city of New
serious problem, ranking it as the No.
concerns of all Americans, no matter what
bill.
ystyle: `youth violence, crime, and drug abuse
City. It is good news, certainly, that
serious and violent crime dropped
recently released statistics showing
problem.
ction—and who supports the thrust of what we
are proposing in this package. We have
forward with balanced, common-
sense solutions to youth crime. We
should debate and refine this bill as we
go along, but these are not suggestions
that should divide us along party lines.

We look forward to working with the
administration, our Republican colleagues
in the House and Senate, and other leaders and
officials which have demonstrated its ability
to move effectively in implement-
ing anti-crime initiatives—in bringing these
proposals to Congress' front burner for debate and prompt action.
Mr. President, I am pleased to be an original cosponsor of
this Democratic leadership bill—the
violence, crime, and drug abuse
bill.
Crime ranks among the highest con-
cerns of all Americans, no matter what
their race or social background. Louisi-
a is no exception. In a recent poll, 96 per-
cent of Louisianians said crime is a serious
problem, ranking it as the No. 1 problem in our State. The city of New
Orleans is experiencing a murder rate
that is eight times higher than the na-
tional average. People want us and
their local governments and State
governments to do something about this
problem.
The Federal Bureau of Investigation
recently released statistics showing that
serious and violent crime dropped
nationwide in the first half of last
year. It is good news, certainly, that
violent crime in this country has gone
down; but the bad news is that juvenile
crime is on the increase. Youth crimes,
particularly homicides perpetrated
with guns, have skyrocketed. The aver-
age cost of incarcerating a juvenile for
just 1 year is somewhere between
$23,000 and $64,000. I strongly support
this Democratic legislation because it
focuses directly on juveniles, punishes
violent youthful offenders, and pro-
vides more access to treatment and
prevention programs.
We must continue the success of the
COPS Program and put 25,000 more
cops on the beat. We must create a new
Federal crime targeting the interstate
franchising spread of criminal street
gangs and other crimes aimed at gang
violence, such as increasing the pen-
alties for witness intimidation. We
must extend the drug court program to
force some 500,000 drug offenders to en-
gage in rigorous drug testing and treat-
ment, or face imprisonment and, fi-
ally, we must continue to provide
funds to arrest and prosecute batterers
and shelter 400,000 battered women. Mr.
President, this bill includes all of these
provisions, and I would urge my col-
leagues to support it.
For the sake of generations to come, it is time that we attack crime with
a renewed vigor. Today's juvenile crimi-
nal becomes tomorrow's adult crim-
inal. We must pass this legislation.

By Mr. DASCHLE (for himself,
Mr. HARKIN, Mr. JOHNSON, Mr.
DORGAN, Mr. CONRAD, Mr.
KERREY, Mr. BAUCUS, Mr.
BINGAMAN, Mr. KOHL, Mr.
FEINGOLD, Mr. LEAHY, and Mr.
WELLSTONE):
S. 16. A bill to ensure the continued
viability of livestock producers and the
livestock industry in the United
States, to assure foreign countries
do not deny market access to United
States meat and meat products, and
for other purposes; to the Committee
on Agriculture, Nutrition, and Forestry.
THE CATTLE INDUSTRY IMPROVEMENT ACT
OF 1997
Mr. DASCHLE. Mr. President, I am
unanimous consent that the text of the
bill be printed in the RECORD.

There being no objection, the bill
was ordered to be printed in the RECORD, as follows:
S. 16
Be it enacted by the Senate and House of Repre-
sentatives of the United States of America in
Congress assembled,
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.—This Act may be cited as the
“Cattle Industry Improvement Act of
1997.”
(b) TABLE OF CONTENTS.—The table of con-
tents of this Act is as follows:
Sec. 1. Short title; table of contents.
TITLE I—CATTLE INDUSTRY
IMPROVEMENT
Sec. 101. Prohibition on noncompetitive
practices.
Sec. 102. Domestic market reporting.
Sec. 103. Import reporting.
Sec. 104. Protection of livestock producers
against retaliation by packers.
Sec. 105. Review of Federal agriculture cred-
it policies.
Sec. 106. Streamlining and consolidating the
United States food inspection system.
Sec. 107. Labeling system for meat and meat
food products produced in the
United States.
Sec. 108. Sense of Senate on interstate ship-
ment.
Sec. 109. Exchange of cattle production data
with Canada.

TITLE II—MARKET ACCESS FOR UNITED
STATES MEAT PRODUCTS
Sec. 201. Short title.
Subtitle A—Identification of Countries
Sec. 211. Findings; purposes.
Sec. 212. Identification of countries that
deny market access.
Sec. 213. Investigations.
Sec. 214. Authorized actions by United
States Trade Representative.
Subtitle B—Review of Third Country Meat
Directive
Sec. 221. Findings.
Sec. 223. Definitions.
Sec. 224. Requirement for determination by
United States Trade Representative.
Sec. 225. Request for dispute settlement.
Sec. 226. Review of certain meat facilities.

TITLE I—CATTLE INDUSTRY
IMPROVEMENT
Sec. 101. PROHIBITION ON NONCOMPETITIVE
PRACTICES.
Section 202 of the Packers and Stockyards
Act, 1921 (7 U.S.C. 193), is amended—
(1) in subsection (g), by striking the period
at the end and inserting a semicolon;
(2) by adding at the end the following:
“(h) Engage in any practice or device that
the Secretary by regular consulta-
tion with producers of cattle, lamb, and
hogs, and other persons in the cattle, lamb,
and hog industries, determines is a detrimen-
tal noncompetitive practice or device relat-
ing to the price or a term of sale for the
procurement of livestock or the sale of meat or
other byproduct of slaughter.”.

TITLE II—MARKET ACCESS FOR UNITED
STATES MEAT PRODUCTS.
(a) PERSONS IN SLAUGHTER BUSINESS.—Sec-
tion 203(g) of the Agricultural Marketing Act
of 1946 (7 U.S.C. 1623(g)) is amended—
(1) by striking “(g) To” and inserting the
following:
“(g) COLLECTION AND DISSEMINATION OF
MARKETING INFORMATION.—
“(1) IN GENERAL.—To”; and
(2) by adding at the end the following:
“(2) DOMESTIC MARKET REPORTING.—
“(A) MANDATORY REPORTING.—Each person
engaged in the business of slaughtering a
quantity of livestock determined by the Sec-
retary shall report to the Secretary in such
manner as the Secretary shall require, as
soon as practicable but not later than 24
hours after a transaction takes place, such
information relating to prices and the terms
and manner of sale for the procurement of
livestock and the sale of meat food products
and livestock products as the Secretary deter-
nines is necessary to carry out this subsection.
“(B) NONCOMPLIANCE.—Whoever knowingly
fails or refuses to provide to the Secretary
information required to be reported by sub-
paragraph (A) shall be fined under title 18,
United States Code, or imprisoned for not
more than 5 years, or both.
(c) VOLUNTARY REPORTING.—The Sec-
retary shall encourage voluntary reporting
by any person engaged in the business of
slaughtering livestock who is not subject to
subsection (b).
“(D) AVAILABILITY OF INFORMATION.—The
Secretary shall make information received
under this subsection available to the public
only in the aggregate and shall ensure the
confidentiality of persons providing the
information.

(b) TERMINATION OF AUTHORITY.—The au-
thority provided by this paragraph shall ter-
minate on the date that is 1 year after the
date of enactment of this paragraph, except
that the Secretary may extend the authority
beyond that date if the Secretary determines
the extension is necessary or appropriate.”.

(b) ELIMINATION OF OUTMODED REPORTS.—
The Secretary of Agriculture, after consulta-
tion with producers and other affected par-
ties, shall periodically—
(1) eliminate obsolete reports; and
(2) streamline the collection and reporting
of data related to livestock and meat
food products, using modern data com-
munications technology, to provide informa-
tion to the public as close to a real-time
basis as practicable.

(c) DEFINITION OF “CAPTIVE SUPPLY”.—For
the purpose of regulations issued by the Sec-
retary of Agriculture relating to reporting
under the Agricultural Marketing Act of 1946
(7 U.S.C. 1621 et seq.) and the Packers and
ty the Secretary who shall cause a com-
ized or is violating the retaliation prohibi-
tion on imported meat food products, live-
practicable, jointly make available to the 
public on as close to a real-time basis as 
technology to provide the information to the 
shall, using modern data communications 
culture and the Secretary of Commerce 
ment made by the producer (whether made 
esult and the Secretary of the Treasury, the 
ction to any other remedy.''.
(3) EVIDENTIARY STANDARD.ÐIn the case of 
violating the retaliation prohibition 
under section 202(b), the panel shall not 
be considered as a result of the violation.
(2) ENFORCEMENT.—The liability may be 
enforced either by complaint to the Secre-
cy of Agriculture or, if a packer violates the 
retaliation prohibition provided by this subsection shall be in ad-
sec. 106. STREAMLINING AND CONSOLIDATING 
THE UNITED STATES FOOD INSPEC-
tion system. 

SEC. 107. LABELING SYSTEM FOR MEAT 
AND MEAT FOOD PRODUCTS PRODUCED 
in the UNITED STATES. 

(a) LABELING.—Section 7 of the Federal 
Meat Inspection Act (7 U.S.C. 607) is amended 
by adding at the end the following: 
``(3) O THER REMEDIES .ÐThis subsection 
may be cited as the ``Meat Products 
and Meat Meat Products.''

(b) S PECIAL REQUIREMENTS REGARDING AL-
laminate sections 202(b) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192(b)), is amended— 
(1) by striking ``or subject'' and inserting 
(2) by inserting before the semicolon at the 
end the following: 
``subject''; and 

(1) I N GENERAL.—If a packer violates the 
section.''.

(2) ASSISTANCE.—The Secretary shall 
provide technical and financial assistance to es-

(1) Stockyards Act, 1921 (7 U.S.C. 181 et seq.), the 
term “captive supply” means livestock 
obligated to a packer in any form of trans-
action in which more than 7 days elapses from 
the date of the transaction to the date of 
delivery of the livestock. 

SEC. 103. IMPORT REPORTING. 
(a) In GENERAL.—The Secretary of Agri-
culture and the Secretary of Commerce 
shall, using modern data communications 
technology to provide the information to the 
public on as close to a real-time basis as 
technology to provide the information to the 
shall, using modern data communications 
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ment made by the producer (whether made 
esult and the Secretary of the Treasury, the 
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be considered as a result of the violation.
(2) ENFORCEMENT.—The liability may be 
enforced either by complaint to the Secre-
cy of Agriculture or, if a packer violates the 
retaliation prohibition provided by this subsection shall be in ad-

Trade Representative shall only identify those foreign countries—

(A) that engage in, or have the most onerous or egregious acts, policies, or practices that deny fair and equitable market access to United States meat and meat products,

(B) whose acts, policies, or practices described in subparagraph (A) have the greatest actual or potential to affect the relevant United States products, and

(C) that are not—

(i) entering into good faith negotiations, or

(ii) making significant progress in bilateral or multilateral negotiations, to provide fair and equitable market access to United States meat and meat products.

(2) CONSULTATION AND CONSIDERATION REQUIREMENTS.—In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

(A) consult with the Secretary of Agriculture and other appropriate officers of the Federal Government, and

(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by the persons described in subparagraph (A), including information contained in reports submitted under section 302(b) and petitions submitted under section 182(b).

(3) FACTUAL BASIS REQUIREMENT.—The Trade Representative may identify a foreign country under subsection (a)(1) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

(4) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraph (1) of subsection (a), the Trade Representative shall take into account—

(A) the history of meat and meat products trade relations with the foreign country, including any previous identification under subsection (a)(2), and

(B) the history of efforts of the United States, and the response of the foreign country, to achieve fair and equitable market access for United States meat and meat products.

(c) REVOKE INVESTIGATIONS.—

(1) AUTHORITY TO ACT AT ANY TIME.—If information submitted to the Trade Representative indicates that such action is appropriate, the Trade Representative may take such action at any time.

(2) REVOCATION REPORTS.—The Trade Representative shall include in the semiannual report submitted to the Congress under section 213(a)(1) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

(d) FAIR AND EQUITABLE MARKET ACCESS.—For purposes of this section, a foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product through the use of laws, procedures, practices, or regulations which—

(A) violate provisions of international law or international agreements to which both the United States and the foreign country are party or from which they have benefited.

(2) constitute discriminatory nontariff trade barriers.

(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of the action under subsection (c).

(f) ANNUAL REPORT.—The Trade Representative shall, not later than the date by which the annual report is required under subsection (c), transmit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the actions taken under this section during the 12 months preceding such report, and shall include in such report the following:

(1) AUTHORITY TO ACT AT ANY TIME .—If in the judgment of the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

(2) CONSIDERATION OF HISTORICAL FACTORS.—In identifying foreign countries under paragraph (1) of subsection (a), the Trade Representative shall only identify a foreign country that export meat and other agricultural products to the United States if the United States Trade Representative is required—

(A) that engage in, or have the most onerous or egregious acts, policies, or practices that denies market access for meat and meat products.

(3) AUTHORITY TO ACT AT ANY TIME .—If in the judgment of the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

(4) REVOCATION REPORTS.—The Trade Representative shall only identify a foreign country that export meat and other agricultural products to the United States if the United States Trade Representative is required—

(A) that engage in, or have the most onerous or egregious acts, policies, or practices that denies market access for meat and meat products.

(3) THIRD COUNTRY MEAT DIRECTIVE ; COMMUNITY DIRECTIVE .—The United States Trade Representative is required—

(A) that engage in, or have the most onerous or egregious acts, policies, or practices that denies market access for meat and meat products.

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(3) THIRD COUNTRY MEAT DIRECTIVE ; COMMUNITY DIRECTIVE .—The United States Trade Representative is required—

(A) that engage in, or have the most onerous or egregious acts, policies, or practices that denies market access for meat and meat products.
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 "Working Americans Opportunity Act".

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

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions and provisions.

TITLE I—JOB TRAINING VOUCHERS
Sec. 101. Establishment.
Sec. 102. Individual choice.
Sec. 103. Eligibility.
Sec. 104. Obtain a voucher.
Sec. 105. Oversight and accountability.
Sec. 106. Eligibility requirements for job training providers.
Sec. 107. Evaluation of the system.
Sec. 108. Apportionment of funds.

TITLE II—CONSOLIDATION OF FEDERAL JOB TRAINING PROGRAMS
Sec. 201. Consolidation of programs.

TITLE III—EMPLOYMENT-RELATED INFORMATION AND SERVICES THROUGH ONE-STOP CAREER CENTERS
Sec. 301. One-stop career centers.
Sec. 302. Access to information.
Sec. 303. Direct loans to United States workers.

TITLE IV—REPORTS AND PLANS
Sec. 401. Consolidation and streamlining.
Sec. 402. Report relating to income support.

TITLE V—GENERAL PROVISIONS
Sec. 501. Authorization of appropriations.
Sec. 502. Effect of provisions.

SEC. 224. REQUIREMENT FOR DETERMINATION BY UNITED STATES TRADE REPRESENTATIVE.
Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall determine, for purposes of section 306(b)(1) of the Trade Act of 1974, whether the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the agreement.

SEC. 226. REVIEW OF CERTAIN MEAT FACILITIES.
(a) REVIEW BY FOOD SAFETY AND INSPECTION SERVICE.—If the United States Trade Representative determines pursuant to section 224 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the agreement.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:
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Sec. 2. Findings and purposes.
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TITLE I—JOB TRAINING VOUCHERS
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Sec. 402. Report relating to income support.

TITLE V—GENERAL PROVISIONS
Sec. 501. Authorization of appropriations.
Sec. 502. Effect of provisions.

SEC. 225. REQUEST FOR DISPUTE SETTLEMENT.
Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall request the establishment of a panel and the initiation of a dispute settlement proceeding under the Agreement on Sanitary and Phytosanitary Measures, or any other agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the agreement.

SEC. 226. REVIEW OF CERTAIN MEAT FACILITIES.
(a) REVIEW BY FOOD SAFETY AND INSPECTION SERVICE.—If the United States Trade Representative determines pursuant to section 224 that the European Union has failed to implement satisfactorily its obligations under the Exchange of Letters, the Agreement on the Application of Sanitary and Phytosanitary Measures, or any other agreement, the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures applicable to the agreement.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions and provisions.

TITLE I—JOB TRAINING VOUCHERS
Sec. 101. Establishment.
Sec. 102. Individual choice.
Sec. 103. Eligibility.
Sec. 104. Obtain a voucher.
Sec. 105. Oversight and accountability.
Sec. 106. Eligibility requirements for job training providers.
Sec. 107. Evaluation of the system.
Sec. 108. Apportionment of funds.

TITLE II—CONSOLIDATION OF FEDERAL JOB TRAINING PROGRAMS
Sec. 201. Consolidation of programs.

TITLE III—EMPLOYMENT-RELATED INFORMATION AND SERVICES THROUGH ONE-STOP CAREER CENTERS
Sec. 301. One-stop career centers.
Sec. 302. Access to information.
Sec. 303. Direct loans to United States workers.

TITLE IV—REPORTS AND PLANS
Sec. 401. Consolidation and streamlining.
Sec. 402. Report relating to income support.

TITLE V—GENERAL PROVISIONS
Sec. 501. Authorization of appropriations.
Sec. 502. Effect of provisions.
(C) Special rule for displaced homemakers.—The term “dislocated worker” shall, for the purpose of applying provisions related to job training and employment-related programs for an individual and for whom a State, include a displaced homemaker (as defined by the Secretary of Labor in regulation), if the State determines that such definition is appropriate and will not adversely affect the delivery of services to other dislocated workers in the State.

(3) Economically disadvantaged adult.—The term “economically disadvantaged adult” means an individual who is age 18 or older and who has received an income, or is a member of a family that has received a total family income, for the 6-month period prior to application for the activity involved (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, does not exceed the higher of—

(A) the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 672(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), for an equivalent period; or

(B) 70 percent of the lower living standard income established for the equivalent period.

(4) Job training provider.—The term “job training provider” means a public agency, private nonprofit organization, or private for-profit entity that delivers job training services.

(5) Service delivery area.—The term “service delivery area” means an area established under section 102 of the Job Training Partnership Act (29 U.S.C. 121). (6) State.—The term “State”, used to refer to a jurisdiction, means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(7) Workforce development entity.—The term “workforce development entity” means a private industry council as described in section 8 of the Job Training Partnership Act (29 U.S.C. 121), or such successor entity as may be established by Federal statutory law specifically to serve as such entity.

Title I—Job Training Vouchers

SEC. 101. ESTABLISHMENT. The Secretary of Labor shall, pursuant to the requirements of this title, establish a job training system that provides vouchers to individuals for the purpose of enabling the individual to acquire job training.

SEC. 102. INDIVIDUAL CHOICE. (a) In general.—Upon notification of approval of an application submitted under section 104, an individual may receive a voucher for a 2-year period, beginning on the date on which the application is approved.

(b) Use of Vouchers for Job Training.—(1) General.—An individual who is a recipient of a voucher under subsection (a) may use such voucher to pay for job training obtained from a job training provider that meets the requirements of section 106.

(2) Authorized Job Training.—The job training described in paragraph (1) may include—

(A) a degree or certificate in a nondegree program at—

(i) two- and four-year colleges;

(ii) vocational and technical education schools;

(iii) private for-profit and not-for-profit training organizations;

(iv) public agencies and schools; and

(v) community-based organizations.

(B) employer work-based training programs; and

(C) in the case of individuals who are economically disadvantaged adults, preemployment training programs.

SEC. 103. ELIGIBILITY. An individual shall be eligible to receive a voucher under this title if such individual is—

(1) a dislocated worker; or

(2) an economically disadvantaged adult.

SEC. 104. OBTAINING A VOUCHER. (a) Application.—An individual who desires to receive a voucher under this title shall submit an application to the State at such time, in such manner, and accompanied by such information as the State may reasonably require.

(b) Assistance to Applicants.—(1) One-Stop Career Centers.—Each one-stop career center established under section 310 shall—

(A) provide applications for vouchers under this title to interested individuals, assist such individuals in completing such applications, and collect completed applications for determination of eligibility;

(B) provide performance-based information to the applicant relating to job training providers eligible to receive payment by vouchers in accordance with section 106;

(C) provide information to the applicants on—

(i) the local economy and availability of employment;

(ii) profiles of local industries; and

(iii) details of local labor market demand; and

(D) carry out such other duties relating to the voucher system as may be specified in regulations issued by the Secretary of Labor.

(2) Conflict of Interest Standards.—The Secretary of Labor shall issue regulations establishing procedures to ensure that a one-stop career center maintains an entity that is concurrently an eligible job training provider under the voucher system provides information to the applicants relating to the other eligible job training providers in the service delivery area in an objective and equitable manner.

SEC. 105. OVERSIGHT AND ACCOUNTABILITY. (a) In General.—Not later than 6 months after the enactment of this Act, the Secretary of Labor and the State shall make such rules and regulations as may be necessary to implement this title to interested individuals, assist such individuals in completing such applications, and collect completed applications for determination of eligibility; and

(b) Use of the Vouchers.—The Secretary of Labor shall provide an opportunity for community-based organizations to apply for vouchers under this title.

(c) Use of the Vouchers.—(1) General.—Not later than 6 months after the enactment of this Act, the Secretary of Labor and the State shall—

(A) provide applications for vouchers under this title to interested individuals, assist such individuals in completing such applications, and collect completed applications for determination of eligibility;

(B) provide performance-based information to the applicant relating to job training providers eligible to receive payment by vouchers in accordance with section 106;

(C) provide information to the applicants on—

(i) the local economy and availability of employment;

(ii) profiles of local industries; and

(iii) details of local labor market demand; and

(D) carry out such other duties relating to the voucher system as may be specified in regulations issued by the Secretary of Labor.

SEC. 106. ELIGIBILITY REQUIREMENTS FOR JOB TRAINING PROVIDERS. (a) Eligibility Requirements.—A job training provider shall be eligible to receive a voucher under this title if such provider—

(1) is—

(A) determined to be eligible under the provisions of section 1965 of the Higher Education Act of 1965 (20 U.S.C. 1099a et seq.); or

(B) determined to be eligible under the procedures described in subsection (b); and

(2) provides the performance-based information required pursuant to subsection (c).

(b) Alternative Eligibility Procedure.—(1) In General.—The Secretary shall establish an alternative eligibility procedure for job training providers desiring to receive payment by vouchers under this title, but that are not eligible to participate in programs under title IV of the Higher Education Act of 1965.

(2) Procedure Requirements.—In establishing the procedure described in paragraph (1), the Secretary shall establish minimum acceptable levels of performance for job training providers based on factors and guidelines developed by the Secretary of Labor in consultation with the Secretary of Education. Such factors shall be comparable in rigor and scope to the provisions of part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099a et seq.) that are used to determine the eligibility of an institution of higher education to participate in programs under such title and are appropriate to the type of job training provider seeking eligibility under this subsection and the nature of the job training to be provided.

SEC. 107. LIMITATION. Notwithstanding paragraph (1), the percentage of graduates of the programs conducted by such job training provider seeking eligibility under this title for a period of 2 years beginning on the date of such termination.

(c) Performance-Based Information.—(1) Contents.—The Secretary of Labor shall identify performance-based information that is to be submitted by job training providers desiring to receive payment by vouchers under this title. Such information may include information relating to—

(A) the percentage of students completing the programs conducted by such job training provider;

(B) the rates of licensure of graduates of the programs conducted by such job training provider;

(C) the percentage of graduates of the programs conducted by such job training provider that meet industry-specific skill standards;

(D) the rates of placement and retention in employment and earnings of the graduates of the programs conducted by such job training provider;

(E) the percentage of graduates of the programs conducted by such job training provider who obtained employment in an occupation related to such programs conducted by such provider; and

(F) the warranties or guarantees provided by such job training provider relating to the skill levels or employment to be attained by graduates of the programs conducted by such provider.

(2) Additions.—The State shall, pursuant to the approval of the Secretary of Labor, establish additional performance-based information that shall be submitted by job training providers pursuant to this subsection.

(d) Administration.—(1) State Agency.—The Governor shall designate a State agency to collect, verify, and
disseminate the performance-based information submitted pursuant to subsection (c).

(2) APPLICATION.—A job training provider desiring to be eligible to receive funds under this Act shall submit the performance-based information required under subsection (c) to the State agency designated under paragraph (1) at such time and in such form as such State agency may require.

(3) LIST OF ELIGIBLE PROVIDERS.—The State agency designated under paragraph (1) shall compile a list of eligible job training providers, and disseminate such list and information to the one-stop career centers established under section 301, and other entities within the State.

(4) ACCURACY OF INFORMATION.—

(A) IN GENERAL.—If the State agency determines that a job training provider submitted inaccurate performance-based information under this subsection, such provider shall be disqualified from receiving funds under this Act for a period of 2 years beginning on the date of such determination, unless such provider can demonstrate, to the satisfaction of the State agency designated pursuant to paragraph (2), that the information was provided in good faith.

(B) APPEAL.—The State shall establish a procedure for a job training provider to appeal a determination by a State agency that results in disqualification under paragraph (A). Such procedure shall provide an opportunity for a hearing and include appropriate time limits to ensure prompt resolution of the appeal.

(5) ASSISTANCE IN DEVELOPING INFORMATION.—The State agency designated under paragraph (1) may provide technical assistance to a job training provider in developing the performance-based information required under subsection (c). Such assistance may include facilitating the utilization of State administrative records, such as unemployment compensation wage records, and conducting other appropriate coordination activities.

(6) CONSULTATION.—The Secretary of Labor shall consult with the Secretary of Education regarding the eligibility of institutions of higher education to participate in programs under this title.

SEC. 107. EVALUATION OF VOUCHER SYSTEM.

The Secretary of Labor shall annually—

(1) monitor the effectiveness of the voucher system;

(2) evaluate the benefit of such system to voucher recipients under this title and the taxpayer; and

(3) submit a report to Congress on such evaluation to the appropriate committees of Congress.

SEC. 108. APPORTIONMENT OF FUNDS.

(a) IN GENERAL.—The Secretary of Labor shall, without in any way reducing the commitment of, or the level of effort by, the Federal Government to improve the job training, employment, and earnings of all workers and jobseekers (particularly in hard-to-serve communities), apportion sums appropriated pursuant to section 501 for each fiscal year, to the Secretary of Labor shall determine the portion of the sums to be made available for providing job training and employment-related services for dislocated workers under this title and title III, shall not be less than 4.5 percent of the portion of the sums to be utilized.

(b) PROCEDURES.—Each workforce development board, in conjunction with the appropriate local chief elected official for the area, shall negotiate with the State a method for establishing the portion of the one-stop job center service area, consistent with criteria established by the Secretary of Labor.

(1) The relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(2) The relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States.

(3) The relative number of individuals who have been unemployed for 15 weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(4) The relative number of economically disadvantaged adults who reside in each State as compared to the total number of such adults in all the States.

(d) STATE RESERVE.—

(1) DISLOCATED WORKER FUNDS.—From the amount apportioned to each State from the portion described in subsection (b)(1), the State may reserve to carry out State activities, an amount that is not greater than the proportion of funds reserved for State activities under title III of the Job Training Partnership Act, as in existence on the date of enactment of this Act.

(2) STATE ADMINISTRATION.—The amount apportioned to each State from the portion described in subsection (b)(2), the State may reserve to carry out State activities, including State administrative expenses, including State administrative expenses, as described in section 314(b) of the Job Training Partnership Act, as in existence on the date of enactment of this Act.

(3) THE STATE ADMINISTRATION.—The amount reserved for State activities under part A of title II of the Job Training Partnership Act, as in existence on the date of enactment of this Act.

(e) CONSIDERATION OF FACTORS FOR APPORTIONMENT TO STATES.—The apportionment of the portions described in subsection (b) by the Secretary to each State shall be based on the following factors:

(1) The relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

(2) The relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States.

(3) The relative number of individuals who have been unemployed for 15 weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

(4) The relative number of economically disadvantaged adults who reside in each State as compared to the total number of such adults in all the States.

(f) FUNDS FOR VOUCHERS.—Not less than 75 percent of the funds apportioned to a service delivery area under subsection (e) and used for job training under this Act by the service delivery area shall be made available for the purpose of providing job training and employment-related services for economically disadvantaged adults who reside in each service delivery area within such service delivery area, consistent with criteria established by the Secretary of Labor.

(g) DEFICIENCY.—For purposes of this section, the term ‘excess number of unemployed individuals’ means the number that represents unemployed individuals in excess of 4.5 percent of the civilian labor force in a State or service delivery area, as appropriate.

TITLE II—CONSOLIDATION OF FEDERAL JOB TRAINING PROGRAMS

SEC. 201. CONSOLIDATION OF PROGRAMS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the consolidation and streamlining of Federal job training programs should be accomplished without in any way reducing the commitment of, or the level of effort provided by, the Federal Government to improve the job training, employment, and earnings of all workers and jobseekers (particularly in hard-to-serve communities).

(b) REPEALS OF FEDERAL JOB TRAINING PROGRAMS.—The following provisions are repealed:

(1) Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)).

(2) Section 106(b)(7) of the Job Training Partnership Act (29 U.S.C. 1516(b)(7)).

(3) Section 123 of such Act (29 U.S.C. 1538).

(4) Section 204(d) of such Act (29 U.S.C. 1604(d)).

(5) Part A of title II of such Act (29 U.S.C. 1601 et seq.).

(6) Section 302(c) of such Act (29 U.S.C. 1652(c)).

(7) Part A of title III of such Act (29 U.S.C. 1651 et seq.).

(8) Section 325 of such Act (29 U.S.C. 1662d).

(9) Section 325a of such Act (29 U.S.C. 1663a).

(10) Sections 301 through 303 of such Act (29 U.S.C. 1651 et seq.).


(12) Title II of chapter 42 of title 49, United States Code.

(13) Title II of Public Law 95-250 (92 Stat. 172).

TITLE III—EMPLOYMENT-RELATED INFORMATION AND SERVICES THROUGH ONE-STOP CAREER CENTERS

SEC. 301. ONE-STOP CAREER CENTERS.

(a) ESTABLISHMENT.—Each service delivery area receiving funds under this Act shall develop, implement, and maintain one-stop career centers for the area to provide access for jobseekers, workers, and businesses to a comprehensive array of high quality job training described in section 102(b)(2) and employment-related services (including provision of information) described in subsections (f) and (g).

(b) PROCEDURE.—Each workforce development entity for a service delivery area, in conjunction with the appropriate local chief elected official for the area, shall negotiate with the State a method for establishing the portion of the one-stop career center service area, consistent with criteria established by the Secretary of Labor.

(c) ELIGIBLE ENTITIES.—Each entity within the service delivery area that provides the
services specified in subsection (f) or (g) shall be eligible to be designated as a one-stop career center.

(d) PERFORMANCE STANDARDS.—The Secretary of Labor shall establish performance standards for each one-stop career center.

(e) PERIOD OF SELECTION.—Each one-stop career center operator shall be designated for a period of 2 years, and the workforce development entity for a service delivery area shall reevaluate the designation of one-stop career center operators for the area based on performance under the standards established under subsection (d).

(f) EMPLOYMENT-RELATED SERVICES TO INDIVIDUALS.—Each one-stop career center for a service delivery area may make available—

1. outreach to make individuals aware of, and encourage the use of, services available from workforce development programs operating in the service delivery area;
2. intake and orientation to the information and services available through the one-stop career center;
3. assistance in filing claims for unemployment compensation;
4. initial assessments (including appropriate testing) of the skill levels and service needs of individuals, including basic skills, work experience, employability, interest, aptitude, and supportive service needs;
5. job search assistance, including resume and interview preparation and workshops;
6. information relating to the supply, demand, price, and quality of job training available in each service delivery area in the State involved, including performance-based information provided pursuant to section 106(c);
7. job market information, including—
   (A) data on the local economy and availability of employment;
   (B) profiles of local industries;
   (C) details of local labor market demand; and
   (D) local demographic and socioeconomic characteristics;
8. referral to appropriate job training and employment services, and to other services described in this subsection, in the service delivery area;
9. supportive services, including child care;
10. job development; and
11. counseling.

(g) PLACEMENT-RELATED SERVICES TO EMPLOYERS.—Each one-stop career center for a service delivery area may provide to employers, at the request of the employers—

1. information relating to supply, demand, price, and quality of job training available in each service delivery area in the State;
2. customized screening and referral of individuals for employment;
3. customized assessment of skills of the workers of the employer;
4. an analysis of the skill needs of the employer; and
5. other specialized employment and training services.

SEC. 302. ACCESS TO INFORMATION.

(a) FINDINGS.—Congress finds that accurate, timely, and relevant data regarding employment, job training, job skills, and job training opportunities are useful for individuals making choices about the careers of such individuals.

(b) AUTHORITY.—The Secretary of Labor is authorized to make arrangements to develop and provide through one-stop career centers and other appropriate mechanisms relevant job market information to interested individuals, including voucher recipients under title I, jobseekers, employers, and workers.

SEC. 303. DIRECT LOANS TO UNITED STATES WORKERS.

(a) FINDINGS.—Congress finds that the William D. Ford Federal Direct Loan Program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1078a et seq.), is a valuable financing tool for United States workers who desire to take advantage of additional Federal job training programs not covered by this Act can be consolidated into a more integrated and accountable workforce development system that better addresses the needs of jobseekers, workers, and business.

(b) PLAN ON USE OF COMMON DEFINITIONS, MEASURES, STANDARDS, AND CYCLES.—Not later than 30 months after the date of enactment of this Act, the Secretary of Labor shall develop a plan that, wherever practicable, requires the Federal job training programs to use common definitions, common outcome measures, common eligibility standards, and common funding cycles in order to make such training programs more accessible.

SEC. 402. REPORT RELATING TO INCOME SUPPORT.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

1. many dislocated workers and economically disadvantaged adults are unable to enroll in long-term job training because such workers and adults lack income support after unemployment compensation is exhausted;
2. evidence suggests that long-term job training programs have a positive impact on earnings, and effective income support assistance to dislocated workers and economically disadvantaged adults to obtain employment and enhance wages; and
3. there is a need to identify options relating to how income support may be provided to enable dislocated workers and economically disadvantaged adults to participate in long-term job training.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prepare and submit to Congress a report that—

1. examines the need for income support to enable dislocated workers and economically disadvantaged adults to participate in long-term job training;
2. identifies options relating to how such income support may be provided to such workers and adults; and
3. contains recommendations as to the need for income support to enable dislocated workers and economically disadvantaged adults to participate in long-term job training.

SEC. 403. CONSOLIDATION AND STREAMLINING.

(a) REPORT ON CONSOLIDATING NONCOVERED FEDERAL JOB TRAINING PROGRAMS.—Not later than January 1, 1998, and each year thereafter, the Secretary of Labor shall prepare and submit to Congress a report that examines the need for income support to enable dislocated workers and economically disadvantaged adults to obtain employment and enhance wages; and

(b) REPORT.ÐNot later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prepare and submit to Congress a report that—

1. identifies options relating to how such income support may be provided to dislocated workers and economically disadvantaged workers; and
2. contains recommendations as to the need for income support to enable dislocated workers and economically disadvantaged adults to participate in long-term job training.

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Labor for the following activities: First through third fiscal years such sums as may be necessary for each of fiscal years 1998 through 2002.
January 21, 1997

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$1 million increase on the local tax base, and more than 170 new jobs. In
Elizabeth, NJ, a former municipal landfill will be turned by the fall of
1998 into a major mall with 5,000 employees.

Madam President, the potential for job creation across the country is enor-
mous, and every revitalized brownfields may represent for someone a field of
dreams, especially to an unemployed urban worker.

While fostering jobs, brownfield cleanup also means that dangerous contain-
mants are removed from our environment, and the scars of decades of
neglected industrial waste which dis-
figure our cities and suburbs and even
rural areas may be finally allowed to
heal. The Superfund Program provides
Federal authority to assist in cleaning
up abandoned waste sites that pose the
most serious threats. However, there are in the United States 100,000 of
these brownfield sites that do not fall
under Superfund because of lower lev-
eels of contamination.

What do we do? We can’t just watch them keep these communities from re-
vitalizing their true potential. The risks posed
by many of these sites may be rel-
atively low and others even nonexistent, because brownfields are abandoned
or underutilized industrial or commer-
cial sites where expansion or redevelop-
ment is complicated by real or even perceived, not really factually establish-
ed, environmental contamination. But their full economic use is being
stymied because there is no ready
mechanism for getting them evaluated or, if necessary, cleaned up, even when
the owner of the property is ready, willing and eager to do so.

In addition, prospective purchasers and developers are reluctant to get in-
volved in transactions with these prop-
erties because of their concern, how-
ever minimal, they might potentially create enormous environmental liabil-
ity.

The challenge is to turn these aban-
doned properties into thriving busi-
nesses that can generate needed jobs
and act as a catalyst for economic de-
velopment.

My legislation would provide finan-
cial assistance in the form of grants to
local and State governments to inven-
tory and evaluate brownfields sites. This would enable interested parties
to know what would be required to clean the site and what reuse would best suit
the property.

My bill would also provide grants to State and local governments to estab-
lish and capitalize low-interest loan
programs. These funds would be loaned
to current owners, prospective pur-
chasers, or local governments to facilitate voluntary cleanup actions where tradi-
tional lending mechanisms are just not available. The minimum seed money
involved in the program would leverage substantial economic payoffs, as well
as turn the sites into economic benefactors that bring positive value into assets for
the future.

The bill would also limit the poten-
tial liability of innocent buyers of
these properties, and it would set a
standard to gauge when parties couldn’t have reasonably known that the
property was contaminated. So there is no hidden liability in there. There is no sudden surprise for some-
one who conscientiously and inno-
cently invested, and suddenly they find they are liable for far, far more than their initial investment.

Madam President, cleaning up
brownfields will mean a safer environ-
ment and more jobs for places that
badly need them. It will also send a
message to those who want to invest in
our urban areas that they don’t have to leave the inner city in search of open
space. They can build right there in
our downtowns, the places that already have the services, the infrastructure
and the people to do the job.

There has been bipartisan interest
in addressing brownfields, both in the Senate and in the other body on the other side of the Capitol. And clearly we can move this legislation forward in a cooperative
way with support of Members on both
sides of the aisle.

I ask unanimous consent that a copy
of the bill, a section-by-section analy-
sis and a letter of endorsement from
the Regional Planning Association, the
country’s oldest planning organization,
be printed in the RECORD.

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

S. 18

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress as-
sembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.
(a) SHORT TITLE.ÐThis Act may be cited as the
"Brownfields and Environmental Clean-
up Act of 1997".

(b) TABLE OF CONTENTS.ÐThe table of con-
tents of this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

TITLE I—BROWNFIELD REMEDIATION
Sec. 101. Definitions.
Sec. 102. Inventory and assessment grant
program.
Sec. 103. Grants for revolving loan pro-
grams.
Sec. 104. Economic redevelopment grants.
Sec. 105. Reports.
Sec. 106. Limitations on use of funds.
Sec. 107. Effect on other laws.
Sec. 108. Regulations.
Sec. 109. Authorizations of appropriations.

TITLE II—PROSPECTIVE PURCHASERS
Sec. 201. Liability for response costs for pro-
spective purchasers.

TITLE III—INNOCENT LANDOWNERS
Sec. 301. Innocent landowners.

SEC. 2. FINDINGS AND PURPOSES.
(a) FINANCIAL ASSISTANCE.ÐCongress finds that—
(1) past uses of land in the United States
for industrial and commercial purposes have
created many sites throughout the United
States that have environmental contamina-
tion;
(2) Congress and the governments of States
and political subdivisions of States have en-
acted laws for the assessment, cleanup, and
restoration of brownfield sites;
(3) many sites are minimally contami-
nated and do not pose serious threats to human health or the environment, and can be satis-
factorily remediated expeditiously with lit-
tle government oversight;
(4) Congress finds that the assessment, cleanup, and
redevelopment of contaminated sites could
lead to significant environmental and eco-
nomic benefits, particularly in any case in
which a cleanup can be completed quickly
and during a period of time that meets short-
term business needs;
(5) the private market demand for sites af-
forded environmental and economic benefits
frequently is reduced, often because of uncer-
tainties regarding liability or potential cleanup costs of innocent landowners and
prospective purchasers under Federal law;
(6) the abandonment or underutilization of
brownfield sites impairs the ability of the
Federal Government and the governments of States and political subdivisions of States to
provide economic opportunities for the peo-
ple of the United States, particularly the un-
employed and economically disadvantaged;
(7) the abandonment or underutilization of
brownfield sites results in the ineffi-
cient use of public facilities and services, as
well as land and other natural resources, and
extends conditions of blight in local commu-
nities;
(8) cooperation among Federal agencies, de-
partments and agencies of States and po-
litical subdivisions of States, local commu-
nity development organizations, and current
owners and prospective purchasers of
brownfield sites is required to accomplish
timely response actions to correct enviro-
mental contamination;
(9) there is a need to provide financial in-
centives and assistance to inventory and as-
semble brownfield sites and facilitate the
cleanup of the sites so that the sites may be
redeveloped for beneficial uses; and
(10) there is a need for a program to—
(A) encourage cleanups of brownfield sites; and
(B) facilitate the establishment and en-
hancement of programs by States and local
government to foster cleanups of brownfield
sites through capitalization of loan pro-
grams.

(b) PURPOSES.ÐThe purposes of this Act are:
(1) to encourage States and local governments to
create new business and employment
opportunities through the economic redevel-
opment of brownfield sites that generally
do not pose a serious threat to human health or the environment, and to establish a system of assess-
ment and cleanup of brownfield sites by—
(1) encouraging States and local govern-
ments to provide for the assessment and
cleanup of brownfield sites that may not be remedi-
ated under other environmental laws
(including regulations) in effect on the date of
enactment of this Act;
(2) encouraging local governments and pri-
vate parties, including local community de-
volution organizations, to participate in
programs, such as State cleanup programs,
that facilitate expedited response actions
that are consistent with business needs at
brownfield sites;
(3) directing the Administrator of the En-
vironmental Protection Agency to establish
programs that provide financial assistance
to—
(A) facilitate site assessments of certain
brownfield sites;
(B) encourage cleanup of appropriate
brownfield sites through capitalization of
loan programs; and
(C) encourage workforce development in
areas adversely affected by contaminated
properties; and

(8) carry out response actions to correct
past instances of environmental contamina-
tion;
SEC. 101. DEFINITIONS.

In this title:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) BROWNFIELD SITE.—The term "brownfield site" means a facility that has or is suspected of having environmental contamination that—

(A) could prevent the timely use, development, reuse, or redevelopment of the facility; and

(B) is relatively limited in scope or severity and can be comprehensively assessed and readily analyzed.

(3) CONTAMINANT.—The term "contaminant" includes any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)).

(4) DISPOSAL.—The term "disposal" has the meaning given the term in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

(5) ENVIRONMENT.—The term "environment" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) ENVIRONMENTAL CONTAMINATION.—The term "environmental contamination" means the existence at a facility of 1 or more contaminants that may pose a threat to human health or the environment.

(7) FACILITY.—The term "facility" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(8) GRANT.—The term "grant" includes assistance to a State or local government.

(9) GROUND WATER.—The term "ground water" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(10) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(11) LOCAL GOVERNMENT.—The term "local government" means the term "unit of general local government" in the first sentence of section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)), except that the term includes an Indian tribe.

(12) NATURAL RESOURCES.—The term "natural resources" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(13) OWNER.—The term "owner" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(14) PERSON.—The term "person" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(15) PROSPECTIVE PURCHASER.—The term "prospective purchaser" means a prospective purchaser of a brownfield site.

(16) REDEVELOPMENT.—The term "redevelopment" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).


(18) SUSTAINABLE DEVELOPMENT.—The term "sustainable development" means activities that—

(i) reduce the consumption of energy and raw materials; and

(ii) are consistent with protecting the environment, protecting the health and safety of human beings, and reducing human exposure to contaminants that may pose a threat to human health or the environment.

(19) STATE.—The term "State" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

SEC. 102. INVENTORY AND ASSESSMENT GRANT PROGRAM.

(a) IN GENERAL.—The Administrator shall establish a program to award grants to States or local governments to inventory brownfield sites and to conduct site assessments of brownfield sites.

(b) SCOPE OF PROGRAM.—

(1) GRANT AWARDS.—To carry out subsection (a), the Administrator may—

(I) make available to States or local governments to inventory brownfield sites and to conduct site assessments of brownfield sites.

(ii) a statement on the long-term benefits and the sustainability of the proposed project that includes—

(i) the ability of the project to be replicated nationally and measures of success of the project; and

(ii) to the extent known, the potential of the plan for each eligible brownfield site is situated to stimulate economic development of the area on completion of the environmental remediation.

(2) GRANT APPLICATION.—An application for a grant under this section shall be in such form as the Administrator determines appropriate.

(3) APPROVAL OF APPLICATION.—In making a decision whether to approve an application under subparagraph (A), the Administrator shall—

(i) consider the need of the State or local government for financial assistance to carry out this section;

(ii) consider the ability of the applicant to carry out an inventory and site assessment under this section;

(iii) ensure a fair distribution of grant funds between urban and nonurban areas; and

(iv) consider such other factors as the Administrator considers relevant to carry out this section.

(3) GRANT AMOUNT.—The amount of a grant awarded to any State or local government under subsection (a) for inventory and site assessment of 1 or more brownfield sites shall not exceed $200,000.

(5) TERMINATION OF GRANTS.—If the Administrator determines that a State or local government that receives a grant under this subsection is in violation of a condition of a grant referred to in paragraph (3)(B), the Administrator may terminate the grant made to the State or local government that is in violation of such condition.

SEC. 103. GRANTS FOR REVOLVING LOAN PROGRAMS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Administrator shall establish a program to award grants to be used by State or local governments to capitalize revolving loan funds for the clean-up of brownfield sites.

(2) LOANS.—The loans may be provided by the State or local government to finance cleanups of brownfield sites by the State or local government, or by an owner or a prospective purchaser of the site (including a local government) at which a cleanup is being conducted or is proposed to be conducted.

(b) SCOPE OF PROGRAM.—

(1) GRANTS.—

(A) GRANTS.—In carrying out subsection (a), the Administrator may award a grant to a State or local government that submits an application to the Administrator that is approved by the Administrator.

(B) USE OF GRANT.—The grant shall be used by the State or local government to capitalize a revolving loan fund to be used for clean-up of 1 or more brownfield sites.

(C) GRANT APPLICATION.—An application for a grant under this section shall be in such form as the Administrator determines appropriate.

(i) the ability of the project to be replicated nationally and measures of success of the project; and

(ii) to the extent known, the potential of the plan for each eligible brownfield site is situated to stimulate economic development of the area on completion of the environmental remediation.

(2) GRANT CONDITION.—As a condition of awarding a grant under this section, the Administrator may, on the basis of the criteria considered under subparagraph (A), attach such conditions to the grant as the Administrator determines appropriate.

(3) GRANT AMOUNT.—The amount of a grant awarded to any State or local government under subsection (a) for inventory and site assessment of 1 or more brownfield sites shall not exceed $200,000.

(5) TERMINATION OF GRANTS.—If the Administrator determines that a State or local government that receives a grant under this subsection is in violation of a condition of a grant referred to in paragraph (3)(B), the Administrator may terminate the grant made to the State or local government that is in violation of such condition.

SEC. 104. FUNDING OF PROGRAMS.
(II) ensure that any cleanup conducted by the applicant is protective of human health and the environment; and

(III) ensure that any cleanup funded under this Act will comply with all applicable Federal and State laws applicable to the cleanup.

(iii) Identification of the criteria to be used by the State or local government in providing for loans under the program. The criteria shall include the financial standing of the applicant, the loan amount requested, the terms and conditions of the loan, and any other factor which the Administrator deems relevant to carry out this section.

(iv) An estimate of the proposed total cost of the cleanup to be conducted at the brownfield site.

(v) An analysis that demonstrates the potential of the brownfield site for stimulating economic development on completion of the cleanup of the brownfield site.

(2) GRANT APPROVAL.—In determining whether to award a grant under this section, the Administrator shall consider—

(A) the need of the State or local government for financial assistance to clean up brownfield sites that are the subject of the application, taking into consideration the financial resources available to the State or local government;

(B) the demonstration experience of the State or local government regarding brownfield sites or sites for stimulating economic development on completion of the cleanup of the brownfield site.

(C) the extent to which the cleanup of the brownfield site or sites will reduce health and environmental risks caused by the release of contaminants at, or from, the brownfield site or sites;

(D) the demonstrable potential of the brownfield site or sites for stimulating economic development on completion of the cleanup of the brownfield site.

(E) the demonstrated ability of the State or local government to administer such a loan program;

(F) the demonstrated experience of the State or local government regarding brownfield sites or other sites involving the application of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) to assess brownfield sites, designated land, including whether the government will comply with such other terms and conditions as the Administrator determines are necessary to protect the financial interests of the United States and to protect human health and the environment.

(G) the efficiency of having the loan administered by the State or local government represented by the applicant entity;

(H) the experience of administering any loan programs by the entity, including the loan repayment rates;

(i) the demonstration made regarding the ability of the State or local government to ensure a fair distribution of grant funds among brownfield sites within the jurisdiction of the State or local government; and

(j) such other factors as the Administrator considers relevant to carry out this section.

(3) The amount of a grant made to a State or local applicant under this section shall not exceed $500,000.

(4) REVOLVING LOAN FUND APPROVAL.—Each application to capitalize a revolving loan fund under this section shall, as a condition of approval by the Administrator, include a written statement by the State or local government that—

(A) cleanups to be funded under the loan program of the State or local government shall be conducted in accordance with, and in compliance with, the State voluntary cleanup program or State Superfund program or Federal authority;

(B) the cleaned or proposed voluntary cleanup is cost-effective; and

(C) the estimated total cost of the cleanup is reasonable.

(5) GRANT AGREEMENTS.—Each grant under this section for a revolving loan fund shall be made pursuant to a grant agreement. At a minimum, the grant agreement shall include provisions that ensure the following:

(I) COMPLIANCE WITH LAW.—The grant recipient will include in all loan agreements a requirement that the loans will comply with all applicable Federal and State laws applicable to the cleanup and shall ensure that the cleanup is protective of human health and the environment.

(II) REPAYMENT.—The State or local government will require repayment of the loan consistent with this title.

(III) USE OF FUNDS.—The State or local government will use the funds solely for purposes of establishing and capitalizing a loan program, and the grant agreement shall include provisions that ensure the following:

(A) cleanups to be funded under the loan program of the State or local government shall be conducted in accordance with, and in compliance with, the State voluntary cleanup program or State Superfund program or Federal authority;

(B) the cleaned or proposed voluntary cleanup is cost-effective; and

(C) the estimated total cost of the cleanup is reasonable.

(6) LIENS.—A lien in favor of the grant recipient shall arise on the contaminated property subject to a loan under this section.

(A) COVERAGE.—The lien shall cover all real property included in the legal description of the property at the time the loan agreement is signed, and all rights to the property, and shall continue until the terms and conditions of the loan agreement have been fully satisfied.

(B) TIMING.—The lien shall—

(i) arise at the time a security interest is appropriately recorded in the real property, as evidenced by the record of filing of a security agreement or any other instrument which a person who has not previously received such a grant may be considered for awards under this section;

(ii) be subordinated to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is or has been perfected under applicable State law before the notice has been filed in the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located; and

(iii) be subject to the rights of any purchaser, holder of a security interest, or judgment lien creditor whose interest is or has been perfected under applicable State law before the notice has been filed in the appropriate office of the State, county, or other governmental subdivision, as designated by State law, in which the real property subject to the lien is located.

(7) OTHER CONDITIONS.—The State or local government will comply with such other terms and conditions as the Administrator determines are necessary to protect the financial interests of the United States and to protect human health and the environment.

(8) AUDITS.—

(A) IN GENERAL.—The Inspector General of the Environmental Protection Agency shall audit a portion of the grants awarded under this section to ensure that all funds are used for the purposes set forth in this section.

(B) FUTURE GRANTS.—The result of the audit shall be taken into account in awarding future grant funds to the State or local government.

SEC. 104. ECONOMIC REDEVELOPMENT GRANTS.

(a) EXPENDITURES FROM THE SUPERFUND.—Amounts in the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986 shall be made available consistent with, and for the purpose of carrying out, the grant programs established under sections 102 and 103.

(b) AUTHORITY TO AWARD GRANTS.—There is hereby authorized to be appropriated from the Hazardous Substance Superfund to grants to State and local governments under sections 102 and 103, $25,000,000 for each of fiscal years 1998 and 2000.

SEC. 105. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and not later than January 31 of each of the 3 calendar years thereafter, the Administrator shall prepare and submit a report describing the results of each program established under this title to—

(1) the Committee on Environment and Public Works of the Senate; and

(2) the Committee on Commerce of the House of Representatives.

(b) CONTENTS OF REPORT.—Each report shall, with respect to each of the programs established under this title, include a description of—

(I) the number of applications received by the Administrator during the preceding calendar year;

(II) the number of applications approved by the Administrator during the preceding calendar year; and

(III) the allocation of assistance under sections 102 and 103 among the States and local governments.

SEC. 106. LIMITATIONS ON USE OF FUNDS.

(a) EXCLUDED FACILITIES.—A grant for site investigation and assessment under section 102 or to capitalize a revolving loan fund under section 103 may not be used for any activity involving—

(I) a facility that is the subject of a planned or an ongoing response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9001 et seq.), except for a facility for which a preliminary assessment, site investigation, or removal action has been completed and with respect to which the Administrator has decided not to take further response action, including cost recovery actions;

(II) a facility included, or proposed for inclusion, on the National Priorities List maintained by the Administrator under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); and

(III) a facility with respect to which a record of decision, under other than section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); or under section 3004(u), 3008(h) of the Solid Waste Disposal Act (42 U.S.C. 6924(u) or 6928(h)) to which a corrective action permit or order has been issued, or modified to require the implementation of corrective measures;

(b) any land disposal unit with respect to which a closure notification under subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) has been submitted and closure requirements have been specified in a closure plan or permit;
(6) a facility at which there has been a release of a polychlorinated biphenyl and that is subject to the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(7) the generally recognized standard of good engineering with respect to which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(a) AVAILABILITY OF FUNDS.—The amounts appropriated under this section shall remain available until expended.

TITLE II—PROSPECTIVE PURCHASERS

SEC. 201. LIMITATIONS ON LIABILITY FOR RESPONSE COSTS FOR PROSPECTIVE PURCHASERS.

(a) LIMITATIONS ON LIABILITY.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following:

``(y) PROSPECTIVE PURCHASER. A person is not liable under section 107 if the person—

(1) is a prospective purchaser of the property acquirement of the evidence;

(ii) RELATIONSHIP. The person is not liable under section 107 if the person—

(a) is a bona fide prospective purchaser of the property acquirement of the evidence;

(2) AMOUNT; DURATION. The lien—

(1) in general. Funds made available to a State or local government under the grant program established under this title shall be used only to inventory and assess brownfield sites as authorized by this title and for capitalizing a revolving loan fund as authorized by this title, respectively.

(3) RESPONSIBILITY FOR CLEANSUP.—Funds made available under this title may not be used to relieve a local government or the State of the commitment or responsibilities of the local government or State under State law to assist or carry out cleanup actions at brownfield sites.

(b) ECONOMIC REDEVELOPMENT ASSISTANCE.—The regulations shall include such procedures and standards as the Administrator considers necessary, including procedures and standards for evaluating an application for a grant or loan under this title.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—

(SITE ASSESSMENT PROGRAM.—There is authorized to be appropriated to carry out section 102 $10,000,000 for each of fiscal years 1998 through 2002.

(ECONOMIC REDEVELOPMENT ASSISTANCE PROGRAM.—There is authorized to be appropriated to carry out section 103 $15,000,000 for each of fiscal years 1998 through 2002.

(3) the Brownfields and Environmental Cleanup Act of 1998; and

(4) the Brownfields and Environmental Cleanup Act of 1998.

(b) CARRY OUT TITLE.—The Administrator is authorized to carry out this title.

(c) REGULATIONS.—The Administrator shall issue such regulations as are necessary to carry out this title.


(2) the General Accounting Office, or to meet any Federal cost-sharing requirement.

(1) in general. The United States shall have a lien on the property attributable to the response action at the facility, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response action at the facility.

(2) AMOUNT; DURATION.—The lien—

(A) shall be for an amount not to exceed the fair market value of the property attributable to the response action at the facility.

(B) shall expire—

(i) after five years after the filing of a notice of commencement under subparagraph (B) of section 106(a)(5); and

(ii) if the United States does not commence an action to enforce the lien in a district court of the United States where the lien is filed within five years after the filing of such notice of commencement, such lien shall automatically terminate.

(C) shall continue until the earlier of satisfaction of the lien or recovery of all response costs as provided in subparagraph (B).

(D) the amount of the lien shall be the increase in fair market value of the property attributable to the response action at the facility.

(E) a facility owned or operated by a department, agency, or instrumentality of the United States, except for land held in trust by the United States for an Indian tribe.

(F) a facility with respect to which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(G) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(H) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(I) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(J) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(K) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(L) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(M) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(N) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(O) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(P) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(Q) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(R) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(S) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(T) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(U) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(V) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(W) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(X) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(Y) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(Z) a facility at which an administrative order on consent or a judicial consent decree requiring cleanup has been entered into by the President and is in effect under this Act.

(aa) any specialized knowledge or experience on the part of the defendant;
"(ee) the ability to detect the contamination by appropriate investigation.

"(iii) Conduct of Environmental Assessment.—A person who has acquired real property, and local government records of any facility that is likely to cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground storage tank record, hazardous waste handler and generator record, and spill reporting record, and

"(cc) any other reasonably ascertainable Federal, State, and local government environmental record that could reflect an incident that is likely to cause or contribute to contamination at the real property.

"(V) A visual site inspection of the real property, including any facility and improvement on the real property and a visual site inspection of each immediately adjacent property, including an investigation of any hazardous substance use, storage, treatment, or disposial practice on the property.

"(VII) Any specialized knowledge or experience of the person that acquired the property.

"(VIII) The relationship of the purchase price to the value of the property if uncontaminated and the criteria for characterizing sites targeted for cleanup under a state cleanup program. It sets eight requirements of what the grant application must contain, and states that the EPA is to use in deciding whether to approve a grant. EPA may attach conditions to the grant award, and may terminate the grant if the conditions are not complied with.

"(IX) Commonly known or reasonably ascertainable information about the property.

"(X) The obviousness of the presence or likely presence of contamination at the real property, and the ability to detect the contamination by appropriate investigation.

"(XI) Reasonably ascertainable.—A record shall be reasonably ascertainable for purposes of clause (v) if a copy or reasonable facsimile of the record is publicly available by request (within reasonable time and cost constraints) and the record is practically reviewable.

"(XII) Appropriate inquiry.—A person shall not be treated as having made an appropriate inquiry under clause (iii) unless—

"(aa) any investigation report for the facility;

"(bb) any record of activities likely to cause or contribute to contamination at the real property, including any landfill or other disposal location record, underground storage tank record, hazardous waste handler and generator record, and spill reporting record, and

"(cc) any other reasonably ascertainable Federal, State, and local government environmental record that could reflect an incident that is likely to cause or contribute to contamination at the real property.

"(2) Authority to clarify and implement.—The authority under paragraph (1) includes authority to clarify or interpret any term, including any term in this section, and to implement any provision of the amendment made by this section.

Title I—Brownfield Remediation and Environmental Cleanup

Section 101 presents 19 definitions of terms used in the bill. It also presents the Inventory and Assessment Grant Program. The bill directs EPA to establish a program of grants to local government to inventory brownfield sites within a state and to develop characterizations of sites targeted for cleanup under a state cleanup program. It sets eight requirements of what the application must contain, and states that the EPA is to use in deciding whether to approve a grant. EPA may attach conditions to the grant award, and may terminate the grant if the conditions are not complied with. Grants may not exceed $200,000.

Section 102. Grants for Revolving Loan Programs. The bill directs EPA to establish a grant program for state and local governments to capitalize loan programs for site cleanup. The loan fund is to be used by the local or state entity to make loans to finance brownfield cleanups by the owner or a prospective purchaser of an affected site. The grant application must demonstrate the government's ability to manage a revolving loan program and provide information on the criteria for characterizing sites targeted for cleanup under a state cleanup program. Twelve factors to be considered by EPA in determining whether to award a grant are laid out. A loan program grant to a local or State applicant shall not exceed $500,000.

Section 103 authorizes $25 million to be appropriated from the Superfund for each of fiscal years 1997 through 2001 for loan programs provided for in sections 101 and 102.

Section 105 requires EPA to submit an annual report to the congressional authorizing committees describing the achievements of each program, including the number of applications received and approved, and detailing the allocation of assistance among the states and local governments.

Section 106 limits how funds may be used. No grant may be used to pay fines or penalties to a state or the federal government, or for federal cost-sharing requirements. Nor may it be used to relieve a state or local government of its cleanup responsibility under state law at affected sites.

Section 107. Statutory Construction. The section states that nothing in this title is intended to affect the liability of response authorities, or for any other purpose, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or the Superfund Act), the Solid Waste Disposal Act, the Federal Water Pollution Control Act, and the Safe Drinking Water Act.

Section 108 authorizes EPA to promulgate regulations to carry out the Act.

Section 109 specifies that $10 million of the section 104 appropriation shall be for the section 101 site characterization program each year, and $15 million shall be for the section 102 economic redevelopment assistance program. The appropriations shall remain available until expended.

Title II—Prospective Purchasers

Section 101(a). Liability Limitation. The bill provides that a party purchasing a property on the basis of a bona fide purchaser from liability provided he does not impede the performance of response actions or natural resource restoration at a facility. Section 1201(b). Windfall Lien. The bill further amends section 107 to give the United States a lien on the facility when a response action has been commenced at the facility and there are unrecovered response costs for which the prospective purchaser is not liable. Alternatively, the United States may bring suit against the responsible party on other property or other assurances of payment. The lien shall not be for
more than the increase in fair market value of the property attributable to the response action.

Section 301(c) amends section 101 of CERCLA to define “bona fide prospective purchaser.” The definition requires that: all disposal of hazardous substances occurred before the person acquired the facility; the property was a subject of an appropriate inquiry into its previous ownership and uses; the person provided proper notice regarding the discovery of hazardous substances at the facility; it existed at the facility; he provided full cooperation, assistance, and facility access to those conducting the response action; and there is no family or business relationship with a potentially responsible party at the facility.

TITLE III—INNOCENT LANDOWNERS

Section 301(a) amends section 101(35) of CERCLA clarifying the exception from liability of innocent landowners. The requirements that such a person make “all appropriate inquiry” is satisfied if he has an environmental site assessment conducted within the 180 days preceding the acquisition of the property. “Environmental site assessment” means one conducted in accordance with the American Society of Testing and Materials (ASTM) standard for a Phase I environmental site assessment (Standard E1527-94), or an alternative standard issued by the President as having “all appropriate inquiry.” A person must: (1) maintain a compilation of the information gathered in the course of the site assessment; (2) exercise appropriate care by stopping on-going releases, preventing threatened future releases, and limiting human and natural resource exposure to hazardous substances; and (3) provide full cooperation, assistance, and facility access to persons conducting response actions at the facility. For the purposes of this subsection and 101(35)(the definition of “contractual relationship”), the term “contamination” means an existing release, a past release, or the threat of a release.

The court shall take into account any specialized knowledge of the defendant, the relationship of the purchase price to the value of the property if uncontaminated, commonly known information about the property, the obviousness of the presence of contamination at the property, and the ability to detect the contamination. EPA shall issue or direct the appropriate tests and practices that satisfy these requirements. The bill identifies 10 factors for EPA to consider in issuing the standards:

1. Information of an inquiry by an environmental professional.
2. Interviews with past and present owners, operators, and occupants of the facility.
3. A review of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records.
4. A search for recorded environmental liens, filed under Federal, state, or local law.
5. A review of Federal, state, and local government records (such as waste disposal records), underground storage tank records, and hazardous waste handling, generation, treated, disposed, and spill records.
6. A visual inspection of the facility, and adjoining properties.
7. Any specialized knowledge or experience on the part of the defendant.
8. The relationship of the purchase price to the value of the property if uncontaminated.
9. Other or reasonable ascertainable information about the property.
10. The obviousness of the presence of contamination, and the ability to detect it by appropriate inspection.

In the case of a property for residential or similar use purchased by a nongovernmental or noncommercial entity, a site inspection and title search are sufficient to satisfy the requirements.

Section 301(b) authorizes EPA to issue regulations to carry out section 301, and gives it the authority to clarify or interpret all terms.

REGIONAL PLAN ASSOCIATION,

Senator Frank Lautenberg,
Hart Office Building, Washington, DC.


Dear Senator Lautenberg:

As Director of the New Jersey Office of Regional Plan Association, I am happy to support your proposed Brownfields and Environmental Cleanup Act of 1997. RPA is the country’s oldest private, non-profit regional planning organization charged with improving transportation, environmental conservation and economic development in the 3-county New York, New Jersey and Connecticut metropolitan area. RPA has been leading initiatives in brownfields redevelopment in New Jersey, having successfully coordinated the award-winning OENJ brownfields Model Redevelopment Project in Elizabeth, and overseeing the Legislation and Regulatory Reform Committee of the EPA Brownfields Pilot Project in Newark.

The proposed Brownfields and Environmental Cleanup Act of 1997 will go a long way towards stimulating redevelopment of the region’s abandoned, contaminated land. RPA is particularly interested in local site characterization grants and site cleanup loans. Site cleanup loans will provide an important incentive for local governments to prioritize and implement brownfields redevelopment projects within their municipalities. The liability limitations under Section 201 are also important incentives for the federal level to encourage comprehensive site contamination assessments and investigation of the site.

The proposed provisions are being discussed at the State level in New Jersey. The passage of federal legislation will greatly assist our efforts to promote brownfields cleanup nationwide.

I am grateful for this opportunity to support your far-reaching legislation, and wish you the best of luck in its speedy passage.

Sincerely,

Linda P. Morgan,
Director.

By Mr. Dodd (for himself, Mr. Daschle, Mr. Kennedy, Ms. Mikulski, Mr. Rockefeller, Mrs. Murray, Mr. Torricelli, and Mr. Torne)

S. 19. A bill to provide funds for child care for low-income working families, and for other purposes; to the Committee on Labor and Human Resources.

WORKING FAMILIES CHILD CARE ACT OF 1997

Mr. Dodd. Mr. President, I rise today to introduce the Working Families Child Care Act of 1997.

Mr. President, balancing the daunting responsibilities of work with the responsibilities of raising children is always a difficult task. It is especially challenging when so many parents today are working outside the home and are forced to depend on child care.

Not surprisingly, these challenges are especially acute for low income, working families. In fact according to national child care statistics, when compared to all other income groups, the working poor are the least likely to receive assistance with child care costs—even though it consumes a disproportionate share of their income—24 percent, compared to 6 percent for middle income families.

What’s more, it’s a constant struggle for low income families to remain self sufficient without child care assistance. A recent survey on a waiting list in one community, it was found that of those paying for child care, 71 percent faced serious debt or bankruptcy.

Currently, in 38 States and the District of Columbia the families in poor are on waiting lists to receive child care. Georgia has 41,000 on its waiting list; Texas 36,000; Illinois 20,000; Alabama 20,000. Most of the States which don’t have a waiting list either don’t keep one, are expecting to create one in the future, or currently are experiencing a brief respite.

In my own State of Connecticut, new openings for child care assistance were frozen in November 1993. When new slots became available, for only two days in the past summer, 5,500 applications were received.

During the last Congress, we intensely debated the issue of child care in the larger context of welfare reform legislation. The original welfare legislation in January 1995 cut funds for child care and eliminated critically important health and safety standards.

In the 104th Congress I continued to fight for child care, offering amendments to increase funding and ensure quality. While I disagreed with the final welfare reform bill, I am pleased that many of these amendments succeeded and that in the end, the final bill included child care funding of $14.2 billion over 6 years and restored rigorously important health and safety standards.

However, while the bill we passed made significant improvements in providing child care for welfare recipients—there is still work to be done.

The bill I am proposing today will address the issue of child care for low income working families and make it easier for them to access adequate child care assistance.

First, this legislation restores $1.4 billion in child care funding.

According to a recent CBO report, even if states meet the work requirements of the welfare bill they will still be short $1.4 billion for man-staffed centers to continue serving certain low income working families. These aren’t new recipients we’re talking about, but instead families who were receiving child care assistance prior to passage of welfare reform legislation.

The legislation I am introducing today will prevent working parents from losing child care assistance simply as a result of the welfare reform bill.

Second, it begins to address the shortfall of assistance for working families, by raising the authorization for child care subsidies for low income working families from $1 billion per year to $2 billion per year.
And finally, it authorizes $500 million per year through 2002 to help communities meet supply shortages in areas such as infant care and school age care.

Even when subsidies are available, child care can be difficult to obtain. According to the National Academy of Sciences, there is “Consistent evidence of a relatively low supply of care for infants, for school age children, for children with disabilities and special health care needs and for parents with unconventional or shifting work hours.”

What’s more, a 1995 GAO study based in Michigan found a shortage of infant and special needs child care in inner cities and a shortage of all types of child care in rural areas. So, we’re not simply talking about financial assistance for child care, but whether child care actually exists.

This shortage of child care is a problem for both working families and welfare recipients who want to become self-sufficient. We expect someone to make the difficult transition from welfare to work when they cannot find an adequate provider for an infant or are forced to have a 6, 7 or 8 year old spend hours alone at home when school day ends. This lack of supervision can have a devastating long-term impact. One study found that children who start to take care of themselves in elementary school are significantly more likely to report drinking alcohol by the eighth grade. Eighth graders left home alone for 11 or more hours a week report significantly greater use of cigarettes, alcohol, and marijuana than children not left home alone. We know all this, and yet only one third of the schools in low income neighborhoods offer school age child care, compared with 52 percent in more affluent areas.

For those struggling to make the difficult journey to self-sufficiency, the lack of affordable child care can be a barrier. Child care is expensive. As a result, they often do not meet the needs of parents wanting to work full time.

Less than 30 percent of Head Start programs operate on a full-time, full-year basis. Simply put, child care funds need to be available to make these programs accessible for working parents. In my view, we as a nation have a solemn commitment to guarantee that children will not be left to fend for themselves while their parents are working to put food on the table. Child care is one of the most important ingredients for helping poor working families achieve and maintain economic security. Like parents in any community, those from low income backgrounds, low income families need to know that when they go to work, their children will receive the care and assistance they need.

The bill I am introducing today will make it easier for low income, working families to balance the responsibilities of work and caring for their children. I urge all my colleagues to join together in supporting this legislation—for the good of America’s children.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Working Families Child Care Act of 1997.”

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

| Sec. 1. Short title; table of contents. |
| Sec. 2. Findings. |
| Sec. 3. Assistance for low-income working families. |
| Sec. 4. Grants for child care supply shortages. |
| Sec. 5. Report on access to child care by low-income working families. |
| Sec. 6. Effective date. |

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Availability and affordability of quality child care is a major obstacle for working parents who struggle to remain self-sufficient.

(A) Compared to all other income groups, the working poor are the least likely to receive assistance with their child care costs.

(B) Low-income families spend 24 percent of their household income on child care, whereas middle-income families spend 6 percent of their household income on child care.

(C) 38 States have waiting lists for child care for the working poor. Among those States, Georgia has 41,000 individuals on its waiting list, Illinois and Alabama each have 20,000 individuals on their waiting lists.

(2) A survey of low-income families on a waiting list for subsidized child care found that of those families paying for child care out of their own funds, 71 percent faced serious debt or bankruptcy.

(E) Half of the States and the District of Columbia, even before the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193, 110 Stat. 2105) during the 104th Congress, increased the proportion of child care slots or dollars going to families on welfare, rather than to working poor families.

(2) The Congressional Budget Office estimates that there will be $1,400,000,000 less expenditures of child care funds for working poor families as a result of the States implementing the work requirements imposed under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193, 110 Stat. 2105).

(3) Important types of child care are not available in certain States including infant care, school-age care, care for children with disabilities and special health care needs, and child care for parents with unconventional or shifting work hours.

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The bill I am introducing today will make it easier for low income, working families to balance the responsibilities of work and caring for their children. I urge all my colleagues to join together in supporting this legislation—for the good of America’s children.
"(V) Extending the hours of pre-kindergarten programs to provide full-day services.

"(VI) Any other child care programs that the Secretary determines are appropriate.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 668B(a) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858(a)), as amended by section 2, is amended—

(1) by striking "Except as provided in" and inserting the following:

"(1) In citing, except as provided in paragraph (2) and; and,"

(2) by adding at the end the following:

"(2) CHILD CARE SUPPLY SHORTAGES.—There is authorized to be appropriated to carry out section 658B(c)(3)(E), $500,000,000 for each of fiscal years 1997 through 2002.

(c) CONFORMING AMENDMENT.—Section 668L(b) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858c(b)(3)(A)) is amended by striking "(D)" and inserting "(E)

SEC. 5. REPORT ON ACCESS TO CHILD CARE BY LOW-INCOME WORKING FAMILIES.

(a) STATE REPORTING REQUIREMENT.—Section 668L(a)(2) of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858a(a)(2)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by inserting after subparagraph (E), the following:

"(F) the total number of families described in section 668L(b) that were eligible for but did not receive assistance under this subchapter or under section 418 of the Social Security Act and a description of the obstacles to providing such assistance:

and"

(G) the total number of families described in section 658B(b) that received assistance provided under this subchapter or under section 418 of the Social Security Act and a description of the manner in which that assistance was provided;"

(b) SECRETARIAL REPORTING REQUIREMENT.—Section 668L of the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858) is amended by inserting "with particular emphasis on access of low-income working families, after "public:"

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act take effect as if included in the enactment which amended the Internal Revenue Code of 1986 to increase the rate and spread the benefits of economic growth, and for other purposes; to the Committee on Finance.

TARGETED INVESTMENT INCENTIVE AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996

Mr. DASCHLE. I ask unanimous consent that the bill be printed in the Record.

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

S. 20. A bill to amend the Internal Revenue Code of 1986 to increase the rate and spread the benefits of economic growth, and for other purposes; to the Committee on Finance.


Mr. DASCHLE. I ask unanimous consent that the bill be printed in the Record.

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

S. 20. A bill to amend the Internal Revenue Code of 1986 to increase the rate and spread the benefits of economic growth, and for other purposes; to the Committee on Finance.

SECTION 1. SHORT TITLE.—AMENDMENT OF 1986 CODE

(a) SHORT TITLE.—This Act may be cited as the "Targeted Investment Incentive and Economic Growth Act of 1996".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section of, or provision of, the Internal Revenue Code of 1986.

TITLE I—TAXATION OF CAPITAL GAINS AND LOSSES

SEC. 101. ROLL-OVER OF CAPITAL GAINS ON CERTAIN SMALL BUSINESS INVESTMENTS.

(a) In General.—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting the following:

"(3) ROLL-OVER OF GAIN ON SMALL BUSINESS INVESTMENTS.

"(a) Nonrecognition of Gain.—In the case of the sale of any eligible small business investment with respect to which the taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any other eligible small business investment purchased by the taxpayer during the 12-month period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this subtitle.

(b) Definitions and Special Rules.—For purposes of this section—

"(1) PURCHASE.—The term 'purchase' has the meaning given such term by section 104(b)(4).

"(2) ELIGIBLE SMALL BUSINESS INVESTMENT.—Except as otherwise provided in this section, the term 'eligible small business investment' means any stock in a domestic corporation, and any partnership interest in a domestic partnership, which is originally issued after December 31, 1996, if—

"(A) as of the date of issuance, such corporation or partnership is a qualified small business,

"(B) such stock or partnership interest is acquired by the taxpayer at its original issue (directly or through an underwriter),

"(C) in exchange for money or other property (not including stock), or

"(D) as compensation for services (other than services in connection with the underwriting of such stock or partnership interest), and

"(E) the taxpayer has held such stock or interest at least 6 months as of the time of the sale described in subsection (a).

A rule similar to the rules of section 1202(c) shall apply for purposes of this section.

"(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (5), (6), (7), and (8) of section 1202(e) shall apply for purposes of this subsection.

"(4) CERTAIN OTHER RULES TO APPLY.—Rules similar to the rules of subsections (f), (g), and (h) of section 1202 shall apply for purposes of this section.

"(5) STATUTE OF LIMITATIONS.—If any gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any eligible small business investment held by the taxpayer during the 6-month period described in subsection (a).

"(6) STATUTE OF LIMITATIONS.—If any gain is realized by the taxpayer on the sale or exchange of any eligible small business investment and there is in effect an election under subsection (a) with respect to such gain, then—

"(1) the statutory period for the assessment of any deficiency with respect to such gain shall not expire until 6 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary shall by regulations prescribe) of—

"(i) the tax year in which the taxpayer first had such gain from the sale or exchange of an eligible small business investment, or

"(ii) the tax year in which the taxpayer first became subject to the requirement of paragraph (5), and

"(3) no further extension of time for the assessment of any deficiency with respect to such gain shall be granted by the Commissioner, after the expiration of such 3-year period notwithstanding the failure of the taxpayer to file a return for such tax year or for any subsequent tax year, or of the expiration of any other period of assessment.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the
avoidance of the purposes of this section through splits, shell corporations, partnerships, or otherwise and regulations to modify the application of section 1202 to the extent necessary to cause section 1202 to apply to a partnership rather than a corporation.

(b) Conforming Amendment.—Paragraph (23) of section 1016(a) is amended—

(i) by striking "or 1044" and inserting "1044, or 1045", and

(ii) by striking "or 1044(d)" and inserting "1044(d)", and

(c) Clerical Amendment.—The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"1045. Rollover of gain on small business investments."

(d) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1996.

**SEC. 102. LOSSES ON ELIGIBLE SMALL BUSINESS INVESTMENTS.**

(a) Increase in Maximum Amount.—Section 1244(b) (relating to maximum amount for any taxable year) is amended—

(i) by striking "$50,000", and

(ii) by striking "$100,000", and inserting "$250,000", and

(b) Extension of Application of Section 1244 to Partnership Interest and Increase in Value of Corporations Eligible for Application.—

(i) Extension to Partnerships.—So much of section 1244(c) as precedes paragraph (2) is amended—

(ii) by striking "paragraph (1)(C)" and inserting "paragraph (1)(B)";

(iii) by striking "entity", and

(iv) by striking "Paragraph (1)", and inserting "Paragraph (1)(C)".

(c) Section 1244 Interest Defined.—

(i) "Section 1244 interest.—For purposes of this section—

(A) in general.—The term 'section 1244 interest' means an eligible small business investment (as defined in section 1045(b)(1)) in a qualified small business entity (as defined in section 1045(b)(4)) if such entity, during the period of its 5 most recent taxable years ending before the date the loss on such investment was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

(B) Election Rule.—Any stock in a domestic corporation issued before January 1, 1997, which was section 1244 stock under this section on December 31, 1996 (determined under subsection (a) without regard to the effect on such date), shall be treated as a section 1244 interest for purposes of this section.

(2) Conforming Amendments.—

(A) Paragraph (3)(A) is amended by striking "section 1244 stock" and inserting "a section 1244 interest".

(B) Section 1244(c)(2) is amended—

(i) by striking "paragraph (2)(A)" in the heading and inserting "paragraph (2)(B)";

(ii) by striking "paragraph (1)(C)" each place it appears and inserting "paragraph (1)(D)";

(iii) by striking "corporation" each place it appears and inserting "entity";

(iv) by striking "paragraph (1)(C)" in sub-paragraph (D) and inserting "paragraph (1)(D)";

(C) Section 1244(c) is amended by striking paragraph (3).

(D) Section 1244(d) is amended—

(i) by striking "section 1244 stock" each place it appears and inserting "a section 1244 interest";

(ii) by striking "stock" each place it appears and inserting "interest";

(iii) by striking "paragraphs (1)(C) and (3)(A) of subsection (c)" in paragraph (2) and inserting "subsection (c)(1) and (3)(A)";

(iv) by striking "paragraph (c) thereof" and inserting "other than the gross receipts test thereof";

(E) The heading for section 1244 is amended by striking "stock" and inserting "interest".

(ii) the item relating to section 1244 in the table of sections for part IV of subchapter P of chapter 1 is amended by striking "stocks" and inserting "interests".

(F) Section 1065(m)(5) is amended by striking "section 1244 stock" and inserting "section 1244 interest".

(G) Section 1244(c)(3)(A)(i) is amended—

(i) by inserting ", as in effect on the day before the date of enactment of clause (iv)" after section 1244(c)(3) in subclauses (ii) and (iii),

(ii) by striking "or" at the end of subclause (ii),

(iii) by striking the period at the end of subclause (iii) and inserting ", or", and

(iv) by adding at the end the following new subclause:

"(IV) by a section 1244 interest (as defined in section 1244(c)(1))."

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending December 31, 1996.

**SEC. 103. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.**

(a) Exclusion Available to Corporations.—

(i) In General.—Subsection (a) of section 1202 is amended by striking "other than a corporation".

(ii) Technical Amendment.—Subsection (c) of section 1202 is amended by adding at the end the following new paragraph:

"(A) Stock Held Among Members of Controlled Group Not Eligible.—Stock shall not be treated as qualified small business stock if such stock was at any time held by any member of a controlled group (as defined in subsection (d)(3)) which includes the qualified small business entity.";

(b) Technical Amendment.—Section 1202(d) is amended by adding at the end the following new subparagraph:

"(2) Technical Amendment.—Section 1202(e)(4) is amended by adding at the end the following new subclause:

"(I) by inserting ``, as in effect on the day before the date of enactment of clause (iv)" after section 1244(c)(3) in subclauses (ii) and (iii),

(ii) by striking "or" at the end of subclause (ii),

(iii) by striking the period at the end of subclause (iii) and inserting ", or", and

(iv) by adding at the end the following new subclause:

"(IV) by a section 1244 interest (as defined in section 1244(c)(1))."

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending December 31, 1996.

**SEC. 104. EXEMPTION FROM TAX FOR Gain ON SALE OF PRINCIPAL RESIDENCE.**

(a) In General.—Section 121 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended to read as follows:

"(a) Exclusion.—Gross income shall not include gain from the sale or exchange of property if, during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating 2 years or more.

(b) Limitations:—

(1) Dollar Limitation.—The amount of gain excluded from gross income under subsection (a) with respect to any sale or exchange shall not exceed $250,000 ($150,000 for a surviving spouse). Such amount shall be rounded to the next lower multiple of $1,000,000."

(2) R eal Property Limited to One.—Section 121(c)(4)(B)(ii) is amended to read as follows:

"(B) Real Property Limited to One.—(i) by striking ``, for periods aggregating 2 years or more.''

"(ii) by striking ``, for periods aggregating 2 years or more.''

\[\text{January 21, 1997} \]

**CONGRESSIONAL RECORD — SENATE S355**
"(A) subsection (a) would not (but for this subsection) apply to such sale or exchange for purposes of—

(i) a failure to meet the ownership and use requirements of subsection (a), or

(ii) subsection (b)(2), and

(B) such sale or exchange is by reason of a change in place of employment, health, or other unforeseen circumstances.

"(d) Special Rules.—

"(1) Joint Returns.—For purposes of this section, if a husband and wife make a joint return and either of their petitioning the sale of property, subsection (a) shall, subject to the provisions of subsection (b), apply if either spouse meets the ownership and use requirements of subsection (a) with respect to such property.

"(2) Property of Deceased Spouse.—For purposes of this section, in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property, the period such unmarried individual owned such property shall include the period such deceased spouse held such property before death.

"(3) Tenant-Stockholder in Cooperative Housing Corporation.—For purposes of this section, a tenant-stockholder who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

(B) the holding requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(4) Voluntary Conversions.—

"(A) In General.—For purposes of this section, the destruction, theft, seizure, requisition, or condemnation of property shall be treated as the sale of such property.

"(B) Section 1034.—In applying section 1033 (relating to involuntary conversions), the amount realized from the sale or exchange of property shall be treated as being the amount determined without regard to this section, reduced by the amount of gain not included in gross income pursuant to this section.

"(C) Property Acquired After Involuntary Conversion.—If the basis of the property sold or exchanged is determined (in whole or in part) under section 1033 (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged.

"(5) Recognition of Gain Attributable to Depreciation.—Subsection (a) shall not apply to so much of the gain from the sale of any property as does not exceed the portion of such gain that is allocable to the period after December 31, 1996, in respect of such property.

"(6) Determination of Use During Periods of Our Dependence Care.—In the case of a taxpayer who—

(A) becomes physically or mentally incapable of self-care, and

(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a) for periods aggregating at least 1 year, then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition.

"(7) Determination of Marital Status.—In the case of any sale or exchange, for purposes of this section—

(A) the determination of whether an individual is treated as married for purposes of section 1250(b)(3)) attributable to periods in which the individual is treated as married.

(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

"(e) Denial of Exclusion for Expatriates.—This section shall not apply to—

(a) any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

(f) Election to Have Section Not Apply.—This section shall not apply to any sale or exchange with respect to which the taxpayer elects not to have this section apply.

"(g) Residents Acquired in Rollovers Under Section 1034.—For purposes of this section, in the case of property the acquisition of which by the taxpayer resulted under section 1034 (as in effect on the date before the date of the enactment of the Targeted Investment Incentive and Economic Growth Act of 1997) of such property and, for purposes of applying section 121, the resale of such property shall be treated as a part of the transaction constituting the original sale of such property.

"(h) Special Rules.—

"(1) In General.—For purposes of this section, if the taxpayer holds stock as a ten-

ant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), then—

(A) the holding requirements of subsection (a) shall be applied to the holding of such stock, and

(B) the holding requirements of subsection (a) shall be applied to the house or apartment which the taxpayer was entitled to occupy as such stockholder.

"(i) Conformity with Other Act Provisions.—This section shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) applies to such individual.

"(j) Section 1034(e).—

"(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "section 121" and inserting "section 121(a)";

"(2) the item relating to section 121 in the table of sections for part III of subchapter B of chapter 1 of such Code is redesignated by inserting "section 121" after "section 1204".

"(k) In General.—The amendments made by the sections of this Act are in addition to the amendments made by this Act.

"(l) Effective Date.—

"(1) In General.—The amendments made by this Act shall apply to sales and exchanges after December 31, 1996.

"(2) Binding Contracts, etc.—At the election of the taxpayer, the amendments made by this section shall apply to any sale or exchange after December 31, 1996, if—

(A) such sale or exchange is pursuant to a contract which was binding on the date of the enactment of this Act, or

(B) without regard to such amendments, gain would not be recognized under section 1034 of the Internal Revenue Code of 1986 (as in effect on the date before the date of the enactment of this Act) on such sale or exchange by reason of a new residence acquired on or before such date.

"(m) In General.—This paragraph shall not apply to any sale or exchange by an individual if the treatment provided by section 877(a)(1) of the Internal Revenue Code of 1986 applies to such individual.

TITLE II—RETIREMENT SAVINGS

SECTION 201. INCREASE IN DEDUCTION FOR contribution to individual retirement plans.

(a) In General.—Section 219(b)(1)(A) is amended by striking "$2,000" and inserting "$2,500".

(b) Conforming Amendments.—Subsections (a)(1), (b), and (j) of section 408 are each amended by striking "$2,000" each place it appears and inserting "$2,500".
(c) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

**SEC. 202. ROLLOVER OF GAIN FROM SALE OF FARM ASSETS UNDER INDIVIDUAL RETIREMENT PLANS.**

(a) **In General.**—Part III of subchapter O of chapter 1 (relating to common nontaxable exchanges) is amended by inserting after section 1034 the following new section:

> **SEC. 1034A. ROLLOVER OF GAIN ON SALE OF FARM ASSETS INTO ASSET ROLLOVER ACCOUNT.**

> "(a) **Nonrecognition of Gain.**—Subject to the limits of subsection (c), if a taxpayer has a qualified net farm gain from the sale of a qualified farm asset, then, at the election of the taxpayer, gain (if any) from such sale shall be recognized only to the extent such gain exceeds the contributions to 1 or more asset rollover accounts of the taxpayer for the taxable year in which such sale occurs.

> (b) **Asset Rollover Account.**—

> (1) **General Rule.**—Except as provided in this section, an asset rollover account shall be treated for purposes of this title in the same manner as an individual retirement plan.

> (2) **Asset Rollover Account.**—For purposes of this title, the term 'asset rollover account' means an individual retirement plan which is designated at the time of the establishment of the plan as an asset rollover account. Such designation shall be made in such manner as the Secretary may prescribe.

> (c) **Contribution Rules.**—

> (1) **No Deduction Allowed.**—No deduction shall be allowed in section 219 for a contribution to an asset rollover account.

> (2) **Aggregate Contribution Limitation.**—Except in the case of rollover contributions, the amount for any taxable year which may be contributed to all asset rollover accounts established on behalf of an individual shall not exceed—

> (A) $400,000 ($200,000 in the case of a separate return by a married individual), reduced by—

> (B) the amount by which the aggregate value of the assets held by the individual (and spouse) in individual retirement plans (other than asset rollover accounts) exceeds $100,000.

> The determination under subparagraph (B) shall be made as of the close of the taxable year for which the determination is being made.

> (3) **Annual Contribution Limitations.**—

> (A) **General Rule.**—The aggregate contribution which may be made in any taxable year to all asset rollover accounts shall not exceed the lesser of—

> (i) the qualified net farm gain for the taxable year, or

> (ii) an amount determined by multiplying the number of years the taxpayer is a qualified farmer by $10,000.

> (B) **Spouse.**—In the case of a married couple filing a joint return under section 6013 for the taxable year, subparagraph (A) shall be applied—

> (1) to the portion of such $400,000 attributable to each such person, and

> (2) in the case of such persons in the determination of the amount by which the aggregate value of the assets held by such persons in such manner as the Secretary may prescribe.

> (d) **Qualified Net Farm Gain; Etc.**—For purposes of this section—

> (1) **Qualified Net Farm Gain.**—The term 'qualified net farm gain' means the lesser of—

> (A) the net capital gain of the taxpayer for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset; or

> (B) the net capital gain for the taxable year determined by only taking into account gain (or loss) in connection with a disposition of a qualified farm asset; before the qualified farm asset is disposed of;

> (2) **Qualified Farm Asset.**—The term 'qualified farm asset' means an asset used by a qualified farmer in the active conduct of the trade or business of farming (as defined in section 2032A(e)).

> (3) **Qualified Farmer.**—

> (A) **General Rule.**—In general, the term 'qualified farmer' means a taxpayer who—

> (i) during the 5-year period ending on the date of the disposition of a qualified farm asset materially participated in the trade or business of farming, and

> (ii) owned (or who with the taxpayer's spouse owned) 50 percent or more of such trade or business during such 5-year period.

> (B) **Material Participation.**—For purposes of this paragraph, a taxpayer shall be treated as materially participating in a trade or business if the taxpayer meets the requirements of section 2032A(e)(6).

> (4) **Rollover Contributions.**—Rollover contributions to an asset rollover account may be made only from other asset rollover accounts.

> (d) **Distribution Rules.**—For purposes of this title, the rules of paragraphs (1) and (2) of section 408(d) shall apply to any distribution from an asset rollover account.

> (e) **Individual Required to Report Qualified Contributions.**

> (1) **In General.**—Any individual who—

> (A) makes a contribution to an asset rollover account for any taxable year, or

> (B) receives from an asset rollover account for any taxable year, shall include on the return of tax imposed by chapter 43 for such taxable year and any subsequent taxable year (or on such other form as the Secretary may prescribe) information described in paragraph (2).

> (2) **Information Required to Be Supplied.**—The information described in this paragraph is information required by the Secretary which is similar to the information described in section 408(o)(4)(B).

> (3) **Penalties.**—For penalties relating to reports under this paragraph, see section 6662(b).

> (f) **Contributions Not Deductible.**—Section 402(d) (regulations and restrictions) is amended by adding at the end the following new paragraph:

> (5) **Contributions to Asset Rollover Accounts.**—No deduction shall be allowed under this section with respect to a contribution under section 1034A.

> (g) **Excess Contributions.**—

> (1) **In General.**—Section 4973 (relating to maximum contributions) is amended by inserting after subparagraph (C) the following new subparagraph:

> (e) **Asset Rollover Accounts.**—For purposes of section 4973, in the case of an asset rollover account referred to in subsection (a)(1), the term 'excess contribution' means the excess (if any) of the amount contributed to such account over the amount which may be contributed under section 1034A.

> (2) **Conforming Amendments.**—

> (A) **Amendments.**—(i) Section 4973 is amended by inserting "an asset rollover account (within the meaning of section 1034A)," after the comma at the end.

> (ii) The heading for section 4973 is amended by inserting "ASSET ROLLOVER ACCOUNTS," after "CONTRACTIONS".

> (B) **Specific Number of Options.**—The option is granted pursuant to a plan that includes either—

> (a) the aggregate number of shares that may be issued under options granted under the plan, or

> (3) **The table of sections for chapter 43 is amended by inserting "asset rollover accounts," after "contracts," in the item relating to section 4973.

> (B) **Technical Amendments.**—

> (1) **Section 408(a)(1) (defining individual retirement account) is amended by inserting "or a qualified contribution under section 1034A" before "or similar account,"

> (2) **Section 408(d)(5)(A) is amended by inserting "or qualified contributions under section 1034A" after "rollover contributions,"

> (3) **Section 6693(b)(1)(A) is amended by inserting "or 1034A(f)(1)" after "408(c)(4)."

> (B) **Section 6693(b)(2) is amended by inserting "or 1034A(f)(1)" after "408(c)(4)".

> (4) The table of sections for part III of subchapter O of chapter 1 is amended by inserting after the item relating to section 1034 the following new item:

> "Sec. 1034A. Rollover of gain on sale of farm assets into asset rollover account."

> (e) **Effective Date.**—The amendments made by this section shall apply to sales and exchanges after the date of the enactment of this Act.

**TITLE III—PERFORMANCE STOCK OPTIONS**

**SEC. 301. PERFORMANCE STOCK OPTIONS.**

(a) **In General.**—Part II of subchapter D of chapter 1 (relating to certain stock options) is amended by redesignating section 424 as section 425 and by inserting after section 423 the following new section:

> **SEC. 424. PERFORMANCE STOCK OPTIONS.**

> "(a) **In General.**—Section 422(a) shall apply with respect to the transfer of a share of stock to any person pursuant to the exercise of a performance stock option if no disposition of such share is made by such person within 1 year after the transfer of such share to such person.

> (b) **Performance Stock Option.**—For purposes of this part—

> (1) **In General.**—The term 'performance stock option' means an option to purchase stock of any corporation described in paragraph (4) which is granted to any person—

> (A) in connection with the performance of services for an entity described in paragraph (4), and

> (B) upon the attainment of performance goals established by the entity.

> (2) **Additional Requirements.**—An option shall not be treated as a performance stock option unless the following requirements are met—

> (A) **Nondiscrimination.**—Either—

> (i) the option is granted to an employee who, at the time of the grant, is not a highly compensated employee, or

> (ii) immediately after the grant of the option, employees who are not highly compensated employees hold shares of stock which are not performance stock options and, such portion shall be allocated among options held by such persons in such manner as the Secretary may prescribe.

> (B) **Specific Number of Options.**—The option is granted pursuant to a plan that includes either—

> (a) the aggregate number of shares that may be issued under options granted under the plan, or
"(ii) a method by which the aggregate number of shares that may be issued under options granted under the plan can be determined (without regard to whether such aggregate number may change under such method),

and which is approved by the stockholders of the granting corporation within 12 months before or after the date such plan is adopted.

"(C) THE OPTION IS GRANTED.—The option is granted within 10 years after the date the plan described in subparagraph (B) is adopted, or the date such plan is approved by the stockholders, whichever is earlier.

"(D) TIME FOR EXERCISING OPTION.—The option by its terms is not exercisable after the expiration of 10 years from the date such option is granted.

"(E) OPTION PRICE.—Except as provided in paragraph (6) of subsection (c), the option price is not less than the fair market value of the stock at the time the option is granted.

"(F) TRANSFERABILITY.—The option by its terms is not transferable by the person holding the option, other than—

"(i) in the case of an individual, by will or the laws of descent and distribution, or pursuant to a qualified domestic relations order (as defined in subsection (p) of section 414), and

"(ii) in the case of any other person, by a court of competent jurisdiction.

"(3) ELECTION NOT TO TREAT OPTION AS PERFORMANCE STOCK OPTION.—An option shall not be treated as a performance stock option if—

"(A) as of the time the option is granted the terms of such option provide that it will not be treated as a performance stock option, or

"(B) as of the time such option is exercised the grantor and holder agree that such option will not be treated as a performance stock option.

"(4) ENTITIES TO WHICH SECTION APPLIES.—This section shall apply to an option granted to a person who performs services for—

"(A) the corporation issuing the option, or its parent or subsidiary corporation,

"(B) a partnership in which the corporation in paragraph (A) holds a capital or profits interest representing at least 20 percent of the total capital or profits interest of the partnership, or

"(C) a parent or subsidiary corporation of such corporation issuing or assuming a stock option in a transaction to which section 425(a) applies.

"(5) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(6) SPECIAL RULES.—

"(1) GOOD FAITH EFFORTS TO VALUE STOCK.—If a share of stock is acquired pursuant to the exercise of a performance stock option it is determined by reference to the basis of stock acquired by the person exercising the option.

"(2) TRANSFER OF PROPERTY.—If a share of stock is acquired pursuant to the exercise of a performance stock option after the date on which such option was exercised with respect to such stock.

"(3) EXERCISE BY ESTATE.—If a performance stock option is exercised after the death of an individual who acquired the right to exercise such option bequest or inheritance, the executor or administrator shall not acquire title to the property acquired by the individual who acquired the right to exercise such option by bequest or inheritance, or by reason of the death of the decedent, in a 10-year period after the death of the decedent, unless the executor or administrator satisfies the requirements of this section (b).

"(4) PERFORMANCE SHARE OPTIONS.

"(A) THE OPTION IS GRANTED.—The option is granted within 10 years after the date the plan described in subparagraph (B) is adopted, or the date such plan is approved by the stockholders, whichever is earlier.

"(B) THE OPTION PRICE.—Except as provided in paragraph (6) of subsection (c), the option price is not less than the fair market value of the stock at the time the option is granted.

"(C) THE OPTION IS NOT EXERCISABLE.—The option by its terms is not exercisable after the expiration of 10 years from the date such option is granted.

"(D) TRANSFERABILITY.—The option by its terms is not transferable by the person holding the option, other than—

"(i) in the case of an individual, by will or the laws of descent and distribution, or pursuant to a qualified domestic relations order (as defined in subsection (p) of section 414), and

"(ii) in the case of any other person, by a court of competent jurisdiction.

"(4) SPECIAL RULES.—

"(1) GOOD FAITH EFFORTS TO VALUE STOCK.—If a share of stock is acquired pursuant to the exercise of a performance share option, such person shall be treated as acquiring such performance share option in exchange for a performance stock option.

"(2) TRANSFER OF PROPERTY.—If a share of stock is acquired pursuant to the exercise of a performance share option after the date on which such option was exercised with respect to such stock.

"(3) EXERCISE BY ESTATE.—If a performance share option is exercised after the death of an individual who acquired the right to exercise such option by bequest or inheritance, the executor or administrator shall not acquire title to the property acquired by the individual who acquired the right to exercise such option by bequest or inheritance, or by reason of the death of the decedent, in a 10-year period after the death of the decedent, unless the executor or administrator satisfies the requirements of this section (b).

"(4) PERFORMANCE SHARE OPTIONS.
under section 1202 or 1203 shall not be taken into account.

(4) Paragraph (4) of section 601(c) is amended by striking "1202, and 1211" and inserting "1202, 1203, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to sections 1202 and 1203 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1202 the following new paragraph:

"Sec. 1203. 50-percent exclusion for gain from stock acquired through employee stock purchase plans."

(b) TREATMENT FOR WAGE WITHHOLDING AND EMPLOYMENT TAXES.

(1) FICA TAXES.—Section 3212(a) (defining wages) is amended by striking "or at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", or"); and by adding after paragraph (21) the following new paragraph:

"(22) any gain from the exercise of a performance stock option (as defined in section 422(b)) or from the disposition of stock acquired pursuant to the exercise of such a performance stock option."

(2) FUTA TAXES.—Section 3306(b) (defining wages) is amended by striking "or at the end of paragraph (17) and inserting ", or"; and by adding after paragraph (17) the following new paragraph:

"(23) any gain described in section 3212(a)(22)."

(c) WAGE WITHHOLDING.—

(A) Section 3401(a) (defining wages) is amended by striking "or at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", or"); and by adding at the end the following new paragraph:

"(22) any gain from the exercise of a performance stock option (as defined in section 422(b)) or from the disposition of stock acquired pursuant to such exercise, performance stock option."

(b) Section 421(b) (relating to effect of disqualifying disposition) is amended by adding at the end the following new sentence: "A deduction to the employer corporation in the case of a transfer pursuant to an option described in section 422, 423, or 424 shall not be disallowed as a result of a failure to withhold tax under chapter 24 with respect to stock acquired in the transfer."

SEC. 203. EFFECTIVE DATE.

The amendments made by this title shall apply to options granted after the date of the enactment of this Act.

TITLE IV—EMPLOYER-PROVIDED TRAINING

SEC. 401. EXTENSION OF EXCLUSION FOR EDUCATIONAL ASSISTANCE PROGRAMS:

(a) IN GENERAL.—Section 127 is amended by striking "1202, 1203, and 1211" and by redesignating subsection (d) as subsection (c).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 402. STUDY OF NONDISCRIMINATION RULES APPLICABLE TO EDUCATIONAL ASSISTANCE PROGRAMS:

(a) STUDY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall conduct a study which examines—

(1) the pattern in which taxpayers providing job-related training and education assistance programs under section 127 of the Internal Revenue Code of 1986 extend such benefits to highly compensated employees and nonhighly compensated employees;

(2) the merits and administrative feasibility of applying nondiscrimination rules to job-related training and educational assistance programs under section 127 of the Internal Revenue Code of 1986 which are similar to the nondiscrimination rules applicable to employer-provided pension plans; and

(3) the merits and administrative feasibility of conditioning the exclusion for job-related training and section 127 assistance on an employee remaining with the employer for at least 1 year after receiving the training or educational assistance.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Labor shall report to the Congress the results of the study conducted under subsection (a), including any recommendations for legislation as the Secretary determines appropriate.

TITLE V—ESTATE TAX RELIEF

SEC. 501. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—Part III of subchapter A of chapter 11 (relating to gross estate) is amended by adding at the end the following new paragraph:

"(20) the pattern in which taxpayers providing job-related training and section 127 assistance on behalf of members of the decedent's family."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.

SEC. 502. FAMILY-OWNED BUSINESS EXCLUSION.

(a) IN GENERAL.—In the case of an estate to which this section applies, the value of the gross estate shall not include the lesser of—

"(1) the adjusted value of the qualified family-owned business interests of the decedent otherwise includible in the estate, or

"(2) $900,000, reduced by the amount of any exclusion allowed under this section with respect to the estate of a previously deceased spouse of the decedent.

(b) ESTATES TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—This section shall apply to an estate if

"(A) the decedent was (at the date of the decedent's death) a citizen or resident of the United States,

"(B) the sum of—

"(i) the adjusted value of the qualified family-owned business interests described in paragraph (2), plus

"(ii) the amount of the gifts of such interests determined under paragraph (3), exceeds 50 percent of the adjusted gross estate; and

"(C) during the 8-year period ending on the date of the decedent's death there have been periods aggregating 5 years or more during which—

"(i) such interests were owned by the decedent or a member of the decedent's family, and

"(ii) there was material participation (within the meaning of section 2032A(e)(6)) by the decedent or a member of the decedent's family in the operation of the business to which such interests relate.

"(2) INCLUDIBLE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—The qualified family-owned business interests described in this paragraph are such interests which—

"(A) are included in determining the value of the gross estate (without regard to this section), and

"(B) are acquired by any qualified heir from, or passed to any qualified heir from, the decedent (within the meaning of section 2032A(e)(9)).

"(3) INCLUDIBLE GIFTS OF INTERESTS.—The amount of the gifts of qualified family-owned business interests determined under this paragraph is the excess of—

"(A) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2032A(e)(1), and

"(iii) the amount of such gifts otherwise excluded under section 2503(b), to the extent such interests are continuously held by members of such family (other than the decedent's spouse) between the date of the gift and the date of the decedent's death, over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.

(c) ADJUSTED GROSS ESTATE.—For purposes of this section, the term "adjusted gross estate" means the value of the gross estate (determined without regard to this section).

"(1) reduced by any amount deductible under paragraph (3) or (4) of section 2053(a), and

"(2) increased by the excess of—

"(A) the sum of—

"(i) the amount of gifts determined under subsection (b)(3), plus

"(ii) the amount (if more than de minimis) of other transfers from the decedent to the decedent's spouse (at the time of the transfer) within 10 years of the date of the decedent's death, plus

"(iii) the amount of other gifts (not included under clause (i) or (iii)) from the decedent within 3 years of such date, other than gifts to members of the decedent's family which are otherwise excluded under section 2503(b), over

"(B) the sum of the amounts described in clauses (i), (ii), and (iii) of subparagraph (A) which are otherwise includable in the gross estate.

For purposes of the preceding sentence, the Secretary may provide that de minimis gifts to persons other than members of the decedent's family shall not be taken into account.

(d) ADJUSTED VALUE OF THE QUALIFIED FAMILY-OWNED BUSINESS INTERESTS.—For purposes of this section, the adjusted value of any qualified family-owned business interest is the value of such interest for purposes of this chapter (determined without regard to this section), reduced by the excess of—

"(1) any amount deductible under paragraph (3) or (4) of section 2053(a), over

"(2) the sum of—

"(A) any qualified residuary of the decedent's death on which is deductible under section 163(h)(3), plus

"(B) any indebtedness to the extent the taxpayer establishes that the proceeds of such indebtedness were used for the payment of educational and medical expenses of the decedent, the decedent's spouse, or the decedent's dependents (within the meaning of section 152), plus

"(C) any indebtedness not described in clause (i) or (ii), to the extent such indebtedness does not exceed $10,000.

(e) QUALIFIED FAMILY-OWNED BUSINESS INTEREST.—

"(1) IN GENERAL.—For purposes of this section, the term "qualified family-owned business interest" means—

"(A) an interest as a proprietor in a trade or business carried on as a proprietorship, or

"(B) an interest in an entity carrying on a business interest which—

"(i) the amount of such gifts from the decedent to members of the decedent's family taken into account under subsection 2032A(e)(1), and

"(ii) the amount of such gifts otherwise excluded under section 2503(b), over

"(B) the amount of such gifts from the decedent to members of the decedent's family otherwise included in the gross estate.
(A) any interest in a trade or business the principal place of business of which is not located in the United States,

(B) any interest in an entity, if the stock or other interest of such entity is owned for a controlled other (as defined in section 567(1)(1)) of which such entity was a member was readily tradable on an established securities market or secondary market provided by the Secretary at any time within 3 years of the date of the decedent's death,

(C) any interest in a trade or business not described in section 542(c)(2), if more than 35 percent of the adjusted ordinary gross income of such trade or business for the taxable year next following the date of the decedent's death would qualify as personal holding company income (as defined in section 543(a)),

(D) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States,

(2) ADDITIONAL ESTATE TAX.—

(A) In general.—The amount of the additional estate tax imposed by paragraph (1) shall be equal to:

(i) the applicable percentage of the adjusted tax attributable to the qualified family-owned business interest as determined by substituting 'trade or business' for `controlled foreign corporation'.

(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph, the applicable percentage shall be determined under the following table:

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<th>Material Participation Percentage</th>
<th>Applicable Percentage</th>
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(3) RULES REGARDING OWNERSHIP.—

(A) OWNERSHIP ENTITIES.—For purposes of paragraph (3)(B)

(B) CORPORATIONS.—Ownership of a corporation shall be determined by the holding of stock possessing the appropriate percentage of the total combined voting power of all classes of stock entitled to vote and the appropriate percentage of the total value of all classes of stock.

(C) PARTNERSHIPS.—Ownership of a partnership shall be determined by the owning of the appropriate percentage of the capital interest in such partnership.

(D) OWNERSHIP OF TIERED ENTITIES.—For purposes of this section, if by reason of holding an interest in a trade or business, a decedent, any member of the decedent's family, any qualified heir, or any member of any qualified heir's family is treated as holding an interest in any other trade or business—

(i) an interest in a trade or business shall be disregarded in determining if the ownership interest in the first trade or business is a qualified family-owned business interest, and

(ii) this section shall be applied separately in determining if such interest in any other trade or business is a qualified family-owned business interest in such partnership.

(E) INDIVIDUAL OWNERSHIP RULES.—For purposes of this section, an interest owned, directly or indirectly, by or for an entity described in section 542(c)(2) shall be considered as being owned proportionately by or for the entity's shareholders, partners, or beneficiaries. A partnership shall be treated as a beneficiary of any trust unless such person has a present interest in such trust.

(F) TAX TREATMENT OF FAILURE TO MATERIALLY PARTICIPATE IN BUSINESS OR DISPOSITIONS OF INTERESTS.—

(I) IN GENERAL.—There is imposed an additional estate tax if, within 10 years after the death of the decedent, the qualified heir loses United States citizenship (within the meaning of section 877(a)) or disposes of an interest described in subparagraph (A) or (B) of section 877(e)(1) occurs, and such heir does not comply with the requirements of subsection (g), or

(II) the principal place of business of a trade or business of the qualified family-owned business interest ceases to be located in the United States.

(G) SECURITY REQUIREMENTS FOR NONCITIZEN QUALIFIED HEIRS.—

(I) IN GENERAL.—Except upon the application of subparagraph (F) or (M) of subsection (h)(3), if a qualified heir is not a citizen of the United States, any interest under this section passing to or acquired by such heir at a time described in subsection (f)(1)(C) shall be treated as a qualified family-owned business interest only if the interest passes or is acquired (or qualified in the case of a trust) after the date such interest is first treated as being owned proportionately by or for a controlled foreign corporation.

(J) CERTAIN CASH RENTAL NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(A) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

"(2) Certain cash rental not to cause recapture of special estate tax valuation.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use."

(K) EFFECTIVE DATE.—The amendment made by this subsection shall apply to estates of decedents dying after December 31, 1976.

SECTION 502. PORTION OF ESTATE TAX SUBJECT TO 4-PERCENT INTEREST RATE INCREASED TO $600,000.

(a) IN GENERAL.—Subparagraph (B) of section 6601(j)(2) (defining 4-percent portion) is amended by striking "$345,800" and inserting "$600,000."

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply to estates of decedents dying after December 31, 1976.

SECTION 503. CERTAIN CASH RENTALS OF FARMLAND NOT TO CAUSE RECAPTURE OF SPECIAL ESTATE TAX VALUATION.

(a) IN GENERAL.—Subsection (c) of section 2032A (relating to tax treatment of dispositions and failures to use for qualified use) is amended by adding at the end the following new paragraph:

"(2) Certain cash rental not to cause recapture.—For purposes of this subsection, a qualified heir shall not be treated as failing to use property in a qualified use solely because such heir rents such property on a net cash basis to a member of the decedent's family, but only if, during the period of the lease, such member of the decedent's family uses such property in a qualified use."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.
By Mr. MOYNIHAN.

S. 21. A bill to establish a medical education trust fund, and for other purposes; to the Committee on Finance.


Mr. MOYNIHAN. Mr. President, I rise to reintroduce legislation that would establish a medical education trust fund to support America's 142 accredited medical schools and 1,250 teaching hospitals. These institutions are national treasures; they are the very best in the world.

Yet today they find themselves in a precarious financial situation as market forces reshape the health care delivery system in the United States. Federal funding for these institutions, which this legislation will provide, will ensure that the United States continues to lead the world in the quality of its health care system.

This legislation requires that the public sector, through the Medicare and Medicaid programs, and the private sector, through an assessment on health insurance premiums, contribute broad-based and fair financial support.

My particular interest in this subject began in 1994, when the Finance Committee took up the President's Health Security Act. I was chairman of the committee at the time. In January of that year, I asked Dr. Paul Marks, M.D., president of the Sloan-Kettering Cancer Center in New York City, if he would arrange a seminar for me on health care issues. He agreed, and gathered a number of medical school deans together one morning in New York.

Early on in the meeting, one of the seminarians remarked that the University of Minnesota might have to close its medical school. In an instant I realized — I had heard something new. Minnesota is a place where they open medical schools, not close them. How, then, could this be? The answer was that Minnesota, being Minnesota, was a leading State in the growth of competitive health care markets, in which competing managed care organizations try to deliver services at lower costs. In this environment, HMO's and the like do not send patients to teaching hospitals, absent which you cannot have a medical school.

We are in the midst of a great era of discovery in medical science. It is certainly not a time to close medical schools. This great era of medical discovery is occurring right here in the United States, not in Europe like past decades have brought us images of the discovery in medical science. It is centered in New York City. This heroic age of medical science started in the late 1930's. Before then, the average patient was probably as well off, perhaps better, out of a hospital as in one.

From that point sixty years ago has been remarkable. The last few decades have brought us images of the inside of the human body based on the magnetic resonance of bodily tissues; laser surgery; micro surgery for re-attaching limbs; and organ transplantation, among other wonders. Physicians are now working on a gene therapy that might eventually replace by-pass surgery. I can hardly imagine what might be next.

After months of hearings and debate on the President's Health Security Act, I became convinced that special provisions would have to be made for medical schools, teaching hospitals, and medical research if we were not to see this great moment in medical science suddenly constrained. To that end, when the Committee on Finance voted 12 to 8 on July 2, 1994 to report the Health Security Act, it included a section creating the Graduate Health Centers Trust Fund. The trust fund provided an 80-percent increase in Federal funding for academic medicine; as importantly, it represented stable, long-term funding. While nothing came of the effort to establish universal health care coverage, the medical education trust fund enjoyed widespread support.

In the fiscal year 1997, I offered an amendment to establish the medical education trust fund. With a new majority in control and the committee in the midst of considering a highly partisan budget reconciliation bill, my amendment failed on a tie vote, 10 to 10. Notably, however, the House Ways and Means Committee, Representative Bill Archer and I were both honored last year to receive the American Association of Medical Colleges' Public Service Excellence Award.

That is the history of this effort, briefly stated.

NEED FOR LEGISLATION

Medical education is one of America's most precious public resources. Within our increasingly competitive health care system, it is rapidly becoming a public good—that is, a good from which everyone benefits, but for which no one is willing to pay. Therefore, it would be explicitly financed with contributions from all sectors of the health care system, not just the Medicare Program as is the case today. The fiscal pressures of a competitive health market are increasingly closing off traditional implicit revenue sources.
(such as additional payments from private payers) that have supported medical schools, graduate medical education, and research until now. In its June, 1996 Report to Congress, the Prospective Payment Assessment Commission summarized the situation of teaching hospitals as follows:

The second immediate threat faced by medical schools stems from their reliance on a portion of the clinical practice revenue generated by their faculties to support their operations. As competition within the health system intensifies and managed care proliferates, these revenues are shrinking. This legislation provides payments to medical schools from the trust fund that are designed to partially offset this loss of revenue.

None of the foregoing is meant to suggest that the new competitive forces reshaping health care have brought only negative results. To the contrary, the onset of competition has had many beneficial effects, the dramatic rise in the quality of hospital care and the reduction in health insurance premiums being the most obvious. But as Monsignor Charles J. Fahey of Fordham warned in testimony before the Finance Committee in 1994, we must be wary of the "commodification of health care," by which he meant that health care is not just another commodity.

We can rely on competition to hold down costs in much of the health system, but we must not allow it to bring a premature end to this great age of medical discovery, an age made possible by this country's exceptionally well-trained health professionals and superior medical schools and teaching hospitals. This legislation complements a competitive health market by providing tax-supported funds for services provided by teaching hospitals and medical schools.

DESCRIPTION OF LEGISLATION

Accordingly, the medical education trust fund established in the legislation I have just reintroduced would receive funding from three sources broadly representing the entire health care system: a 15 percent tax on health insurance premiums—the private sector's contribution—Medicare and Medicaid, and the public sector's contribution. The relative contribution from each of these sources will be in rough proportion to the medical education costs attributable to their respective covered populations.

Over the 5 years following enactment, the medical education trust fund provides average annual payments of about $17 billion. The tax on health insurance premiums—including self-insured and non-Termed health plans—estimated to raise approximately $4 billion per year for the trust fund. Federal health programs contribute about $13 billion per year to the trust fund: $9 billion in transfers of Medicare graduate medical education payments and $4 billion in federal Medicaid spending.

This legislation is only a first step. It establishes the principle that, as a public good, medical education should be supported by a broad, long-term federal fund. To ensure that the United States continues to lead the world in the quality of its medical education and its health system as a whole, the legislation would also create a Medical Education Advisory Commission to conduct a thorough study and make recommendations, including the potential use of demonstration projects, regarding the following: alternative and additional sources of medical education financing; alternative methodologies for financing medical education; policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the appropriate role of medical schools in graduate medical education; and policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals.

Mr. President, the services provided by this Nation's teaching hospitals and medical schools—ground breaking research, highly skilled medical care, and the training of tomorrow's physicians—are vitally important and must be protected in this time of intense economic competition in the health system.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

CONGRESSIONAL RECORD Ð SENATE 1 January 21, 1997

S. 21    Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medical Education Trust Fund Act of 1997".

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

| Sec. 1. | Title XXI—Medical Education Trust Fund |
| Sec. 2. | Medical Education Trust Fund |
| Sec. 3. | Amendments to Medicare program |
| Sec. 4. | Amendments to Medicaid program |
| Sec. 5. | Assessments on insured and self-insured health plans |
| Sec. 6. | Medical Education Advisory Commission |
| Sec. 7. | Demonstration projects |

SEC. 2. MEDICAL EDUCATION TRUST FUND.

The Social Security Act (42 U.S.C. 300 et seq.) is amended by adding after title XX the following new title:

"TITLE XXI—MEDICAL EDUCATION TRUST FUND"
"(1) The Medical School Account.

"(2) The Medicare Teaching Hospital Indirect Account.

"(3) The Medicare Teaching Hospital Direct Account.

"(4) The Non-Medicare Teaching Hospital Indirect Account.

"(5) The Non-Medicare Teaching Hospital Direct Account.

Each such account shall consist of such amounts as are allocated and transferred to such account under this section, sections 1876(a)(7), 1886(j), and 1886(k), and section 4503 of the Internal Revenue Code of 1986. Amounts in the accounts of the Trust Fund shall remain available until expended.

"(b) FROM TRUST FUND.—Amounts in the accounts of the Trust Fund are available to the Secretary for making payments under sections 2102 and 2103.

"(c) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest amounts in the accounts of the Trust Fund which the Secretary determines are not required to meet current withdrawals from the Trust Fund. Such investments may be made only in interest-bearing obligations of the United States. Such obligations shall be acquired on original issue at the market price.

"(2) PURCHASE OF COMMUNITY HEALTH CENTER SECURITIES.—The Secretary of the Treasury may sell at market price any obligation acquired under paragraph (1).

"(3) AVAILABLE FOR INCOME.—Any interest derived from obligations held in each such account, and proceeds from any sale or redemption of such obligations, are hereby appropriated to such account.

"(d) DISTRIBUTION TO TRUST FUND.—There are appropriated to the Trust Fund such amounts as may be unconditionally donated to the Federal Government as gifts to the Trust Fund, and amounts shall be allocated and transferred to the accounts described in subsection (a) in the proportion as the amounts in each of the accounts bears to the total amount in all the accounts of the Trust Fund.

"SEC. 2102. PAYMENTS TO MEDICAL SCHOOLS.

(a) FEDERAL PAYMENTS TO MEDICAL SCHOOLS—CERTAIN COSTS.

"(1) IN GENERAL.—In the case of a medical school that in accordance with paragraph (2) submits to the Secretary an application for fiscal year payments for a subsequent fiscal year, the Secretary shall make payments for such year to the medical school for the purpose specified in paragraph (3). The Secretary shall deduct from such payments amounts from the Medical School Account in an amount determined in accordance with subsection (b), and may administrate the payments as a contract, grant, or cooperative agreement.

"(2) APPLICATION FOR PAYMENTS.—For purposes of paragraph (1), an application for payments under such paragraph for a fiscal year is in accordance with this paragraph if—

"(A) the medical school involved submits the application not later than the date specified by the Secretary; and

"(B) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(3) PURPOSE OF PAYMENTS.—The purpose of payments under paragraph (1) is to assist medical schools in obtaining and developing quality educational programs in an increasingly competitive health care system.

"(a) AVAILABILITY OF TRUST FUND FOR PAYMENTS.—

"(1) AVAILABILITY OF TRUST FUND FOR PAYMENTS.—The following amounts shall be available for a fiscal year for making payments under subsection (a) from the amount allocated and transferred to the Medical School Account under sections 1876(a), 1886(j), and 1886(k), and section 4503 of the Internal Revenue Code of 1986:

"(A) In the case of fiscal year 1998, $200,000,000.

"(B) In the case of fiscal year 1999, $300,000,000.

"(C) In the case of fiscal year 2000, $400,000,000.

"(D) In the case of fiscal year 2001, $500,000,000.

"(E) In the case of fiscal year 2002, $600,000,000.

"(F) In the case of each subsequent fiscal year, the amount specified in this paragraph in the previous fiscal year updated through the midpoint of the year by the estimated percentage change in the general health care inflation factor (as defined in subsection (d)) during the 12-month period ending at that midpoint, adjusted to reflect previous underestimations or overestimations under this subparagraph in the projected health care inflation factor.

"(2) AMOUNTS OF PAYMENTS FOR MEDICAL SCHOOLS.—

"(A) IN GENERAL.—Subject to the annual amount available under paragraph (1) for a fiscal year, payments required under paragraph (a) to be made to a medical school that submits to the Secretary an application for such year in accordance with subsection (a) shall equal the amount determined by the Secretary in accordance with subparagraph (B).

"(B) DEVELOPMENT OF FORMULA.—The Secretary shall develop a formula for allocation of funds to medical schools under this section consistent with the purpose described in subsection (a).

"(C) MEDICAL SCHOOL DEFINED.—For purposes of this section, the term ‘medical school’ means a school of medicine (as defined in section 1876(a)(7)(B)) of an institution of higher education, or a school of osteopathic medicine (as defined in section 1876(a)(7)(C)).

"(D) GENERAL HEALTH CARE INFLATION FACTOR.—The term ‘general health care inflation factor’ means the consumer price index for medical services as determined by the Bureau of Labor Statistics.

"SEC. 2103. PAYMENTS TO TEACHING HOSPITALS.

(a) AVAILABILITY OF TRUST FUND FOR PAYMENTS TO MEDICARE TEACHING HOSPITAL DIRECT ACCOUNT.

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under subsection (c)(1) for such fiscal year may be used for such purpose only to the extent equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account under sections 1876(a)(7), 1886(j)(2), and subsections (c)(3) and (d) of section 2101 for such fiscal year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity under the fiscal year under section 1886(d)(3)(B) if—

"(A) such payments had not been terminated for discharges occurring after September 30, 1997, and

"(B) such payments included payments for individuals enrolled in a plan under section 1876, except that for fiscal years 1998, 1999, and 2000, only the applicable percentage (as defined in section 1876(a)(7)(B)) of such payments shall be taken into account.

"(c) DETERMINATION OF AMOUNT FROM MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Medicare Teaching Hospital Indirect Account under sections 1876(a)(7), 1886(j)(2), and subsections (c)(3) and (d) of section 2101 for such fiscal year.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for any fiscal year is equal to the percentage of the total payments which would have been made to the eligible entity under fiscal year under section 1886(d)(3)(B) if—

"(A) such payments had not been terminated for discharges occurring after September 30, 1997, and

"(B) such payments included payments for individuals enrolled in a plan under section 1876, except that for fiscal years 1998, 1999, and 2000, only the applicable percentage (as defined in section 1876(a)(7)(B)) of such payments shall be taken into account.

"(d) DETERMINATION OF AMOUNT FROM NON-MEDICARE TEACHING HOSPITAL INDIRECT ACCOUNT.—

"(1) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under this subsection is the amount equal to the applicable percentage of the total amount allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account for such fiscal year under section 2091.
(c)(3) and (d) of section 2101, and section 4503 of the Internal Revenue Code of 1986.

(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage for the fiscal year for an eligible entity is equal to the percentage of the total payments which, as determined by the Secretary, would have been made in such fiscal year under section 1931, subsections (c)(3) and (d) of section 2101, and section 4503 of the Internal Revenue Code of 1986.

(3) NON-MEDICARE TEACHING HOSPITAL DIRECT ACCOUNT.—

(a) IN GENERAL.—The amount determined for an eligible entity for a fiscal year under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to the Medical Education Trust Fund under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) for fiscal year 1998, 25 percent; for fiscal year 1999, 50 percent; for fiscal year 2000, 75 percent; and for fiscal year 2001 and each subsequent fiscal year.

(b) DETERMINATION OF AMOUNTS.—The Secretary shall make an estimate for each fiscal year of the nationwide total of the amounts that would have been paid under subsection (d)(5)(B) to hospitals during the fiscal year if such payments had not been terminated for discharges occurring after September 30, 1997.

(2) DIRECT COSTS OF MEDICAL EDUCATION.—

(1) IN GENERAL.—From the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, transfer to the Medical Education Trust Fund an amount equal to the amount estimated by the Secretary which bears the same ratio to the total amounts transferred to the Medical School Account an amount bears to the total amounts transferred under subsections (c)(3) and (d) of section 2101 for such fiscal year; and

(ii) The remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account.

(2) ALLOCATION.—Of the amount transferred under clause (i), the Secretary shall provide:

(A) IN GENERAL.—From the Federal Hospital Insurance Trust Fund.

(A) in paragraph (1), the first sentence, by striking "The Secretary shall provide" and inserting "the Secretary shall, subject to paragraph (6), provide"; and

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

"(6) LIMITATION.—"(A) IN GENERAL.—The authority to make payments under this subsection shall not apply with respect to graduate medical education costs of hospitals associated with the provision of services under such section for such fiscal year.

(B) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing Federal outlays made under this title for acute medical services, as defined in section 1905(d).

(3) MEDICARE HMO'S.—Section 1876(a) of the Social Security Act (42 U.S.C. 1395m(a)) is amended by inserting after paragraph (6) the following new paragraph:

"(7)(A) In determining the adjusted average per enrollee payment under paragraph (4) for fiscal years after 1997, the Secretary shall not take into account the applicable percentage of costs under sections 1886(d)(5)(B) (indirect medical education) and 1886(h) (direct graduate medical education costs).

(B) For purposes of subparagraph (A), the applicable percentage is—"

(1) for fiscal year 1998, 25 percent;

(2) for fiscal year 1999, 50 percent; and

(3) for fiscal year 2001 and each subsequent fiscal year, 100 percent.

(2) There is appropriated and transferred to the Medical Education Trust Fund each fiscal year an amount equal to the aggregate amounts not taken into account under paragraph (4) by reason of subparagraph (A).

(3) Of the amounts transferred under clause (i) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amount transferred under clause (i) bears to the total amounts transferred to the Medical Education Trust Fund under section 2101 (excluding amounts transferred under subsections (c)(3) and (d) of such section) for such fiscal year; and

(ii) The remainder shall be allocated and transferred to the Medicare Teaching Hospital Indirect Account under such section and the Non-Medical Teaching Hospital Direct Account under such section in the same proportion as the amounts attributable to the costs under sections 1886(d)(5)(B) and 1886(h) were of the amounts transferred under clause (i).

(3) The Secretary shall make payments under clause (i) from amounts transferred to the Medicare Hospital Indirect Account in the same manner as the Secretary determines under section 1932; and

SEC. 4. AMENDMENTS TO MEDICAID PROGRAM.

(a) IN GENERAL.—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended—

(1) by redesigning section 1931 as section 1932; and

(2) by inserting after section 1930, the following new section:

"SEC. 1931. TRANSFER OF FUNDS TO ACCOUNTS.

"(1) IN GENERAL.—For fiscal year 1998 and each subsequent fiscal year, the Secretary shall transfer to the Medical Education Trust Fund an amount equal to the amount determined in paragraph (2) for the preceding fiscal year.

"(2) ALLOCATION.—Of the amount transferred under paragraph (1)—

(A) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amounts transferred under subsection (c)(3) and (d) of section 2101 for such fiscal year; and

(B) the remainder shall be allocated and transferred to the Non-Medical Teaching Hospital Indirect Account and the Non-Medical Teaching Hospital Direct Account under such section in the same proportion as the amounts attributable to the costs under sections 1886(d)(5)(B) and 1886(h) were of the amounts transferred under clause (i).

(b) AMOUNT DETERMINED.—In determining the amount transferred under clause (i) from amounts transferred to the Medicare Hospital Indirect Account under title XXI (excluding amounts transferred under subsections (c)(3) and (d) of such section) for such fiscal year, the Secretary shall prepare—

(1) OUTLAYS FOR ACUTE MEDICAL SERVICES DURING PRECEDING FISCAL YEAR.—Beginning with fiscal year 1998, the Secretary shall determine 5 percent of the total amount of Federal outlays made under this title for acute medical services, as defined in paragraph (2), for the preceding fiscal year.

"(2) ACUTE MEDICAL SERVICES DEFINED.—The term "acute medical services" means medical services provided in inpatient hospital care, as defined in section 1905(a) and described in such section, and the same ratio to the total amount available under section 2102(b)(1) for the fiscal year (reduced by the balance in such account at the end of the preceding fiscal year) as the amounts transferred under subsection (c)(3) and (d) of such section for such fiscal year; and

(3) OUTLAYS FOR ACUTE MEDICAL SERVICES DURING PRECEDING FISCAL YEAR.—Beginning with fiscal year 1998, the Secretary shall determine 5 percent of the total amount of Federal outlays made under this title for acute medical services, as defined in paragraph (2), for the preceding fiscal year.


"(5) LIMITATION.—"(A) IN GENERAL.—The authority to make payments under this subsection shall not apply with respect to graduate medical education.

(B) RULE OF CONSTRUCTION.—This paragraph may not be construed as authorizing Federal outlays made under this title for acute medical services, as defined in section 1905(d).
"(C) Personal care services (as described in section 1905(a)(24)).

"(D) Private duty nursing services (as referred to in section 1905(a)(8)).

"(E) Any home or community-based services furnished under a waiver granted under subsection (c), (d), or (e) of section 1915.

"(F) Home and community care furnished to functionally disabled elderly individuals under section 1922.

"(G) Community supported living arrangement services under section 1915.

"(H) Home or community care services (as described in section 1915(g)(2)).

"(I) Home health care services (as referred to in section 1905(a)(7)), clinic services, and rehabilitation services that are furnished to an individual who has a condition or disability that qualifies the individual to receive any of the services described in a previous subparagraph.

"(J) Services furnished in an institution for mental diseases (as defined in section 1902(i)).

"(C) ENTITLEMENT.—This section constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to the Non-Medicare Teaching Hospital Indirect Account, the Non-Medicare Teaching Hospital Direct Account, and the Medical School Account of amounts determined in accordance with subsections (a) and (b)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after October 1, 1997.

SEC. 3. ASSESSMENTS ON INSURED AND SELF-INSURED HEALTH PLANS.

(a) General Rule.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding after chapter 36 the following new chapter:

"Chapter 37—Health Related Assessments

Subchapter A.—Insured and Self-Insured Health Plans

"Sec. 4501. Health insurance and health-related administrative services.

"Sec. 4502. Self-insured health plans.

"Sec. 4503. Transfer to accounts.

"Sec. 4504. Definitions and special rules.

"Sec. 4505. Health insurance and health-related administrative services.

"(a) Imposition of Tax.—There is hereby imposed:

"(I) on each taxable health insurance policy, a tax equal to 1.5 percent of the premiums received under such policy, and

"(II) on each amount received for health-related administrative services, a tax equal to 1.5 percent of the amount so received.

"(b) Liability for Tax.—

"(1) Health Insurance.—The tax imposed by subsection (a)(I) shall be paid by the issuer of the policy.

"(2) Health-related Administrative Services.—The tax imposed by subsection (a)(II) shall be paid by the person providing the health-related administrative services.

"(c) Taxable Health Insurance Policy.—For purposes of this section—

"(1) in general.—Except as otherwise provided in this section, the term ‘taxable health insurance policy’ means any insurance policy providing accident or health coverage to residents of the United States, regardless of how such coverage is provided or arranged to be provided, and—

"(II) substantially all of the risks of the coverage if any portion of such coverage is provided or arranged to be provided under a taxable health insurance policy if the charge for such services is not included in the premiums under such policy, and—

"(II) processing claims, arranging for provision of accident or health coverage, or performing other administrative services in connection with an applicable self-insured health plan as defined in section 4502(c) established or maintained by an employer or other entity to the extent such expenditures are not subject to tax under section 4501.

"(2) Treatment of Reimbursements.—In determining accident or health coverage expenditures during any month of any applicable self-insured health plan, amounts equivalent to taxes received in the Treasury under sections 4501 and 4502 of which—

"(I) there shall be allocated and transferred to the Medical School Account an amount which bears the same ratio to the total amount available under section 2302(b)(1) for the fiscal year (reduced by the amount transferred in such amount for the preceding fiscal year) as the amount transferred to the Medical Education Trust Fund amounts equivalent to taxes received in the Treasury under sections 4501 and 4502, of which—

"(2) the remainder shall be allocated and transferred to the Non-Medicare Teaching Hospital Indirect Account and the Non-Medicare Teaching Hospital Direct Account, in the same proportion as the amounts transferred to such account under section 3388(j) relating to the total amounts transferred in such account for such fiscal year.
SEC. 6. MEDICAL EDUCATION ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an advisory commission to be known as the Medical Education Advisory Commission (in this section referred to as the "Advisory Commission").

(b) DUTIES.—(1) IN GENERAL.—The Advisory Commission shall—

(A) conduct a thorough study of all matters relating to the operation of medical, dental, veterinary, and osteopathic schools and colleges in the United States; and

(B) make recommendations to the Secretary of Health and Human Services and the Congress, and to any other appropriate Federal health agencies, as to the best means of improving the quality of education in such schools and colleges.

(c) STAFF.—(1) IN GENERAL.—The Advisory Commission shall, for the purposes of this section, have such staff, information, and other assistance as the Advisory Commission determines to be necessary.

(d) QUORUM.—The Advisory Commission shall be a quorum when a majority of its members is present. In the absence of a majority of its members, a majority of those present may adjourn the meeting to a future date.

(e) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—The Advisory Commission shall pay the members of the Advisory Commission all expenses necessarily incurred in attending meetings, including travel and subsistence expenses, which may be authorized by law.

SEC. 7. DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—The Advisory Commission shall, for the purposes of this section, have such staff, information, and other assistance as the Advisory Commission determines to be necessary.

(b) APPURTENANCES.—The Advisory Commission shall, for the purposes of this section, have such staff, information, and other assistance as the Advisory Commission determines to be necessary.

(c) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—The Advisory Commission shall pay the members of the Advisory Commission all expenses necessarily incurred in attending meetings, including travel and subsistence expenses, which may be authorized by law.

SEC. 8. APPURTENANCES.

(a) ESTABLISHMENT.—The Advisory Commission shall, for the purposes of this section, have such staff, information, and other assistance as the Advisory Commission determines to be necessary.

(b) APPURTENANCES.—The Advisory Commission shall, for the purposes of this section, have such staff, information, and other assistance as the Advisory Commission determines to be necessary.

(c) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—The Advisory Commission shall pay the members of the Advisory Commission all expenses necessarily incurred in attending meetings, including travel and subsistence expenses, which may be authorized by law.
medical schools and 1,250 teaching hospitals. These institutions are in a precarious financial situation as market forces reshape the health care delivery system. Explicit and dedicated federal projects and alternative payment methods, but permanent policy changes would await a report from a new Medical Education Advisory Commission established by the legislation. The primary purpose of the legislation is to establish Federal policy that medical education is a public good which should be supported by all sectors of the health care system.

The Medical Education Trust Fund Act of 1997 recognizes the need to begin moving away from existing medical education payment policies. Funding would be provided for demonstrable projects and alternative payment methods, but permanent policy changes would await a report from a new Medical Education Advisory Commission established by the legislation. The primary purpose of the legislation is to establish Federal policy that medical education is a public good which should be supported by all sectors of the health care system.

The Medical Education Trust Fund Act of 1997 recognizes the need to begin moving away from existing medical education payment policies. Funding would be provided for demonstrable projects and alternative payment methods, but permanent policy changes would await a report from a new Medical Education Advisory Commission established by the legislation. The primary purpose of the legislation is to establish Federal policy that medical education is a public good which should be supported by all sectors of the health care system.

Payment for direct costs is based on the actual costs of employing medical residents, the direct costs, and the number of patients cared for in each hospital and the severity of their illnesses as well as a measure of the teaching load in that hospital. For the purposes of payments to teaching hospitals, the allocation of Medicare and Medicaid funds is based on the number of non-Medicare patients in each hospital; the allocation of the tax revenue and Medicaid funds is based on the number of non-Medicare patients in each hospital.

The legislation also includes a "carve out" of graduate medical education payments from Medicare's payment to HMOs. Under current law, this payment is based on Medicare's average fee-for-service costs—including graduate medical education costs. Therefore, every time a Medicare beneficiary enrolls in an HMO, money that was being paid to teaching hospitals for medical education in the form of additional payments for direct and indirect costs, is paid instead to an HMO as part of a monthly premium. There is no requirement that HMOs use any of this payment to support medical education. Over a four-year period, the legislation requires that graduate medical education payments from HMO payment calculation. These funds are deposited into the Medical Education Trust Fund and paid directly to teaching hospitals.

The Medical Education Advisory Commission was created to conduct a study and make recommendations, including demonstration projects, regarding the following: Operations of the Medical Education Trust Fund; alternative and additional sources of medical education funding; and policies designed to maintain superior research and educational capacities in an increasingly competitive health system; the role of medical schools in graduate medical education; and policies designed to expand eligibility for graduate medical education payments to institutions other than teaching hospitals.

The Commission, comprised of nine individuals appointed by the Secretary of Health and Human Services, will be required to issue an interim report no later than January 1, 1999, and a final report no later than January 1, 2001.

Estimated average annual trust fund revenue by source, first 5 years

<table>
<thead>
<tr>
<th>Source</th>
<th>Revenue (in billions of dollars)</th>
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<tr>
<td>Medicare</td>
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<tr>
<td>Medicaid</td>
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</tr>
<tr>
<td>Total</td>
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INTERIM PAYMENT METHODOLOGIES

Payments to Medical Schools

Medical schools rely on a portion of the clinical practice revenue generated by their teaching hospitals for both the direct and indirect costs of medical education. The assessment on health insurance premiums (including self-insured health plans) contributes approximately $4 billion per year to the Trust Fund. Federal health programs contribute about $13 billion per year to the Trust Fund. Federal health programs contribute about $4 billion per year to the Trust Fund. The Medical Education Trust Fund will provide average annual payments of about $7 billion, including doubled federal funds, for medical education. The assessment on health insurance premiums (including self-insured health plans) contributes approximately $4 billion per year to the Trust Fund. Federal health programs contribute about $13 billion per year to the Trust Fund. Federal health programs contribute about $4 billion per year to the Trust Fund.

By Mr. MOYNIHAN:

S. 22. A bill to establish a bipartisan national commission to address the year 2000 computer problem; to the Committee on Governmental Affairs. THE YEAR 2000 COMPUTER PROBLEM

Mr. MOYNIHAN. Mr. President, 1,074 days. Rather, one thousand seventy-four days and counting. We have 1,074 days until January 1, 2000. Historically, the passage of the century has caused quite a stir. Until now, however, there has been little factual basis on which doomsayers and apocalyptic fearmongers could spread their gospel. I rise today, on the first day of legislative business in the 105th Congress, to warn that we have cause for fear.

In the Western world began the practice of numbering years consecutively. The 6th-century monk, Dionysius Exiguus (known as "Denis the Small"), introduced the first consecutive year calendar. Popular mythology would have us believe that at the end of the first millennium, Christians and pagans everywhere were cowering in fear of the end of the world. Yet, current historians believe that at the end of the year 999, much of the populace had no idea what year it was, and thus no idea that the millennium was coming to a close. In an ironic twist of fate, many calendars in our current society ever may be as inaccurate as those of the people who faced the beginning of the Second Millennium A.D.

I have no proof that the Sun is about to rise on the apocalyptic millennium of which chapter 20 of the Book of Revelation speaks, nor do I have proof that, armed with flood and catastrophe, the Four Horsemen will arrive on January 1, 2000. I do know, however, that if, the only major problem is that, even though it is true that at our current rate of addressing this problem, millions of computer programs across the globe will not recognize the year 2000. We have developed the medicine to cure the disease. It is our job to recognize the extent of the problem, and the time-consuming nature of the cure.

I now enter my second year warning of this problem. People have begun to recognize the extent of our ills and the time-consuming nature of the cure. It is our job to prevent the Sea Horseman from arriving on January 1, 2000. I do know, however, that if we do not act soon, the date could wreak worldwide havoc. This lack of recognition on the part of governments called the year 2000 Computer Problem, or "Y2K" as computer aficionados call it—could cause everything from the failure of weapons systems, widespread disruption of business operations, the miscalculation of taxes by the Internal Revenue Service, possible mishandling of medical treatment due to errors in medical records, to incorrect traffic signals at street corners across the country.

In the 1950's and 1960's, computer programmers decided that, in order to maintain the computer's memory, most computer languages would be designed to express the date only with six digits. In this format, the date of this speech would be 97-01-21. The century designation "19" is assumed. The problem is that many programs will read January 1, 2000 as January 1, 1900. Millions of computer programs will not function correctly because they cannot recognize the 21st century. The answer to this problem is a time-consuming process of rewriting the computer codes.

Estimates to fix the problem in the United States alone are in the range of $300 billion ($600 billion worldwide). That's billion with a "B". Experts have estimated that about half the cost of upgrading U.S. computers will have to be paid by Government entities. Furthermore, the cost of fixing the "Y2K" problem will increase at 20-50 percent per year due to the exponential growth of, and increasing demand for, the skilled professionals who can rewrite the codes.

There is no time to cower at the immensity and pervasiveness of the problem. The Federal Government has recognized the extent of our public disclosure problem, and the time-consuming nature of the cure.
I have been in touch with senior agency officials and urging them to complete their assessments of the scope of the problem now, so they will have time to fix it. We have assurances that all of their systems will either be fixed, replaced, or scrapped before 2000, and we will continue to monitor their progress. As we develop the President’s 1998 budget, I will work with the agencies to assure that there is adequate funding to support agency year 2000 activities.

Mr. Raines paints a much more comforting picture than was revealed in the Congressional findings of just 2 months ago. In September 1996, the House Committee on Government Oversight reported that: only 9 of the 24 departments and agencies (which the Committee had just queried) had a plan for addressing the problem; five had not even assigned an official within the organization to be responsible for the problem; and 17 of the departments and agencies lacked any cost estimates for the problem. I am encouraged that Representative Stephen Horn (R-CA) will continue his subcommittee’s oversight hearings on February 24, 1997.

Yet, someone or something needs to ensure that the Federal Government, State governments, and all sectors of the economy are “Year 2000 Compliant.” The OMB has neither the staff nor the resources to do this alone. I am introducing today a revamped bill that will set up a Commission to address this problem.

Commissions are not by definition weak. This Commission will assume responsibility for assuring that all Federal agencies are Year 2000 compliant by January 1, 1999 (a year early, so as not to leave enough time for testing—some say the longest part). The Commission will have experts on the Federal response and the State response in order to face the problems of integration. The Commission will prioritize which agencies are most at risk of not being fixed, replaced, or scrapped before 2000, and those big cities will recommend the appropriate triage process and medical. It it not enough to recognize that this problem exists. Unless we install the doctors for the triage, the Y2K disease will manifest itself in all sectors of government and the economy.

We are told that the President will include adequate funding for the Executive Agencies in his budget plan for fiscal year 1998. My hope is that Congress will recognize the importance of providing the funding now; for if we wait, not only will the costs rise, but we are liable to see major Government agencies and State governments unable to perform critical functions.

It is January 1, 2000. We have 1,074 days remaining until January 1, 2000. Too late to lament, time to act.

In the first stanza of his epic work, "The Second Coming," Yeats wrote of the onslaught of the apocalypse:

Turning and turning in the round
O’er the bent world panting and noisome
The falcon cannot hear the falconer;
Things fall apart; the center cannot hold;
Mere anarchy is loosed upon the world,
The blood-dimmed tides are loosed.

At the upcoming turn of the millennium, we cannot test what “blood dimmed tide” computer malfunctions could looese on our society.

By Mr. SPECTER (for himself and Ms. Moseley-Braun): S. 23. A bill to promote a new urban agenda, and for other purposes; to the Committee on Finance.

NEW AGENDA FOR AIDING AMERICA’S CITIES ACT

Mr. SPECTER. Mr. President, I have sought recognition to introduce legislation that will deal with the plight of our nation’s cities and Washington’s increasing neglect of them. There is an urgent need to improve our urban areas and the quality of life for the millions of American who live in our cities. My proposal, the “New Agenda For Aiding America’s Cities Act of 1997,” is based on legislation which I introduced in the 103rd and 104th Congress along with my distinguished colleague, Senator Carol Moseley-Braun, and I am pleased she is again joining in this effort. The bill constitutes an effort to give our cities some much-needed attention, but reflects the federal budget constraints which are all that we in Congress do these days.

This bill, based in significant part on suggestions by Philadelphia Mayor Edward G. Rendell and the League of Cities, offers aid to the cities without increasing federal expenditures and by re-instituting important cost-effective tax breaks which have been discontinued.

If we are to really address many of the very serious social issues that we face—unemployment, teenage pregnancy, welfare dependency, and other pressing issues—we cannot give up on our cities. There must be new strategies for dealing with the problems of urban America. The days of creating “Great Society” federal aid programs are clearly past, but that is no excuse for the national government to turn a blind eye to the problems of the cities.

The goals of this initiative have strong bipartisan support as indicated during the vice-presidential debate in the 1996 elections. Both the Republican and Democratic candidates spoke of the need to focus our economic resources in our nation’s urban areas. The recent November elections reaffirm the basic principle of limited government. Limited government, however, does not mean an uncaring or do-nothing government.

The impact of last year’s welfare reform legislation also requires close scrutiny on what will be happening to America’s big cities.

Urban areas remain integral to America’s greatness as centers of commerce, industry, health care, and culture. Yet urban areas, particularly the inner cities which tend to have a disproportionate share of our nation’s poor, also have special needs which must be recognized. We must develop ways of aiding our cities that do not require either new taxes or more government bureaucracy.

I commend the Mayor of Philadelphia, Edward Rendell, for his efforts to revitalize America’s cities. Collaborating with the Conference of Mayors and the National League of Cities, he proposed in 1994 a “New Urban Agenda.” Much of that proposal is the basis of this legislation.

As a Philadelphia resident, I have first-hand knowledge of the growing problems that plague our cities. As of 1990, Philadelphia had over 300,000 individuals in poverty. Reflecting on my experience as a Philadelphian, I have learned that supported by programs to assist our cities, such as increased funding for Community Development Block Grants and legislation to establish enterprise and empowerment zones. To encourage similar efforts, in April 1994, I hosted a group of my Republican colleagues on a visit to explore urban problems in my hometown. We talked with people who wanted to obtain work, but had found few opportunities. We saw a crumbling infrastructure and its impact on residents and businesses. We were reminded of the devastating effect that the loss of inner city businesses and jobs has had on our neighborhoods in America’s cities.

What my Republican colleagues saw firsthand in Philadelphia is the urban rule across our country and not the exception.

There are many who do not know of city life, who are far removed from the cities and would not be expected to have any key interest in what goes on in the big cities of America. I cite my own boyhood experience illustratively: Born in Wichita, Kansas, raised in Russell, a small town of 3,000 people on the plains of Kansas, I have not much detailed knowledge of what goes on in Philadelphia, Pennsylvania, or other big cities like Los Angeles, San Francisco, New York, Miami, Pittsburgh, Dallas, Detroit or Chicago.

We are told that the President will include adequate funding for the Executive Agencies in his budget plan for urban America’s big cities. But there is a growing understanding that the problems of big cities contribute significantly to the general problems affecting our nation and have an economic impact, at least in part, on the rural areas of our country.

If rural America is to prosper, we need to make sure that urban America prospers and vice-versa. For example, if
cities had more economic growth, taxes could be reduced on all Americans at the federal and state level because revenues would increase and social welfare spending would be reduced.

What are the problems? Crime for one. In Los Angeles, California, and similar gangs; that are all over America. They are in Lancaster, Pennsylvania; Des Moines, Iowa; Portland, Oregon; Jackson, Mississippi; Racine, Wisconsin; and Martinsburg, West Virginia. They are literally, everywhere, big city and small city alike.

According to the National League of Cities’ 1992 report, “State of America’s Cities,” 397 randomly selected municipal leaders said that after overall economic conditions, crime and drugs were the second and third items that had caused their cities to deteriorate the most in the prior five years. In Atlanta, the number of crimes per 100,000 people was 17,067, making it number one in 1995. I have heard of that unenviable moniker for our nation’s capital—the “murder capital.”

But just municipal leaders voice concern about crime’s impact. Mr. Scott Zelov, President of VIZ Manufacturing in the Germantown section of Philadelphia, wrote to me to tell me while he has been a resident and business owner in West Philadelphia, for more than twenty years, and while the city had been good to him and his family in the past, recently, he has had reason to fear for the safety of his children, his employees and ultimately, his business. He looks desperately for reasons to stay, but everyday it gets harder and harder.

Joblessness and a less skilled workforce is another problem. To facilitate economic development and job creation in the United States, I supported the Balanced Budget Act of 1995, which contained such provisions as the Job Training Partnership Act and the Targeted Tax Credit. As Congress put the final touches on that legislation, I circulated a joint letter from several Senators to then-Majority Leader Dole and Speaker Gingrich recommending spurring job creation and economic growth in our cities through several urban initiatives such as: a targeted capital gains exclusion, commercial re-vitalization tax credit, historic rehabilitation tax credit, and child care credit.

As part of that effort, on December 19, 1995, I arranged a meeting between Majority Leader Dole and Mayors Edward Rendell of Philadelphia, Thomas Menino of Boston, Richard Daley of Chicago, and Victor Ashe, of Knoxville, Tennessee, to discuss their top tax priorities, which were reflected in the joint letter to the Majority Leader Dole and Speaker Gingrich. In that meeting the Mayors stressed the necessity of strengthening the economic growth in our urban centers to impact directly on social ills identified with weak economic infrastructures. These problems include poverty, crime, and joblessness.

Census data from 1990 shows that many of our urban centers suffered from crime. Cities like Chicago, as of 1989.

As of 1990, New York City led the way, with 1.3 million individuals in poverty. My home of Philadelphia had 313,374 individuals in poverty at that time. These facts emphasize the need for more efforts to be focused on strengthening our inner city businesses which, in turn, will boost local economies and serve to provide more jobs, reduce poverty and, hopefully, reduce crime.

I have previously introduced legislation to provide targeted tax incentives for investing in small minority- or women-owned businesses. Small businesses provide the bulk of the jobs in this country. Many minority entrepreneurs have told me that they are dedicated to staying in the cities to employ people there, but continue to confront capital access issues. My “Minority and Women Capital Formation Act of 1993” would have been helpful in providing access barriers, thereby enabling these entrepreneurs to grow their businesses and payrolls.

Municipal leaders are stressing many of the same concerns that business people are voicing. In July, 1994 National League of Cities report dealing with poverty and economic development, municipal leaders ranked inadequate skills and education of workers as one of the top three reasons, in addition to crime and drug problems, for poverty wages, for poverty and joblessness in their cities. They said, according to the survey, that more jobs must be created through local economic development initiatives.

This “skills deficit” is highlighted in an urban revitalization plan prepared in 1991 by the National Urban League called “Playing to Win: A Marshall Plan for America’s Cities.” The report cites a statistic by the Commission on Achievement Levels which showed that 60 percent of all 21-25 year-olds lack the basic reading and writing skills needed for the modern workplace, and only 10 percent of those in that age group have enough mathematical competence for today’s jobs.

The economic problems our cities are facing are not easy to deal with or answer. In a report by the National League of Cities entitled “City Fiscal Conditions in 1996,” municipal officials identified tax reliance on state and local governments as the economic state of their cities. In response to state budgetary problems, 21.7 percent of responding cities reduced municipal employment and 18.5 percent had frozen municipal employment. Nearly 6 out of 10 cities raised or imposed new taxes or user fees during the past twelve months.

These numbers are of concern to me and I believe they highlight the need for federal legislation to enhance the ability of cities to achieve competitive economic status. An added concern is that city managers are forced to balance cuts in services or enact higher taxes. Neither choice is easy and it means cutting efforts to retain residents or businesses.

One issue, in particular, that is hurting many cities is the erosion of their tax bases, evidenced particularly by middle-class flight to the suburbs. Mr. Ronald Walters, professor of Political Science at Howard University, in testimony before the Senate Banking Committee in April 1993, stated that in 1950, 23 percent of the American population lived outside central cities; by 1988, that number was up to 46 percent.

In an October 9, 1994 article in The Washington Post Magazine, David Finkel profiled Ward 7 of Washington, DC and wrote that Ward 7 lost 13,000 residents between 1980 and 1990 alone. He noted further that the population decline in Washington, DC has averaged 10,000 people a year since 1990. This trend continues into 1997. These losses are devastating, not only to the financial stability of the city, but to the social fabric as well.

On the financial side, statistics show that those people fleeing cities were earning an average of $30,000 to $75,000 a year. On the social side, roughly half of these are African-American middle-class families. By losing this critical demographic group, the city loses much of what makes it strong.

Eroding tax bases are also caused by job flight and job loss. By Walters tested that Chicago lost 47 percent of its manufacturing jobs between 1972 and 1982. Los Angeles lost 327,000 jobs, half of which were in the manufacturing sector. More recently, according to Census figures, New York City had only 11.4 percent of its population employed in manufacturing. According to Stephen Moore and Dean Stansel in a March, 1994 USA Today Magazine article, since the 1970’s more than 50 Fortune 500 company headquarters have fled New York City, representing a loss of over 500,000 jobs.

It is clear that the social fabric of our cities is also deteriorating. The issues of infant mortality and single-parent families are tragic problems that plague American urban areas. According to 1990 Census data, Washington, DC ranked first out of 77 cities in infant death rates per 1,000 live births in 1990. The number of births in the number of cities in the percentage of one-parent households in 1990 at 53 percent.

When I traveled to Pittsburgh in 1994, I saw one-pound babies for the first time. I learned that Pittsburgh had the highest infant mortality rate of African-American babies of any city in the United States. It is a human tragedy for a child to be born weighing 16 pounds.
ounces with attendant problems that last a lifetime. I wondered, how could that be true of Pittsburgh, which has such enormous medical resources. It was an amazing thing for me to see a one-pound baby, about as big as my hand. However, cities are desperate, and the issues are heavy.

Historically, cities have been the center of commerce and culture. Surrounding communities have relied on a thriving, growing economy in our metropolitan areas for jobs and opportunities. As I have noted though, over the past several decades, America's cities have struggled with the loss or exodus of residents, businesses and industry and other problems. The resulting tax base shrinkage causes enormous budget problems for city governments. Across the country, cities such as New York, Los Angeles, and the District of Columbia have experienced the flight of major industries to the suburbs.

As a result, city residents who remain are faced with problems ranging from increased tax burdens and lesser services to dwindling economic opportunities, leading to welfare dependence and unemployment assistance. In the face of all this, what do we do?

The federal government has attempted to revitalize our ailing urban infrastructure by providing federal funding for transit and sewer systems, roads and bridges. I have supported this. For example, as a member of the Transportation Appropriations Subcommittee and as co-chair of an informal Senate Transit Coalition, I have been a strong supporter of public transit which provides critically needed transportation services in urban areas. Transit helps cities meet clean air standards, reduce traffic congestion, and allows disadvantaged persons access to jobs. Federal assistance for urban areas, however, has become increasingly tied to the nation's deficit and debt. Therefore, we must find alternatives to revitalize our nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

I believe there are ways Congress can assist the cities. In 1994, Mayor Rendell came up with a legislative package which contains many good ideas. I have since increased efforts to work with the nation's deficit and debt. Therefore, we must find alternatives to revitalize our nation's cities so they can once again be economically productive areas providing promising opportunities for residents and neighboring areas.

First, recognizing that the federal government is the nation's largest purchaser of goods and services, this legislation would require that no less than 15 percent of federal government purchases be made from businesses and industries within designated urban Empowerment Zones and Enterprise Communities. Similarly, it would require that 13 percent of federal foreign aid funds be redeemed through purchases of products manufactured in urban Empowerment Zones and Enterprise Communities. I presented this idea to then-Treasury Secretary Bentsen at a March 22, 1994, hearing of the Appropriations Subcommittee on Foreign Operations. The Secretary responded favorably.

I have also written to several mayors across the country regarding this concept. By letter dated July 28, 1994, Miami Mayor Stephen P. Clark responded: "Miami's selection as a procurement center for foreign aid would be a natural complement to our status as the Business Capital of the Americas." Miami has a wide range of businesses, such as high-technology firms and medical equipment manufacturers that would benefit from this provision. And by letter dated April 6, 1994, Harrisburg, Pennsylvania Mayor Stephen R. Reed wrote: "Many of our existing businesses would no doubt seize upon the opportunity to broaden their market by engaging in export activity triggered by foreign aid vouchers. . . . Therefore, briefly, we believe that voucher programs have considerable merit and that this city would benefit from the same." I ask unanimous consent that a copy of my letter and the letters from Mayor Clark and Mayor Reed be included in the Record at the end of my remarks.

The second major provision of this bill would commit the federal government to play an active role in restoring the economic health of our cities by encouraging the location, or relocations, of federal facilities in urban areas. To accomplish this, all federal agencies would be required to prepare and submit to the President an Urban Impact Statement detailing the impact that relocation or downsizing decisions would have on the affected city. Presidential approval would be required to place a federal facility outside an urban area, or to downsize a city-based agency.

The third critical component of this bill would revive and expand federal tax incentives that were eliminated or restricted in the Tax Reform Act of 1986. Until there is passage of legislation on the flat tax, which would provide benefits superior to all targeted tax breaks, I believe America's cities should have the advantages of such tax benefits. These provisions offer meaningful incentives to business to invest in our cities. I am calling for the restoration of the Historic Rehabilitation Tax Credit for commercial industrial development projects. The tax credit would encourage private investment in cities, particularly the construction of sports, convention and trade show facilities; free standing parking facilities owned and operated by the private sector, and industrial pollution facilities owned and operated by the private sector; and, industrial parks.

The bill I am introducing would allow this. It would also increase the small issue exemption—which means a way to help finance private activity in the building of manufacturing facilities—from $10 million to $50 million to allow increased private investment in our cities. A major change in the federal tax code related to arbitrage rebates on municipal bond interest earnings could also free additional capital for infrastructure and economic development by cities. Currently, municipalities are required to rebate to the federal government any arbitrage—a financial term meaning interest earned in excess of interest paid on the debt—earned from the issuance of tax-free municipal bonds. I am informed that compliance, currently, by the private sector; air and water pollution facilities owned and operated by the private sector; and, industrial parks.

My legislation also provides important incentives for businesses to invest and locate in our nation's cities. Specifically, the bill includes a provision for the private sector; and, industrial parks.

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My legislation also provides important incentives for businesses to invest and locate in our nation's cities. Specifically, the bill includes a provision for the private sector; and, industrial parks.
Mr. President, it may well be that America has given up on its cities. But that is a stark statement, but it is one which I believe may be true—that America has given up on its cities. This Senator has not done so. And I believe there are others in this body on both sides of the aisle who have not done so.

As one of a handful of United States Senators who lives in a big city, I understand both the problems and the promise of urban America. This legislation for our cities is good public policy. The plight of our cities must be of extreme concern to all Americans. We can ill-afford for them to wither and die. I am committed to a new urban agenda that relies on market forces, and not welfare-statism, for urban revitalization. I invite the input and assistance of my colleagues in order to fashion a strong approach assisting the cities with their pressing problems.

I ask unanimous consent that my bill be printed in the Record as if read, along with an Executive Summary. I thank the Chair and the floor.

EXECUTIVE SUMMARY

NEW AGENDA FOR AIDING AMERICA’S CITIES ACT OF 1997

A. Promote Urban Economic Development through Empowerment Zones and Enterprise Zones. Requires a portion of federal and foreign aid purchases (not less than 15 percent) to be from businesses operating in urban zones, and commits the government to purchase recycled products from businesses operating in urban zones.

B. Locating/Relocating Federal Facilities in Distressed Urban Areas. Provides an urban impact statement, with Presidential approvals, that details the impact on cities of agency downsizing or relocation. Under the bill, a “distressed urban area” follows HUD’s definition, namely any city having a population of more than 100,000.

C. Revives and Expands Federal Tax Incentives. Expands the Historic Rehabilitation Tax Credit which was reduced in 1986. It would restore the issuance of tax-free industrial development bonds and would allow cities to keep the arbitrage earned from the issuance of tax-free municipal bonds. Currently, local governments are required to rebate to the federal government arbitrage earned from the issuance of municipal bonds, and often spend more on compliance than on the actual rebate.

D. Contains Incentives for Businesses. To encourage businesses to invest and locate in our nation’s cities, provides a 50 percent exclusion for capital gains tax purposes for any gain resulting from targeted investments in small businesses located in urban empowerment zones, enterprise communities, or enterprise zones. The exclusion also extends to any venture that invest in the small businesses located.

E. Lifts Federal Restrictions on Community-Based Housing Development. To boost the efficiency of regular housing authorities, a study would be done to streamline current and future housing programs into “block grants.” The bill would also allow the reconstruction of new units on demolished sites, and relocate the original tenants to the newly constructed units.

F. Reforms Superfund Law to Encourage Brownfields Cleanup. Authorizes an expanded federal brownfields grants program to help clean up idle or underused industrial and commercial facilities. Also provides regulatory relief for businesses and individuals that fully comply with a state cleanup plan to clean sites in
urban areas pursuant to state law, provided that the site is not listed or proposed to be listed on the National Priorities List.

S. 23

The bill enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "New Urban Agenda Act of 1997".

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

Title I—Federal Commitment to Urban Economic Development

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

Title II—Tax Incentives to Stimulate Urban Economic Development

Sec. 201. Treatment of rehabilitation credit under passive activity limitation.
Sec. 202. Rehabilitation credit allowed to offset portion of alternative minimum tax.
Sec. 203. Converting industrial development bonds.
Sec. 204. Increase in amount of qualified small issue bonds permitted for capital gains tax.
Sec. 205. Simplification of arbitrage interest rebate waiver.
Sec. 206. Qualified residential rental project bonds partially exempt from state volume cap.
Sec. 207. Expansion of qualified wages subject to work opportunity credit.
Sec. 208. Exclusion of capital gains on certain investments within empowerment zones and enterprise communities.

Title III—Community-Based Housing Development

Sec. 301. Block grant study.
Sec. 302. Demolition and disposition of public housing.

Title IV—Response to Urban Environmental Challenges

Sec. 401. Release from liability of persons that fulfill requirements of State and local law.
Sec. 402. Brownfield program.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) cities in the United States have been facing an economic downhill trend in the past several years; and

(2) a new approach to help such cities prosper is necessary.

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

(1) provide various incentives for the economic growth of cities in the United States; and

(2) provide an economic agenda designed to reverse current urban economic trends; and

(b) revitalizes the federal tax base of such cities with significant new federal outlays.
Federal and non-Federal employment positions terminated in such area as a result of such closure or consolidation;

(3) in the case of a facility to be improved that is located in a distressed urban area, the aggregate amount of the property to be financed by such closure or consolidation;

(A) identifies at least one distressed urban area that would serve as an appropriate location for the carrying out of the functions; and

(B) describes the costs and benefits arising from carrying out the functions in the area, including the effect of carrying out the functions on the rate of unemployment in the area;

(c) describes the effect of the function of the area in the national interest.

SEC. 105. DEFINITIONS.

As used in this title:

(1) the term ‘distressed urban area’ means a zone designated as an empowerment zone pursuant to subsection U of chapter I of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(2) the term ‘enterprise community’ means a community designated as an enterprise community pursuant to subsection U of chapter I of the Internal Revenue Code of 1986 (26 U.S.C. 1391 et seq.).

(3) the term ‘enterprise zone’ has the meaning given such term in section 701(a)(1) of the Economic Development and Community Assistance Act of 1987 (42 U.S.C. 15521(a)(1)).

TITLE II—TAX INCENTIVES TO STIMULATE URBAN ECONOMIC DEVELOPMENT

SEC. 201. TREATMENT OF REHABILITATION CREDIT AS PASSIVE ACTIVITY LIMITATIONS.

(a) General Rule.—Paragraphs (2) and (3) of section 469(i) of the Internal Revenue Code of 1986 (relating to a 10-year period ending on the date of such closure or consolidation) are amended by inserting after paragraph (2) the following new paragraph:

(3) REHABILITATION INVESTMENT CREDIT MAY OFFSET PORTION OF MINIMUM TAX.

(‘‘A’’ in general.—In the case of the rehabilitation investment tax credit—

(i) this section and section 39 shall be applied separately with respect to such credit, and

(ii) for purposes of applying paragraph (1) to such credit—

(I) the tentative minimum tax under subparagraph (A) thereof shall be reduced by the minimum tax offset amount determined under subparagraph (B) of this paragraph, and

(II) the limitation under paragraph (1) (as modified by subclause (i)) shall be reduced by the amount of the tax credit allowable under section (a) for the taxable year (other than the rehabilitation investment tax credit).

(B) MINIMUM TAX OFFSET AMOUNT.—For purposes of subparagraph (A)(i)(i), the minimum tax offset amount is an amount equal to—

(i) in the case of a taxpayer described in clause (i), the lesser of

(A) 25 percent of the tentative minimum tax for the taxable year, or

(B) $20,000, or

(ii) in the case of a C corporation other than a closely held C corporation (as defined in section 469(i)(4)), 5 percent of the tentative minimum tax for the taxable year.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1996.
SEC. 1395. EXCLUSION FOR GAIN FROM ZONE OR COMMUNITY INVESTMENTS.

(a) IN GENERAL.—Section 1397(a)(1) of the Internal Revenue Code of 1986 (relating to the exclusion from gross income of gain recognized on the sale of qualified zone assets) is amended by striking paragraph (3)(A) and inserting ``(A) such interest is acquired by the taxpayer for purposes of being an enterprise zone business, and (B) as of the time such stock was issued, such corporation was an enterprise zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being an enterprise zone business), and''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 1396. EXCLUSION FOR GAIN FROM ZONE OR COMMUNITY INVESTMENTS.

(a) IN GENERAL.—Chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following section:

"SEC. 1396. EXCLUSION FOR GAIN FROM ZONE OR COMMUNITY INVESTMENTS.

(a) IN GENERAL.—In the case of a taxpayer, gross income shall not include any qualified capital gain recognized on the sale or exchange of a qualified zone asset held for more than 3 years.

(b) QUALIFIED ZONE ASSET.—For purposes of this section—

(1) IN GENERAL.—The term 'qualified zone asset' means, with respect to any qualified zone asset (other than a qualified small business), any qualified zone stock, any qualified zone property, and any qualified zone partnership interest.

(2) QUALIFIED SMALL BUSINESS.—The term 'qualified small business' means any entity or proprietorship the aggregate gross assets (within the meaning of section 1221(d)(2)) of which do not exceed $50,000,000.

(b) APPLICATION OF RULES.—In determining if an entity or proprietorship is a qualified small business, rules similar to the rules of subsections (a) and (b) of section 52 shall apply.

SEC. 1397. ZONE OR COMMUNITY ADVISORY BOARD.

(a) IN GENERAL.—Section 1397 of the Internal Revenue Code of 1986 (relating to the establishment of zone or community advisory boards) is amended by—

(1) striking paragraph (4) and inserting the following:

``(4) QUALIFIED ZONE PROPERTY.—The term 'qualified zone property' has the meaning given to such term by section 1397C, except that references to empowerment zones shall be treated as including references to enterprise communities.

(5) QUALIFIED ZONE PARTNERSHIP INTEREST.—The term 'qualified zone partnership interest' means any interest in a partnership if—

"(A) such interest is acquired by the taxpayer from an enterprise zone business, or

"(B) as of the time such interest was acquired, such partnership was an enterprise zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being an enterprise zone business), and

"(C) during substantially all of the tax year of any entity or proprietorship that owned the entity or proprietorship during the 3-year period beginning on the date the entity or proprietorship gave rise to the gain recognized on the sale or exchange of the qualified zone asset held for more than 3 years, such entity or proprietorship was a qualified zone partnership that was a qualified zone partnership at the time the entity or proprietorship gave rise to the gain recognized on the sale or exchange of the qualified zone asset held for more than 3 years.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to the 3-year period beginning on the date the taxpayer acquired such property, and apply to any sale or exchange of such property that occurred after the date of the enactment of this Act.

SEC. 1398. OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—
(1) ENTERPRISE ZONE BUSINESS.—For purposes of this section, the term ‘enterprise zone business’ has the meaning given to such term by section 1394(b)(3).

(2) QUALIFIED CAPITAL GAIN.—Except as otherwise provided in this subsection, the term ‘qualified capital gain’ means any long-term capital gain.

(3) CERTAIN GAIN ON REAL PROPERTY NOT QUALIFIED.—The term ‘qualified capital gain’ shall not include any gain which would be treated as ordinary income under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

(4) GAIN ATTRIBUTABLE TO PERIODS AFTER TERMINATION OF EMPOWERMENT ZONE COMMUNITY DESIGNATION NOT QUALIFIED.—The term ‘qualified capital gain’ shall not include any gain attributable to periods after the termination of any qualified zone asset or an area designated as an empowerment zone or enterprise community.

(5) CERTAIN TRANSFERS.—For purposes of this section—

(A) In general.—In the case of a transfer of a qualified asset to which this subsection applies, the transferee shall be treated as

(1) having acquired such asset in the same manner as the transferor, and

(2) having held such asset during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

(B) Transfers to which subsection applies.—This subsection shall apply to any transfer of a qualified asset by such entity for more than 3 years and throughout the period the taxpayer held such interest.

(6) PUBLIC HOUSING/SECTION 8 MOVING TO WORK DEMONSTRATION.—In conducting the study described in paragraph (1), the Secretary of Housing and Urban Development shall conduct a demonstration program for public and low-income housing programs under the United States Housing Act of 1937 in accordance with such a block grant system.

(7) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1997.
Mr. SPECTER. Mr. President, the start of the 106th Congress gives those of us in the Senate and the House a new opportunity to make a real difference in the lives of the American people. It is a chance for us to learn from the past concerning how to best respond to the challenges that are before us and forge important alliances to enable us to pass legislation that is important to the American people. One of our first priorities must be additional reforms of our Nation’s health care system.

In the 104th Congress, I was pleased to cosponsor the Health Insurance Portability and Accountability Act of 1996, better known as the Kassebaum-Kennedy bill (S. 1028). There is no question that Kassebaum-Kennedy made significant steps forward in addressing troubling issues in health care. The stated intent of the bill was to provide a framework for comprehensive health care reform that would allow for a single public program to be established to ensure that all Americans have access to health insurance.

There is much more that needs to be done. Accordingly, today I am introducing the Health Care Assurance Act of 1997, which, if enacted, will take us further down the path of incremental reforms started by Kassebaum-Kennedy. It is my hope that the best approach to addressing our Nation’s health care problems is to enact reforms that improve upon our current market based health care system without completely overhauling our current system. It is important to initiate and stimulate discussion in order to move the health care reform debate forward. I welcome any suggestions my colleagues may have concerning how the bill can be improved, as long as such suggestions are consistent with the incremental approach to reform that has proven to be the only way to obtain successful health care reform.

I want to note at the outset that through a State-run voucher system, my legislation would address health care coverage for the first time for the vast majority of the 10 million American children who lack health care insurance today. My proposal is compassionate and efficient and will preserve patient choice as its hallmark.

The need for a bipartisan approach

Given the importance of succeeding in enacting this type of legislation, it is worth reviewing recent history. In particular, the debate over President Clinton’s Health Security Act during the 103rd Congress was characterized by lessons concerning the pitfalls and obstacles that inevitably lead to legislative failure. Several times during the 103rd Congress, I spoke on the Senate floor to address what seemed obvious to me that the wisest course was to introduce incremental health care reforms with which we could all agree. Unfortunately, what seemed obvious to me, based on comments and suggestions by a majority of Senators who favored a moderate approach, was not obvious at the time to the Senate’s Democratic leadership. This failure to understand the merits of an incremental approach was demonstrated during my attempts in April 1993 to offer a health care reform amendment based on the text of S. 631, an incremental reform bill that was introduced earlier in the session incorporating moderate, consensus principles. First, I attempted to offer the bill as an amendment to debt ceiling legislation. Subsequently, I was informed that the consideration of such a bill would be structured in a way that my offering an amendment would be impossible. Therefore, I prepared to offer my health care bill as an amendment to the fiscal year 1993 emergency supplemental appropriations bill. As the majority leader, Senator Mitchell, and Senator Byrd worked together to ensure that I could not offer my amendment by keeping the Senate in a quorum call, a parliamentary tactic used to delay and obstruct. I was unable to obtain unanimous consent to end the quorum call, and thus could not proceed with my amendment.

Three years later, well after thebemethos Clinton health care reform bill imploded, the Senate endured a lengthy political battle concerning the Kassebaum-Kennedy bill. We achieved a breakthrough in August 1996, when enough Senators sensed the growing frustration of the American people and finally passed health care insurance market reforms such as increased portability. I would note that the final version of the Health Insurance Portability and Accountability Act of 1996 contained many elements that were in S. 18, the incremental health care reform bill I had introduced when the 104th session of Congress began on January 4, 1995.

In retrospect, I urge my colleagues to note a most important fact—the Kassebaum-Kennedy bill was enacted only after the most bitter Democratic Party had abandoned their hopes for passing a nationalized, big government health care scheme, and the most conservative Republicans abandoned their position that access to health care is really not a major priority of United States demanding Federal action.

Although we succeeded in enacting incremental insurance market reforms,